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, 4120 State Office Building, Salt Lake City, Utah 84114, 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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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 September 16, 2006, 12:00 a.m., and October 2, 2006, 11:59 p.m. are included in this, the October 15, 2006, 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 Rules being repealed are completely struck out.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 November 14, 2006. 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 February 12, 2007, 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.

Administrative Services, Records Committee

R35-2-2

Declining Requests for Hearings

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29081
FILED: 09/26/2006, 09:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Committee decided that the rule needed to account for records that had been destroyed according to an approved retention schedule.

SUMMARY OF THE RULE OR CHANGE: In Subsection R35-2-2(b), the wording has been changed to allow for a record to be disposed of according to a retention schedule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-2-403(4)

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: There may be a savings in legal fees since the rule allows for records to be destroyed and therefore, the petitioner would not appeal to district court.
- LOCAL GOVERNMENTS: There may be a savings in legal fees since the rule allows for records to be destroyed and therefore, the petitioner would not appeal to district court.
- OTHER PERSONS: There may be a savings in legal fees since the rule allows for records to be destroyed and therefore, the petitioner would not appeal to district court.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the appeal for records that the governmental entity claims do not exist would not come before the Committee, there is no cost impact for compliance with the Committee's order.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since this is a clarification of the rule there is no fiscal impact on businesses. Richard Ellis, Executive Director

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
346 S RIO GRANDE
SALT LAKE CITY UT 84101-1106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Janell Tuttle at the above address, by phone at 801-531-3862, by FAX at 801-531-3867, or by Internet E-mail at jtuttle@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2006

AUTHORIZED BY: Patricia Smith-Mansfield, Director

R35. Administrative Services, Records Committee.
R35-2. Declining Appeal Hearings.
R35-2-2. Declining Requests for Hearings.

(a) In order to decline a request for a hearing under Subsection 63-2-403(4), the Executive Secretary shall consult with the chair of the Committee and at least one other member of the Committee as selected by the chair.

(b) [~~The claim that a record does not exist does not constitute a denial unless the petitioner can provide sufficient evidence in his or her statement of facts, reasons, and legal authority in support of appeal that record did exist at one time. A determination that sufficient facts have or have not been alleged shall be made by the chair of the Committee. In the circumstance that sufficient facts have not been alleged, the Executive Secretary shall be instructed not to schedule an appeal hearing, and shall inform the petitioner appropriately.~~]In any appeal to the Committee of a governmental entity's denial of access to records for the reason that the record does not exist, the petitioner shall provide sufficient evidence in the petitioner's statement of facts, reasons, and legal authority in support of the appeal, that the record did exist at one time, or that the governmental entity has concealed, or not sufficiently or improperly searched for the record. The chair of the Committee shall determine whether or not the petitioner has provided sufficient evidence. If the chair of the Committee determines that sufficient evidence has been provided, the chair shall direct the Executive Secretary to schedule a hearing as otherwise provided in these rules. If the chair of the Committee determines that sufficient evidence has not been provided, the chair shall direct the Executive Secretary to not schedule a hearing and to inform the petitioner of the determination. Evidence that a governmental entity has disposed of the record according to retention schedules is sufficient basis for the chair to direct the Executive Secretary to not schedule a hearing.

(c) In order to file an appeal the petitioner must submit a copy of their initial records requests, as well as any denial of the records request. The Executive Secretary shall notify the petitioner that a hearing cannot be scheduled until the proper information is submitted.

(d) The chair of the Committee and one other member of the Committee must both agree with the Executive Secretary's recommendation to decline to schedule a hearing. Such a decision shall consider the potential for a public interest claim as may be put forward by the petitioner under the provisions of Subsection 63-2-402(11)(b), Utah Code. A copy of each decision to deny a hearing shall be signed and retained in the file.

(e) The Executive Secretary's notice to the petitioner indicating that the request for hearing has been denied, as provided for in Subsection 63-2-403(4)(ii), Utah Code, shall include a copy of the previous order of the Committee holding the records series at issue appropriately classified.

(f) The Executive Secretary shall report on each of the hearings declined at each regularly scheduled meeting of the Committee in order to provide a public record of the actions taken.

(g) If a Committee member has requested a discussion to reconsider the decisions to decline a hearing, the Committee may, after discussion and by a majority vote, choose to reverse the decision of the Executive Secretary and hold a hearing. Any discussion of reconsideration shall be limited to those Committee members then present, and shall be based only on two questions: (1) whether the records being requested were covered by a previous order of the Committee, and/or (2) whether the petitioner has, or is likely to, put forth a public interest claim. Neither the petitioner nor the agency whose records are requested shall be heard at this time. If the Committee votes to hold a hearing, the Executive Secretary shall schedule it on the agenda of the next regularly scheduled Committee meeting.

(h) The Executive Secretary shall compile and include in an annual report to the Committee a complete documented list of all hearings held and all hearings declined.

KEY: government documents, state records committee, records appeal hearings
Date of Enactment or Last Substantive Amendment: [~~March 4, 2005~~]2006
Notice of Continuation: July 2, 2004
Authorizing, and Implemented or Interpreted Law: 63-2-403(4)

♦ ♦

Alcoholic Beverage Control, Administration
R81-1-6
Violation Schedule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29082
FILED: 09/28/2006, 15:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Alcoholic Beverage Control (ABC) Commission directed staff to file an amendment to the violation schedule rule to allow the Commission the discretion of ordering the payment of a fine on a second or subsequent grave violation.

SUMMARY OF THE RULE OR CHANGE: The violation schedule rule as currently written only allows for a penalty of suspension or revocation of an alcoholic beverage license when a licensee has been found guilty of a second or subsequent violation of an offense that falls within the "grave" category as defined by the rule. This proposed rule amendment gives the Commission the discretion to order payment of a fine in lieu of, or in addition to, a license suspension. The amendment also proposes that holders of certificates of approval be considered licensees for purposes of this rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-1-107 and 32A-1-119

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Licensee violations are currently adjudicated according to procedures outlined in this rule. This proposed rule amendment will not require more or less time or money to adjudicate the violations. The amendment merely gives the Commission more latitude in determining a penalty for second and subsequent occurrences of grave violations.
❖ LOCAL GOVERNMENTS: None--Proceedings regarding violations of the Alcoholic Beverage Act are brought before the ABC Commission for administrative action. These are not criminal proceedings, but rather are actions against an alcoholic beverage license issued by the Commission. These actions do not affect local governments.
❖ OTHER PERSONS: None--This rule amendment will not affect licensees as a whole. Only those who have been cited and found guilty of grave violation may be ordered to pay a fine as a penalty for the violation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The persons who will be affected by this proposed rule amendment are those who have been found guilty of a second or subsequent occurrence of a grave violation as defined by this rule. The fine may range from $3,000 to $25,000 and may be imposed in lieu of or in addition to a suspension of the alcoholic beverage license.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The violation schedule rule was amended several years ago because it mandated revocation of a license on a second grave offense. At that time the rule was amended to allow for a lesser penalty of a license suspension on second and subsequent grave violations but did not allow for payment of a fine. Staff feels this was an oversight. This proposed rule amendment will remedy this oversight and allow the Commission more discretion. Many licensees prefer payment of a fine rather than a license suspension because a suspension is more costly to their business and their employees. Kenneth F. Wynn, Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2006

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.
R81-1. Scope, Definitions, and General Provisions.
R81-1-6. Violation Schedule.

(1) Authority. This rule is pursuant to Sections 32A-1-107(1)(c)(i), 32A-1-107(1)(e), 32A-1-107(4)(b), 32A-1-119(5), (6) and (7). These provisions authorize the commission to establish criteria and procedures for imposing sanctions against licensees and permittees and their officers, employees and agents who violate statutes and commission rules relating to alcoholic beverages. For purposes of this rule, holders of certificates of approval are also considered licensees. The commission may revoke or suspend the licenses or permits, and may impose a fine against a licensee or permittee in addition to or in lieu of a suspension. The commission also may impose a fine against an officer, employee or agent of a licensee or permittee. Violations are adjudicated under procedures contained in Section 32A-1-119 and disciplinary hearing Section R81-1-7.

(2) General Purpose. This rule establishes a schedule setting forth a range of penalties which may be imposed by the commission for violations of the alcoholic beverage laws. It shall be used by department decision officers in processing violations, and by presiding officers in charging violations, in assisting parties in settlement negotiations, and in recommending penalties for violations. The schedule shall be used by the commission in rendering its final decisions as to appropriate penalties for violations.

(3) Application of Rule.

(a) This rule governs violations committed by all commission licensees and permittees and their officers, employees and agents except single event permittees. Violations by single event permittees and their employees and agents are processed under Section 32A-7-106.

(b) This rule does not apply to situations where a licensee or permittee fails to maintain the minimum qualifications provided by law for holding a license or permit. These might include failure to maintain a bond or insurance, or a conviction for a criminal offense that disqualifies the licensee or permittee from holding the license or permit. These are fundamental licensing and permitting requirements and failure to maintain them may result in immediate suspension or forfeiture of the license or permit. Thus, they are not processed in accordance with the Administrative Procedures Act, Title 63, Chapter 46b or Section R81-1-7. They are administered by issuance of an order to show cause requiring the licensee or permittee to provide the commission with proof of qualification to maintain their license or permit.

(c) If a licensee or permittee has not received a letter of admonishment, as defined in Sections R81-1-2 and R81-1-7(2)(b), or been found by the commission to be in violation of Utah statutes or commission rules for a period of 36 consecutive months, its violation record shall be expunged for purposes of determining future penalties sought. The expungement period shall run from the date the last offense was finally adjudicated by the commission.

(d) In addition to the penalty classifications contained in this rule, the commission may:

(i) upon revocation of a license or permit, take action to forfeit the bond of any licensee or permittee;

(ii) prohibit an officer, employee or agent of a licensee or permittee from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee or permittee for a period determined by the commission;

(iii) order the removal of a manufacturer's, supplier's or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer directly committed the violation, or solicited, requested, commanded encouraged, or intentionally aided another to engage in the violation.

(iv) require a licensee to have a written responsible alcohol service plan as provided in R81-1-24.

(e) When the commission imposes a fine or administrative costs, it shall establish a date on which the payment is due. Failure of a licensee or permittee or its officer, employee or agent to make payment on or before that date shall result in the immediate suspension of the license or permit or the suspension of the employment of the officer, employee or agent to serve, sell, distribute, manufacture, wholesale, warehouse or handle alcoholic beverages with any licensee or permittee until payment is made. Failure of a licensee or permittee to pay a fine or administrative costs within 30 days of the initial date established by the commission shall result in the issuance of an order to show cause why the license or permit should not be revoked and the licensee's or permittee's compliance bond forfeited. The commission shall consider the order to show cause at its next regularly scheduled meeting.

(f) Violations of any local ordinance are handled by each individual local jurisdiction.

(4) Penalty Schedule. The department and commission shall follow these penalty range guidelines:

(a) Minor Violations. Violations of this category are lesser in nature and relate to basic compliance with the laws and rules. If not corrected, they are sufficient cause for action. Penalty range: Verbal warning from law enforcement or department compliance officer(s) to revocation of the license or permit and/or up to a $25,000 fine. A record of any letter of admonishment shall be included in the licensee's or permittee's and the officer's, employee's or agent's violation file at the department to establish a violation history.

(i) First occurrence involving a minor violation: the penalty shall range from a verbal warning from law enforcement or department compliance officer(s), which is documented to a letter of admonishment to the licensee or permittee and the officer, employee or agent involved. Law enforcement or department compliance officer(s) shall notify management of the licensee or permittee when verbal warnings are given.

(ii) Second occurrence of the same type of minor violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a $100 to $500 fine for the licensee or permittee, and a letter of admonishment to a $25 fine for the officer, employee or agent.

(iii) Third occurrence of the same type of minor violation: a one to five day suspension of the license or permit and employment of the officer, employee or agent, and/or a $200 to $500 fine for the licensee or permittee and up to a $50 fine for the officer, employee or agent.

(iv) More than three minor violations regardless of type: a six day suspension to revocation of the license or permit and a six to ten day suspension of the employment of the officer, employee or agent, and/or a $500 to $25,000 fine for the licensee or permittee and up to a $75 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the monetary penalties for each of the charges in their respective categories. If other minor violations are discovered during the same

investigation, a verbal warning shall be given for each violation on a first occurrence. If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(b) Moderate Violations. Violations of this category demonstrate a general disregard for the laws or rules. Although the gravity of the acts are not viewed in the same light as in the serious and grave categories, they are still sufficient cause for action. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a letter of admonishment to revocation of the license or permit and/or up to a $25,000 fine.

(i) First occurrence involving a moderate violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a letter of admonishment to a $1000 fine for the licensee or permittee, and a letter of admonishment to a $50 fine for the officer, employee or agent.

(ii) Second occurrence of the same type of moderate violation: a three to ten day suspension of the license or permit and a three to ten day suspension of the employment of the officer, employee or agent, and/or a $500 to $1000 fine for the licensee or permittee and up to a $75 fine for the officer, employee or agent.

(iii) Third occurrence of the same type of moderate violation: a ten to 20 day suspension of the license or permit and a ten to 20 day suspension of the employment of the officer, employee or agent, and/or a $1000 to $2000 fine for the licensee or permittee and up to a $100 fine for the officer, employee or agent.

(iv) More than three moderate violations regardless of type: a 15 day suspension to revocation of the license or permit and a 15 to 30 day suspension of the employment of the officer, employee or agent, and/or a $2000 to $25,000 fine for the licensee or permittee and up to a $150 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(vi) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(c) Serious Violations. Violations of this category directly or indirectly affect or potentially affect the public safety, health and welfare, and involve minors. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a five day suspension to revocation of the license or permit and/or up to a $25,000 fine.

(i) First occurrence involving a serious violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a five to 30 day suspension of the license or permit and a five to 30 day suspension of the employment of the officer, employee or agent, and/or a $500 to $3000 fine for the licensee or permittee and up to a $100 fine for the officer, employee or agent.

(ii) Second occurrence of the same type of serious violation: a ten to 90 day suspension of the license or permit and a ten to 90 day suspension of the employment of the officer, employee or agent, and/or a $1000 to $9000 fine for the licensee or permittee and up to a $150 fine for the officer, employee or agent.

(iii) More than two occurrences of any type of serious violation: a 15 day suspension to revocation of the license or permit and a 15 to 120 day suspension of the employment of the officer, employee or agent, and/or a $9000 to $25,000 fine for the licensee or permittee and up to a $500 fine for the officer, employee or agent.

(iv) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(v) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(d) Grave Violations. Violations of this category pose or potentially pose, a grave risk to public safety, health and welfare, or may involve lewd acts prohibited by title 32A, fraud, deceit, willful concealment or misrepresentation of the facts, exclusion of competitors' products, unlawful tied house trade practices, commercial bribery, interfering or refusing to cooperate with authorized officials in the discharge of their duties, unlawful importations, or industry supplying liquor to persons other than the department and military installations. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a ten day suspension to revocation of the license or permit and/or up to a $25,000 fine.

(i) First occurrence involving a grave violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a ten day suspension to revocation of the license or permit and a 10 to 120 day suspension of the employment of the officer, employee or agent, and/or a $1000 to $25,000 fine to the licensee or permittee and up to a $300 fine for the officer, employee or agent.

(ii) More than one occurrence of any type of grave violation: a fifteen day suspension to revocation of the license or permit, and a 15 to 180 day suspension of the employment of the officer, employee or agent and/or a $3000 to $25,000 fine for the licensee or permittee and up to a $500 fine for the officer, employee or agent.

(iii) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(iv) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(e) The following table summarizes the penalty ranges contained in this section of the rule for licensees and permittees.

TABLE

Violation Degree and Frequency	Warning Verbal	Warning Written	Fine $ Amount	Suspension No. of Days	Revoke License
Minor					
1st	X	X			
2nd			100 to 500		
3rd			200 to 500	1 to 5	
Over 3			500 to 25,000	6 to	X
Moderate					
1st		X	to 1,000		
2nd			500 to 1,000	3 to 10	
3rd			1,000 to 2,000	10 to 20	
Over 3			2,000 to 25,000	15 to	X

Serious			
1st	500 to 3,000	5 to 30	
2nd	1,000 to 9,000	10 to 90	
Over 2	9,000 to 25,000	15 to	X
Grave			
1st	1,000 to 25,000	10 to	X
Over 1	3,000 to 25,000	15 to	X

(f) The following table summarizes the penalty ranges contained in this section of the rule for officers, employees or agents of licensees and permittees.

TABLE

Violation Degree and Frequency	Warning Verbal/Written		Fine $ Amount	Suspension No. of Days
Minor				
1st	X	X		
2nd		X	to 25	
3rd			to 50	1 to 5
Over 3			to 75	6 to 10
Moderate				
1st		X	to 50	
2nd			to 75	3 to 10
3rd			to 100	10 to 20
Over 3			to 150	15 to 30
Serious				
1st			to 100	5 to 30
2nd			to 150	10 to 90
Over 2			to 500	15 to 120
Grave				
1st			to 300	10 to 120
Over 1			to 500	15 to 180

(5) Aggravating and Mitigating Circumstances. The commission and presiding officers may adjust penalties within penalty ranges based upon aggravating or mitigating circumstances. Examples of mitigating circumstances are: no prior violation history, good faith effort to prevent a violation, existence of written policies governing employee conduct, and extraordinary cooperation in the violation investigation that shows the licensee or permittee and the officer, employee or agent of the licensee or permittee accepts responsibility. Examples of aggravating circumstances are: prior warnings about compliance problems, prior violation history, lack of written policies governing employee conduct, multiple violations during the course of the investigation, efforts to conceal a violation, intentional nature of the violation, the violation involved more than one patron or employee, the violation involved a minor and, if so, the age of the minor, and whether the violation resulted in injury or death.

(6) Violation Grid. A violation grid describing each violation of the alcoholic beverage control laws, the statutory and rule reference, and the degree of seriousness of each violation is available for public inspection in the department's administrative office. A copy will be provided upon request at reproduction cost. It is entitled "Alcoholic Beverage Control Commission Violation Grid" and is incorporated by reference as part of this rule.

KEY: alcoholic beverages
Date of Enactment or Last Substantive Amendment: [~~August 25,~~]2006
Notice of Continuation: August 31, 2006
Authorizing, and Implemented or Interpreted Law: 32A-1-107; 32A-1-119(5)(c); 32A-3-103(1)(a); 32A-4-103(1)(a); 32A-4-106(1)(a); 32A-4-203(1)(a); 32A-4-304(1)(a); 32A-4-307(1)(a); 32A-4-401(1)(a); 32A-5-103(1)(a); 32A-6-103(2)(a); 32A-7-103(2)(a); 32A-7-106(5); 32A-8-103(1)(a); 32A-8-503(1)(a); 32A-9-103(1)(a); 32A-10-203(1)(a); 32A-10-206(14); 32A-10-303(1)(a); 32A-10-306(5); 32A-11-103(1)(a)

Commerce, Consumer Protection
R152-34-5
Rules Relating to Institutions Exempt Under Section 13-34-105

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29076
FILED: 09/21/2006, 14:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is amended to reflect changes in Section 13-34-105 and to update provisions of the rule.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes the exemption relating to institutions accredited by an accrediting organization recognized by the Commission on Recognition of Postsecondary Accreditation because the Commission has been dissolved. The proposed amendment also removes the exemption related to flight schools because this exemption is now in statute as a result of S.B. 147, 2006 General Session. (DAR NOTE: S.B. 147 (2006) is found at Chapter 147, Laws of Utah 2006, and was effective 03/10/2006.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 13-2-5(1)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget because there are no regulatory changes added and no implementation provisions.
❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated.
❖ OTHER PERSONS: There are no anticipated costs or savings to other persons because there are no regulatory changes added and no implementation provisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs will be incurred due to the nature of the change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing eliminates an exemption provision which refers to an organization that no longer exists and an exemption that is now in statute. No

fiscal impact to businesses is anticipated as a result of this filing. Francine A. Giani, Executive Director

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

COMMERCE
CONSUMER PROTECTION
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:
Thomas Copeland at the above address, by phone at 801-530-6601, by FAX at 801-530-6001, or by Internet E-mail at tcopeland@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2006

AUTHORIZED BY: Kevin V Olsen, Director

R152. Commerce, Consumer Protection.
R152-34. Postsecondary Proprietary School Act Rules.
R152-34-5. Rules Relating to Institutions Exempt Under Section 13-34-105.

(1) Institutions that provide nonprofessional review courses, such as law enforcement and civil service, are not exempt, unless they are considered as workshops or seminars within the meaning of Section 13-34-105(h).

(2) In order for the church or religious denomination to be "bona fide" such that the institution is exempt from registration, the institution may not be the church or religious denomination's primary purpose, function or asset.

[~~(3) An institution accredited by an accrediting organization recognized by the Commission on Recognition of Postsecondary Accreditation is exempt from registration for the purposes of the Act.~~

~~(4)~~](3) Any institution which claims an accreditation exemption must furnish acceptable documentation to the division upon request.

[~~(5)~~](4) To be exempt under Section 13-34-105(f), the training or instruction shall not be the primary activity of the organization, association, society, labor union, or franchise system.

[~~(6) Flight schools approved under Part 141, Federal Aviation Regulations (FAR), 14 CFR Chapter 141, are exempt. Schools providing aviation training under Part 61, FAR, 14 CFR Chapter 61, are required to register.~~

~~(7)~~](5) The division shall determine an institution's status in accordance with the categories contained in this section.

[~~(8)~~](6) An exempt institution shall notify the division within thirty (30) days of a material change in circumstances which may affect its exempt status as provided in this section and shall follow the procedure outlined in Section 13-34-107.

[~~(9)~~](7) An exempted institution which voluntarily applies for a certificate by filing a registration statement shall comply with all rules as though such institution were nonexempt.

[~~(10)~~](8) To apply for a certificate of registration, an accredited institution shall submit a completed registration statement application and a copy of such portions of its current accreditation self-evaluation report as are specified by the division.

KEY: education, postsecondary proprietary school, registration
Date of Enactment or Last Substantive Amendment: [~~October 18, 2005~~]2006
Authorizing, and Implemented or Interpreted Law: 13-2-5(1)

♦ ——————————————— ♦

Commerce, Occupational and Professional Licensing

R156-56

Utah Uniform Building Standard Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29079
FILED: 09/25/2006, 17:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Uniform Building Code Commission are proposing these amendments to eliminate the Utah stair amendments in Sections R156-56-704 and R156-56-711, and thereby go to the International Code requirements for residential stair geometry. The current Utah amendments to the code provide that stairs in residential occupancies shall have a maximum rise of 8 inches and a minimum tread depth of 9 inches. The International Code provides that in residential occupancies stairs shall have a maximum rise of 7-3/4 inches and a minimum tread depth of 10 inches. Proponents for the amendments argue that the steeper stairs allowed in Utah are not as safe as the stairs provided for in the International Code and that we should adopt the nationally recognized standard. Proponents state the issue of stair safety has been argued extensively in the national arena and that Utah should follow the national standard. Accidents on stairs are a major contributor to the number of home accidents. Proponents note that a 9-inch tread is not long enough to accommodate the full length of a foot for a large part of the population. Failure to have adequate support for the full foot, particularly for persons who may have mobility issues, would inevitably lead to more accidents resulting from less than adequate footing. Opponents to the amendments argue that added dimensions of the stairs will add approximately 2 steps or close to 2 feet to the length of a stairway between levels in a residence. The cost of the additional two stairs during initial construction is minimal (probably under $100); however, they argue that in smaller starter homes and townhouses, the additional length of the stair would force the home to be bigger and therefore, substantially raise costs and therefore, price many first time home buyers out of the market. Larger homes should not have any substantial effect on costs as the longer stairway would easily fit into larger homes. Part of the

problem is that although larger homes could easily accommodate the longer and safer stairways with little additional costs, the average homeowner in larger homes is never given the option. The steeper stairs have become an unnecessary standard, even in larger homes, because it is easier for the contractor to simply have all stairs meet the lowest safety requirement rather than use safer stairs in larger houses. The Uniform Building Code Commission recommended these amendments be filed as a separate rule filing due to differing opinions regarding the proposed amendments. Also, it should be noted that once the Division and Commission have determined which of all of the rule filings affecting Rule R156-56 will be made effective, a nonsubstantive rule filing will be filed by the Division to update and correct all subsection numbers. (DAR NOTE: The other filings are: an amendment to Section R156-56-704 under DAR No. 29074, an amendment to Section R156-56-711 under DAR No. 29075, and another amendment to Section R156-56-704 under DAR No. 29078 all in this issue.)

SUMMARY OF THE RULE OR CHANGE: Subsection R156-56-704(24) which affects Section 1009.3 Exception #5 is being deleted. Subsection R156-56-711(13) which affects Section R311.5.3 is deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2) and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division anticipates no costs or savings associated with this rule amendment to the state budget since the proposed amendments will only affect residential construction.

❖ LOCAL GOVERNMENTS: The Division anticipates no costs or savings associated with this rule amendment to local governments since the proposed amendments will only affect residential construction.

❖ OTHER PERSONS: The Division is unable to determine any costs or savings associated with this proposed rule amendment based on information provided in the response to the "reason for the rule change" above. There are arguments that the cost of accidents more than offset any savings on construction or alternatively that the added costs are not supported by accident statistics.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division is unable to determine any compliance costs for affected persons associated with this proposed rule amendment based on information provided in the response to the "reason for the rule change" above. There are arguments that the cost of accidents more than offset any savings on construction or alternatively that the added costs are not supported by accident statistics.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments remove the Utah standard for residential stairways in favor of the national standard, which requires shorter stairs with more depth. Although the cost for longer stairwells is minimal, small residences must be made bigger to accommodate the longer stairwell. It is not clear from accident statistics whether the cost-savings from decreased accidents will outweigh the increase in costs for first-time homeowners. Therefore, it is impossible to anticipate the fiscal impact to businesses as a result of these amendments. Francine A. Giani, 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:
Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@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 11/17/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2006 at 9:00 AM, State Office Building (behind the Capitol), Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/27/2006

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-704. Statewide Amendments to the IBC.

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

(2) All references to the International Existing Building Code are deleted and replaced with the codes approved under Subsection R156-56-701(2).

. . . . . .

(23) In Section 1008.1.8.3, a new subparagraph (5) is added as follows:

(5) Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require specialized security measures for their safety, approved access controlled egress may be installed when all the following are met:

5.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or automatic fire detection system.

5.2 The facility staff can unlock the controlled egress doors by either sensor or keypad.

5.3 The controlled egress doors shall unlock upon loss of power.

[~~(24) Section 1009.3, Exception #5 is deleted and replaced with the following:~~

~~5. In occupancies in Group R-3, as applicable in Section 101.2, within dwelling units in occupancies in Group R-2, as applicable in Section 101.2, and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm).~~

~~]~~(25) Section 1009.11 Exception #4 is deleted and replaced with the following:

4. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.

(26) Section 1009.11.3 is amended to include the following exception at the end of the section:

Exception. Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51 mm) down from the top of the crown. Such handrail is required to have an indention on both sides between 0.625 inch (16 mm) and 1.5 inches (38 mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6 mm) deep on each side and shall be at least 0.5 (13 mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

. . . . . .

R156-56-711. Statewide Amendments to the IRC.

The following are adopted as amendments to the IRC to be applicable statewide:

(1) All amendments to the IBC under Section R156-56-704, local amendments under Section R156-56-705, the NEC under Section R156-56-706, the IPC under Section R156-56-707, the IMC under Section R156-56-708, the IFGC under Section R156-56-709 and the IECC under Section R156-56-710 which may be applied to detached one and two family dwellings and multiple single family dwellings shall be applicable to the corresponding provisions of the IRC. All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Section R156-56-701(1)(b). Should there be any conflicts between the NEC and the IRC, the NEC shall prevail.

. . . . . .

(12) Section R304.3 is deleted and replaced with the following:

R304.3 Minimum dimensions. Habitable rooms shall not be less than 7 feet (2134 mm) in any horizontal dimension.

Exception: Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

[~~(13) Section R311.5.3 is deleted and replaced with the following:~~

~~R311.5.3 Stair treads and risers.~~

~~R311.5.3.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).~~

~~R311.5.3.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12 inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).~~

~~R311.5.3.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inches (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4 inch diameter (102 mm) sphere.~~

~~Exceptions.~~

~~1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).~~

~~2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.~~

~~]~~(14) Section R311.5.6 is deleted and replaced with the following:

R311.5.6 Handrails. Handrails shall be provided on at least one side of stairways consisting of four or more risers. Handrails shall have a minimum height of 34 inches (864 mm) and a maximum height of 38 inches (965 mm) measured vertically from the nosing of the treads. All required handrails shall be continuous the full length of the stairs from a point directly above the top riser to a point directly above the lowest riser of the stairway. The ends of the handrail shall be returned into a wall or shall terminate in newel post or safety terminals. A minimum clear space of 1 1/2 inches (38 mm) shall be provided between the wall and the handrail.

Exceptions:

1. Handrails shall be permitted to be interrupted by a newel post at a turn.

2. The use of a volute, turnout or starting easing shall be allowed over the lowest tread.

. . . . . .

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: [~~January 1,~~]2006

Notice of Continuation: May 16, 2002
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a)

Commerce, Occupational and Professional Licensing
R156-56-704
Statewide Amendments to the IBC

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29078
FILED: 09/25/2006, 17:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Uniform Building Code Commission are proposing these amendments to add a requirement that parking garages over 5,000 square feet be protected by an automatic sprinkler system. The proposed amendment incorporates changes in the fire code requirements that are being proposed by the State Fire Marshal. The Uniform Building Code Commission does not have authority over the fire codes; however, we do correlate building codes to fire code requirements to eliminate confusion of what may be allowed in a building. While the ultimate decision of whether to adopt this requirement is the authority of the State Fire Marshal, the Division may receive input at the scheduled public hearing because the cost of adding automatic fire systems can be quite costly. There are substantial safety issues of not allowing fires to spread from vehicle to vehicle in such garages where access by the fire department to fight a vehicle fire may be impaired. The Uniform Building Code Commission recommended these amendments be filed as a separate rule filing so that in the event the proposal is changed by the State Fire Marshall's office prior to implementation, it will not affect other rule filings to R156-56 which the Division is filing. Also, it should be noted that once the Division and Commission has determine which of all of the rule filings affecting R156-56 will be made effective, a nonsubstantive rule filing will be filed by the Division to update and correct all subsection numbers. (DAR NOTE: The other proposed filings are: another amendment to Section R156-56-704 under DAR No. 29074 and an amendment to Rule R156-56 under DAR No. 29079 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This amendment adds a new Subsection R156-56-704(20) affecting Section (F)903.2.9, and a new Subsection R156-56-704(21) affecting Section (F)903.2.9.1.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2) and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division anticipates no costs or savings associated with this rule amendment. The change in building code requirements will have no effect in that this is only a coordinating amendment to align with State Fire Marshal requirements. The underlying change in the requirements to garages is being made by the State Fire Marshal. Making the change in the building code is intended only to eliminate any potential confusion. Any cost or savings impact of implementing the underlying change in requirements by the State Fire Marshal would be reflected in their filing; however the cost of implementing this sprinkler requirement could be substantial depending on the nature of a project.

❖ LOCAL GOVERNMENTS: The Division anticipates no costs or savings associated with this rule amendment. The change in building code requirements will have no effect in that this is only a coordinating amendment to align with State Fire Marshal requirements. The underlying change in the requirements to garages is being made by the State Fire Marshal. Making the change in the building code is intended only to eliminate any potential confusion. Any cost or savings impact of implementing the underlying change in requirements by the State Fire Marshal would be reflected in their filing; however the cost of implementing this sprinkler requirement could be substantial depending on the nature of a project.

❖ OTHER PERSONS: The Division anticipates no costs or savings associated with this rule amendment. The change in building code requirements will have no effect in that this is only a coordinating amendment to align with State Fire Marshal requirements. The underlying change in the requirements to garages is being made by the State Fire Marshal. Making the change in the building code is intended only to eliminate any potential confusion. Any cost or savings impact of implementing the underlying change in requirements by the State Fire Marshal would be reflected in their filing; however the cost of implementing this sprinkler requirement could be substantial depending on the nature of a project.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates no costs or savings associated with this rule amendment. The change in building code requirements will have no effect in that this is only a coordinating amendment to align with State Fire Marshal requirements. The underlying change in the requirements to garages is being made by the State Fire Marshal. Making the change in the building code is intended only to eliminate any potential confusion. Any cost or savings impact of implementing the underlying change in requirements by the State Fire Marshal would be reflected in their filing; however the cost of implementing this sprinkler requirement could be substantial depending on the nature of a project.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule filing contains an amendment currently sought by the State Fire Marshal regarding sprinklers in parking garages. Any fiscal impact to businesses as a result of such an amendment will be addressed by the State Fire Marshal. Francine A. Giani, Executive Director

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

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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:
Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@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 11/17/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2006 at 9:00 AM, State Office Building (behind the Capitol), Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/27/2006

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-704. Statewide Amendments to the IBC.

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

(2) All references to the International Existing Building Code are deleted and replaced with the codes approved under Subsection R156-56-701(2).

. . . . . .

(F)RECORD DRAWINGS. Drawings ("as builts") that document all aspects of a fire protection system as installed.

(19) Section (F)903.2.7 is deleted and replaced with the following:

(F)903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exception:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code For One- and Two-Family Dwellings.

2. Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives it primary power from the building wiring and a commercial power system.

(20) In Section (F)903.2.9 the exception is deleted and replaced with the following:

Exception: Enclosed parking garages of less than 5,000 square feet (464 m^2) located beneath Group R-3 occupancies.

(21) Section (F)903.2.9.1 is deleted and replaced with the following:

(F)903.2.9.1 Parking garages. An automatic sprinkler system shall be provided throughout buildings used for parking or storage of vehicles where the fire area exceeds 5,000 square feet (464 m^2).

. . . . . .

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: [~~January 1,~~]2006
Notice of Continuation: May 16, 2002
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a)

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Commerce, Occupational and Professional Licensing
R156-56-704
Statewide Amendments to the IBC

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29074
FILED: 09/21/2006, 14:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Uniform Building Code Commission are proposing this amendment because the Department of Health is eliminating the family group license. Therefore, when this change occurs through the Department of Health, the Division needs to update the building code amendment to correlate with the Department of Health requirements.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-56-704(7), section 419 referenced in the rule is changed to section 421 and a reference to a "Family Group License" is deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2) and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division anticipates no costs or savings associated with this rule amendment. The change in building code requirements will have no financial impact in that this is a coordinating amendment and the underlying change in requirements is the change that is being made by the Department of Health. This proposed amendment is made so that it eliminates any potential confusion that family group licenses are no longer issued by the Department of Health. Any cost or savings impact of implementing the underlying change in requirements by the Department of Health would be reflected in their rule filing.

❖ LOCAL GOVERNMENTS: The Division anticipates no costs or savings associated with this rule amendment. The change in building code requirements will have no financial impact in that this is a coordinating amendment and the underlying change in requirements is the change that is being made by the Department of Health. This proposed amendment is made so that it eliminates any potential confusion that family group licenses are no longer issued by the Department of Health. Any cost or savings impact of implementing the underlying change in requirements by the Department of Health would be reflected in their rule filing.

❖ OTHER PERSONS: The Division anticipates no costs or savings associated with this rule amendment. The change in building code requirements will have no financial impact in that this is a coordinating amendment and the underlying change in requirements is the change that is being made by the Department of Health. This proposed amendment is made so that it eliminates any potential confusion that family group licenses are no longer issued by the Department of Health. Any cost or savings impact of implementing the underlying change in requirements by the Department of Health would be reflected in their rule filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates no compliance costs with this rule amendment. The change in building code requirements will have no financial impact in that this is a coordinating amendment and the underlying change in requirements is the change that is being made by the Department of Health. This proposed amendment is made so that it eliminates any potential confusion that family group licenses are no longer issued by the Department of Health. Any cost or savings impact of implementing the underlying change in requirements by the Department of Health would be reflected in their rule filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment is required by a potential amendment to the rules of another state agency. Any fiscal impact to businesses will be addressed in the other agency's rule amendments. Francine A. Giani, Executive Director

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

COMMERCE
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INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2006 at 9:00 AM, State Office Building (behind the Capitol), Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/27/2006

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-704. Statewide Amendments to the IBC.

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

(2) All references to the International Existing Building Code are deleted and replaced with the codes approved under Subsection R156-56-701(2).

(3) Section 101.4.1 is deleted and replaced with the following:

101.4.1 Electrical. The provisions of the National Electrical Code (NEC) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(4) In Section 109, a new section is added as follows:

109.3.5 Weather-resistive barrier and flashing. An inspection shall be made of the weather-resistive barrier as required by Section 1403.2 and flashing as required by Section 1405.3 to prevent water from entering the weather-resistant exterior wall envelope.

The remaining sections will be renumbered as follows:

109.3.6 Lath or gypsum board inspection
109.3.7 Fire-resistant penetrations
109.3.8 Energy efficiency inspections
109.3.9 Other inspections
109.3.10 Special inspections
109.3.11 Final inspection.

(5) Section 114.1 is deleted and replaced with the following:

114.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or dangerous or unsafe, the building official is authorized to stop work.

(6) In Section 202, the following definition is added:

ASSISTED LIVING FACILITY. See Section 308.1.1.

(7) Section 305.2 is deleted and replaced with the following:

305.2 Day care. The building or structure, or portion thereof, for educational, supervision, child day care centers, or personal care services of more than four children shall be classified as a Group E occupancy. See Section [~~419~~]421 for special requirements for Group E child day care centers.

Exception: Areas used for child day care purposes with a Residential Certificate, Family License [~~or Family Group License~~]may be located in a Group R-2 or R-3 occupancy as provided in Section 310.1 or shall comply with the International Residential Code in accordance with Section 101.2.

Child day care centers providing care for more than 100 children 2 1/2 years or less of age shall be classified as Group I-4.

. . . . . .

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: [~~January 1,~~]2006
Notice of Continuation: May 16, 2002
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a)

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Commerce, Occupational and Professional Licensing

R156-56-711

Statewide Amendments to the IRC

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29075
FILED: 09/21/2006, 14:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Uniform Building Code Commission are proposing this amendment to correct the reference to the electrical code to the current name and to eliminate the reference to conflicts between the National Electrical Code (NEC) and the International Residential Code (IRC). Proponents for the amendment argue that the IRC has already incorporated provisions of the NEC and therefore the rule on conflict is not needed. Opponents to the amendments argue that the IRC does not fully reflect the NEC and that the IRC has serious conflicts with the NEC. The NEC is the more extensive code and was the source of the electrical provisions in the IRC. The IRC is designed so that only the electrical requirements that are normally applicable to residential construction are included in the IRC. Opponents therefore argue that if anything is missed in the IRC, that the NEC is the more extensive document and should prevail. The Uniform Building Code Commission recommended this amendment be filed as a separate rule filing due to the two differing opinions regarding the proposed amendment. (DAR NOTE: The other proposed filing is to Rule R156-56 and it is under DAR No. 29079 in this issue.)

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-56-711(1), the reference to the International Electrical Code is changed to the International Code Council (ICC) Electrical Code and the last sentence in the subsection about if conflicts exist between the NEC and the IRC, the NEC shall prevail is being deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2) and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The Division anticipates no costs or savings associated with this rule amendment. Since the NEC is the source of electrical provisions in the IRC, this proposed amendment should have no impact on the costs of construction and the proposed amendment only affects residential construction.
❖ LOCAL GOVERNMENTS: The Division anticipates no costs or savings associated with this rule amendment. Since the NEC is the source of electrical provisions in the IRC, this proposed amendment should have no impact on the costs of construction and the proposed amendment only affects residential construction.
❖ OTHER PERSONS: The Division anticipates no costs or savings associated with this rule amendment. Since the NEC is the source of electrical provisions in the IRC, this proposed amendment should have no impact on the costs of construction and the proposed amendment only affects residential construction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates no compliance costs with this rule amendment. Since the NEC is the source of electrical provisions in the IRC, this proposed amendment should have no impact on the costs of construction and the proposed amendment only affects residential construction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment corrects a reference. It also attempts to remove a conflicts provision that some in the industry believe is unnecessary. No fiscal impact to businesses is anticipated by this amendment. Francine A. Giani, 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:
Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@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 11/17/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2006 at 9:00 AM, State Office Building (behind the Capitol), Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/27/2006

AUTHORIZED BY: J. Craig Jackson, Director

———————————

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-711. Statewide Amendments to the IRC.

The following are adopted as amendments to the IRC to be applicable statewide:

(1) All amendments to the IBC under Section R156-56-704, local amendments under Section R156-56-705, the NEC under Section R156-56-706, the IPC under Section R156-56-707, the IMC under Section R156-56-708, the IFGC under Section R156-56-709 and the IECC under Section R156-56-710 which may be applied to detached one and two family dwellings and multiple single family dwellings shall be applicable to the corresponding provisions of the IRC. All references to the [~~International Electrical Code~~]ICC Electrical Code are deleted and replaced with the National Electrical Code adopted under Section R156-56-701(1)(b).[~~Should there be any conflicts between the NEC and the IRC, the NEC shall prevail.~~]

(2) In Section 109, a new section is added as follows:

R109.1.5 Weather-resistive barrier and flashing inspections. An inspection shall be made of the weather-resistive barrier as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistant exterior wall envelope.

The remaining sections are renumbered as follows:

R109.1.6 Other inspections

R109.1.6.1 Fire-resistance-rated construction inspection

R109.1.7 Final inspection.

(3) Section R114.1 is deleted and replaced with the following:

R114.1 Notice to owner. Upon notice from the building official that work on any building or structured is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume.

(4) In Section R202, the definition of "Backsiphonage" is deleted and replaced with the following:

BACKSIPHONAGE: The backflow of potentially contaminated, polluted or used water into the potable water system as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks or vats connected to the potable water distribution piping.

(5) In Section R202 the following definition is added:

CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Subsection 19-4-104(4), Utah Code Ann. (1953), as amended.

(6) In Section R202 the definition of "Cross Connection" is deleted and replaced with the following:

CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems(see "Backflow, Water Distribution").

(7) In Section R202 the following definition is added:

HEAT exchanger (Potable Water). A device to transfer heat between two physically separated fluids (liquid or steam), one of which is potable water.

. . . . . .

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: [~~January 1,~~]2006
Notice of Continuation: May 16, 2002
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a)

Community and Culture, Housing and Community Development

R199-8-4

Board Review Procedures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29070
FILED: 09/20/2006, 11:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: It has been determined that more frequent meetings are needed to adequately review the increased number of applications.

SUMMARY OF THE RULE OR CHANGE: This amendment includes an official Board meeting in July, coinciding with the Board's annual retreat.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-305

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: This revision does not create additional costs, because cost for Board travel is already included in the existing budget for the annual retreat.
- LOCAL GOVERNMENTS: Because this revision does not create any new requirements, no change in costs is expected for local governments.
- OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Palmer DePaulis, Executive Director

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

COMMUNITY AND CULTURE
HOUSING AND COMMUNITY DEVELOPMENT
Room 500
324 S STATE ST
SALT LAKE CITY UT 84111-2388, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mark Bedel at the above address, by phone at 801-538-8765, by FAX at 801-538-8888, or by Internet E-mail at mbedel@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2006

AUTHORIZED BY: Palmer DePaulis, Executive Director

R199. Community and Culture, Housing and Community Development.
R199-8. Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance.
R199-8-4. Board Review Procedures.

A. The Board will review applications and authorize funding assistance on a "Trimester" basis. The initial meetings of each "Trimester" shall be "Project Review Meetings". The final meeting of each "Trimester" shall be a "Prioritization and Funding Meeting". Board meetings shall be held monthly[~~, except July when no meeting will be held~~]. "Prioritization and Funding Meetings" shall be held in April for the 1st Trimester, August for the 2nd Trimester and December for the 3rd Trimester.

The deadlines for submitting applications for each of the Trimesters will no later than the following dates: 1st Trimester, December 1st; 2nd Trimester, April 1st; 3rd Trimester, August 1st.

B. The process for review of new applications for funding assistance shall be as follows:

1. Submission of an application to the Board's staff for technical review and analysis.

2. Incomplete applications will be held by the Board's staff pending submission of required information.

3. Complete applications accepted for processing will be placed on the next available "Project Review Meeting" agenda.

4. At the "Project Review Meeting" the Board may either:

a. deny the application;

b. place the application on the "Pending List" for consideration at a future "Project Review Meeting" after additional review, options analysis and funding coordination by the applicant and the Board's staff;

c. place the application on the "Prioritization List" for consideration at the next "Prioritization and Funding Meeting".

C. Applicants and their representatives shall be informed of any "Project Review Meeting" at which their applications will be considered. Applicants may make formal presentations to the Board and respond to the Board's questions during the "Project Review Meetings".

D. No funds shall be committed by the Board at the "Project Review Meetings", with the exception of bona fide emergencies.

E. Applications for funding assistance which have been placed on the "Prioritization List" will be considered at the "Prioritization and Funding Meeting" for that Trimester. Applications which do not receive funding authorization will be held over for reconsideration at the next "Prioritization and Funding Meeting". Applications which have not received funding authorization after reconsideration will be deemed denied.

F. In instances of bona fide public safety or health emergencies or for other compelling reasons, the Board may suspend the provisions of this section and accept, process, review and authorize funding of an application on an expedited basis.

KEY: grants
Date of Enactment or Last Substantive Amendment: [~~December 8, 2003~~]2006
Notice of Continuation: November 5, 2002
Authorizing, and Implemented or Interpreted Law: 9-4-305

♦ ♦

Community and Culture, Housing and Community Development
R199-8-5
Local Capital Improvement Lists

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29071
FILED: 09/20/2006, 11:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to make the submission of the capital improvements lists concurrent with the first funding cycle of the calendar year.

SUMMARY OF THE RULE OR CHANGE: The amendment changes the due date for capital improvements lists from April 1st of a calendar year to December 1st of the preceding calendar year.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-305

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because this revision does not create any new requirements, no change in costs is expected to the state budget.

❖ LOCAL GOVERNMENTS: Because this revision does not create any new requirements, no change in costs is expected for local governments.

❖ OTHER PERSONS: Because this revision does not create any new requirements, no change in costs is expected for other persons.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because this revision does not create new requirements, no change in costs is expected for businesses. Palmer DePaulis, Executive Director

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

COMMUNITY AND CULTURE
HOUSING AND COMMUNITY DEVELOPMENT
Room 500
324 S STATE ST
SALT LAKE CITY UT 84111-2388, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mark Bedel at the above address, by phone at 801-538-8765, by FAX at 801-538-8888, or by Internet E-mail at mbedel@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2006

AUTHORIZED BY: Palmer DePaulis, Executive Director

R199. Community and Culture, Housing and Community Development.
R199-8. Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance.
R199-8-5. Local Capital Improvement Lists.

A. A consolidated list of the anticipated capital needs for eligible entities shall be submitted from each county area, or in the case of state agencies, from DCC. This list shall be produced as a cooperative venture of all the eligible entities within each county area.

B. The list shall contain a short term (one year) and a medium term (five year) component.

C. The list shall contain the following items: jurisdiction, summary description, project time frame, anticipated time of submission to PCIFB, projected overall cost of project, anticipated funding sources, the individual applicant's priority for their own projects, and the county area priority for each project. The county area priority for each project shall be developed as a cooperative venture of all eligible entities within a county area.

D. Projects not identified in a county area's or DCC 's list, will not be funded by the PCIFB, unless they address a bona fide public safety or health emergency or for other compelling reasons.

E. An up-dated list shall be submitted to the Board no later than [~~April~~]December 1st of each year. The up- dated list shall be submitted in the uniform format required by the Board.

F. If the consolidated list from a county area does not contain the information required in R-199-8-5-C, or is not in the uniform format required in R-199-8-5-E, all applications from the affected county area will be held by the Board's staff until the next funding cycle pending submission of the required information in the uniform format.

G. The Board has authorized its staff to hold any application that does not appear on the applicable local capital improvement list. Such applications will be held until the next funding cycle to allow the applicant time to pursue amending the local capital improvement list.

H. The amendment to include an additional project must follow the process used for the original list, and it must contain the required information and be submitted in the uniform format, particularly the applicant and county area prioritization.

I. The regional Association of Governments are the compilers of the capital improvement lists. The AOG cannot simply add additional applications to any given list without the applicant meeting the process requirements outlined in Item III-B, above.

J. Not withstanding Item III-C, above, allowing an applicant to add a project to the capital improvement list just prior to the application deadline subverts the intent of the capital improvement list process. Such applications will be held by the Board's staff until the next funding cycle.

KEY: grants
Date of Enactment or Last Substantive Amendment: [~~December 8, 2003~~]2006
Notice of Continuation: November 5, 2002
Authorizing, and Implemented or Interpreted Law: 9-4-305

Corrections, Administration
R251-106-3
Standards and Procedures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29060
FILED: 09/19/2006, 09:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define the Utah Department of Corrections (UDC) policy under which persons representing the news media shall be allowed access to correctional institutions, inmates, and other supervised offenders, and define UDC actions when a need exists for the safeguarding of information.

SUMMARY OF THE RULE OR CHANGE: The rule changes are limited to adding the positions of the Warden, and the Associate Warden to those listed in the rule which have the authority to interact with the news media.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-46a-3, 64-13-17, 63-2-102, and 77-19-11

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There are no costs or savings associated with the rule amendment as the change simply adds two more individuals to the list of individuals authorized to interact with the media.

❖ LOCAL GOVERNMENTS: There are no costs or savings associated with the rule amendment as the change simply adds two more individuals to the list of individuals authorized to interact with the media.

❖ OTHER PERSONS: There are no costs or savings associated with the rule amendment as the change simply adds two more individuals to the list of individuals authorized to interact with the media.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule amendments will not result in a compliance cost to any affected persons because the amendment does not mandate any compliance. The amendment simply makes it easier to interact with the media.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact from the amendments to this rule. Scott Carver, Executive Director

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2006

AUTHORIZED BY: Scott V. Carver, Executive Director

R251. Corrections, Administration.
R251-106. Media Relations.
R251-106-3. Standards and Procedures.

(1) It is the policy of the UDC to permit press access to facilities, inmates, supervised offenders and information. Access shall be:

(a) consistent with the requirements of the constitutions and laws of the United States and State of Utah;

(b) at a level no more restrictive than that allowed the general public.

(2) Access by news media members shall be restricted:

(a) when the UDC finds it necessary to further its legitimate governmental interests, or to maintain safety, security, order, discipline and program goals;

(b) to conform with statutory and constitutional privacy requirements as interpreted by binding case precedent;

(c) when information or access would be contrary to state interests on matters under litigation; or

(d) to safeguard the privacy interests of those under the supervision of the UDC.

(3) The UDC shall make all reasonable efforts to see that the public is kept informed concerning its operations by:

(a) participating and cooperating with the news media to communicate the UDC's mission, goals, policy, procedures, operation, and activities;

(b) providing information in a timely manner, while avoiding disruption or compromise of the UDC's legitimate interests; and

(c) releasing information in accordance with the policy, procedures and requirements of law to provide the public with knowledge about:

(i) UDC philosophy, operations and activities; and

(ii) significant issues and problems facing the UDC.

(4) Inmates shall not be denied the opportunity to communicate with the news media. However, the UDC reserves the right to regulate the manner in which the communication may occur, including:

(a) defining the channels of communication and the circumstances of their use; and

(b) temporarily suspending communication during exigent circumstances including:

(i) riots;

(ii) hostage situations;

(iii) fires or other disasters;

(iv) other inmate disorders; or

(v) emergency lock-down conditions.

(5) Because the UDC faces special management problems with the prison's operation from face-to-face interviews between inmates and the news media:

(a) news media members' requests for face-to-face interviews shall be reviewed on a case-by-case basis by considering the mental competence of the inmate, pending appeals, safety, security, and management issues of the institution;

(b) requests for face-to-face interviews shall be submitted to the Director of Public Information; and

(c) interviews which the UDC determines will jeopardize its legitimate interests, or those of a prison facility, shall not be approved.

(6) Access to executions by the news media shall be consistent with the requirements of Section 77-19-11.

(7) News media members shall obtain UDC-issued media identification or shall receive special permission for access to prison property or other UDC Facilities. Special permission may be granted only by the Institutional Operations Associate Warden, Warden, or Division Director, Director of Public Information, Deputy Director, or Executive Director.

(8) No equipment shall be taken inside the facility unless specifically approved by the Institutional Operations Associate Warden, Warden, or Division Director, Director of Public Information, Deputy Director, or Executive Director. Filming or other recording visits are separate issues and involve individual consideration and decisions.

(9) Ground rules for each opportunity for facility access, filming or recording shall be determined prior to entry.

(10) Access may be terminated at any time without warning, if:

(a) the conditions, ground rules, or other regulations are violated by news media members involved in the access opportunity;

(b) an inmate disorder or other disruption develops;

(c) staff members detect problems created by the media visit which threaten security, safety or order in the facility; or

(d) other reasons related to the legitimate interests of the UDC are present.

(11) Deliberate violation of regulations or other serious misconduct during a facility visit:

(a) shall result in the temporary loss of UDC-issued media identification; and

(b) may result in the permanent loss of UDC-issued media identification.

KEY: corrections, press, prisons
Date of Enactment or Last Substantive Amendment: [~~1993~~]2006
Notice of Continuation: March 13, 2002
Authorizing, and Implemented or Interpreted Law: 63-2-102; 63-46a-3; 64-13-10; 64-13-17; 77-19-11

♦ ♦

Corrections, Administration
R251-107
Executions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29058
FILED: 09/19/2006, 09:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The five-year review of this rule provides the opportunity to make changes in the manner executions are conducted, the authority to determine access, and in conducting searches.

SUMMARY OF THE RULE OR CHANGE: The changes involve three main areas: 1) the numbers of people involved in lethal injections was changed from three to two, an alternate executioner was eliminated, and several references to the Deputy Director/designee were changed to the Warden; 2) the procedures of escorting any witnesses, except executioners, off property who decline consent to a search, was added; and 3) Utah County newspapers were added to the list of media members who may be selected to witness the execution.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-19-10 and 77-19-11

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These rule changes do not have an anticipated cost or savings to the state budget because they are minor in nature, and do not involve the financial aspects of executions.

❖ LOCAL GOVERNMENTS: These rule changes do not have an anticipated cost or savings to local government because they do not deal with any responsibility which local government would assume or participate in during an execution.

❖ OTHER PERSONS: These rule changes do not have an anticipated cost or savings to other persons because they do not deal with any financial aspect of any position or responsibility other persons might assume in an execution.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These rule changes do not involve any financial aspect of executions and will not require any compliance or costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses from these rule changes. Scott Carter, Executive Director

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2006

AUTHORIZED BY: Scott V. Carver, Executive Director

R251. Corrections, Administration.
R251-107. Executions.
R251-107-4. Selection of Executioners.

(1) The Executive Director/designee shall ensure that the method of judgment of death specified in the warrant is carried out at a secure correctional facility operated by the Department in accordance with Section 77-19-10.

(2) If the judgment of death is to be carried out by lethal injection, at least [~~three~~]two persons, including one alternate who is trained to administer intravenous injections, shall be selected.

(a) Two shall be selected to administer a continuous intravenous injection; one of which shall be a lethal quantity of sodium thiopental or other equally or more effective substance sufficient to cause death.[~~(b) One additional executioner who shall be an alternate, shall be selected to provide back-up for the primary team.~~]

([~~e~~]b) The [~~Executive Director, DIO Director, and~~]Warden shall be responsible for selecting the executioners.

(i) Executioners may be selected from within or outside of the state of Utah.

(ii) Selection [~~to the teams~~]as an executioner shall require knowledge and training in the accepted medical practices to administer intravenous injections.

([~~d~~]c) The Warden, DIO Director, and Executive Director shall review the qualifications and other relevant information concerning applicants who claim appropriate training and skills in administering intravenous injections.

([~~e~~]d) Following the examination and evaluation of candidates, the Warden, with the concurrence of the Executive Director and DIO Director, shall select the executioners.

([~~f~~]e) The [~~Deputy Director/designee~~]Warden shall contact those chosen for the primary and back-up execution teams to notify them of their selection and to verify their willingness and availability to perform the duties of execution by injection.

([~~g~~]f) If any person rescinds his original offer to participate, the Warden, DIO Director, and Executive Director will select a replacement.

(3) If the judgment of death is to be carried out by shooting, the Executive Director/designee shall select a five-person firing squad of peace officers.

(a) A five-person execution team, plus one alternate and a team leader, shall be chosen for the firing squad.

(b) The alternate shall be selected to replace any member of the firing squad who is unable to discharge his required functions.

(c) Persons selected for the firing squad shall be POST certified peace officers.

(d) The Executive Director and Warden shall be responsible for the selection process.

(e) The final choice of firing squad members shall be the responsibility of the Warden with the concurrence of the Executive Director/designee.

(f) The [~~Deputy Director/designee~~]Warden shall contact those chosen for the firing squad, alternates and team leader to notify them of their selection and to verify their willingness and availability to perform the execution duties.

(g) If any person rescinds his original offer to participate, the selection team shall select a replacement.

R251-107-5. Demonstration and Public Access.

(1) Parking or standing during the execution event from the designated start time in the authorized security plan until [~~two~~]four hours after the execution is prohibited:

(a) on Pony Express Road between 13800 South and 14600 South;

(b) on Minuteman Drive between 14400 South and 14600 South;

(c) on 14600 South from the Utah Roses to Minuteman Drive;

(d) on the I-15 freeway or its ramps;

(e) on 13800 South from Pony Express Road to the railroad tracks; and

(f) in any other location posted for "no parking" or restricted parking.

(2) Parking on Pony Express Road between 13800 South and 14600 South is posted and prohibited 24 hours a day.

(3) The Executive Director[~~/designee~~] and Warden may permit limited access to a designated portion of prison property on Minuteman Drive at or near the Fred House Academy for the public to gather to observe the prison or demonstrate during an execution event.

(4) The demonstration/public staging area located north of the 14800 South road block on East Frontage Road shall be the location for demonstrators and the general public.

(5) If more people gather at the demonstration/public staging area than can be accommodated, an overflow area shall be made available in the park-and-ride parking area west of the south-bound on-ramp on the Bluffdale interchange.

(6) Access shall be limited to the designated start time in the authorized security plan the day prior to the scheduled execution date and last up to six hours following the execution or any stay, unless permission is earlier withdrawn.

(7) Security shall be provided at the public area to try to prevent physical confrontations between observers/demonstrators with differing points of view.

(8) To avoid the possibility of any group raising First Amendment issues based on the Department favoring one group over another, demonstrators shall not be separated according to their views regarding capital punishment.

(9) Motor vehicles are not permitted at the designated location. Persons at the location or en route to or from the site are subject to all applicable state and federal laws, rules and regulations and local ordinances including, without limitations, those relating to traffic control, pedestrian traffic, parking, noise, and parade permits.

(10) No person may block, obstruct, or interfere with prison traffic or communication.

(11) No person may damage, destroy or take public property, nor may any person build or erect any structure nor leave behind any object, substance or material.

(12) No person may violate the intent of clearly marked signs, fences, doors or other indicant relative to prohibitions against entering any prison property or facility for which permission to enter may not be marked.

(13) The Department neither recognizes, nor is bound by, the policies, allowances or arrangements which may have occurred at prior executions, events or on prior occasions, and by this rule any arrangement provided for public access at previous executions or demonstrations is invalidated.

(14) The Executive Director or Warden may at any time withdraw permission without notice in the event of riot, disturbance, or other factors that in the opinion of the Warden/designee or Executive Director/designee jeopardizes the security, peace, order or any function of the prison.

R251-107-8. Personal Searches.

(1) News media representatives and inmate-invited witnesses shall be searched at the staging area prior to being allowed into the escort vehicles.

(a) The search shall include a search by metal detector and rub search.

(b) News media representatives and witnesses shall be asked to remove all personal items from their clothing and persons.

(i) Unauthorized items shall be taken by the witness to his/her vehicle or left at the staging area until the witness returns from the execution.

(ii) Witnesses shall be responsible for locking their vehicle.

(2) Government officials, the physician, and the State Medical Examiner shall be searched by metal detector, but shall not be rub searched unless there is suspicion that an official is carrying contraband.

(3) Strip search of witnesses shall be permitted only if there is a reasonable suspicion that the witness is concealing contraband or anything which would jeopardize safety or security or violate Section 77-19-11, and may only be authorized by the Executive Director, DIO Director, or the Warden. If the witness does not consent to a search, they will be escorted off property.

(4) Cameras and recording devices shall not be allowed at the execution site except for two pool cameras, which may be carried to the execution site waiting room, to be used after the execution has taken place.

(5) Department members may be searched upon a reasonable suspicion that a member is carrying contraband.

(6) Executioners shall not be searched or identified upon entry.

R251-107-9. News Media.

(1) The Department shall permit press access to the execution and information concerning the execution consistent with the requirements of the constitutions and laws of the United States and State of Utah.

(2) The Department and the Utah Code recognize the need for the public to be informed concerning executions.

(a) The Department will participate and cooperate with the news media to inform the public concerning the execution; and

(b) information should be provided in a timely manner.

(3) If the condemned person is willing, the Department may allow an opportunity for the condemned to speak with the news media.

(4) The Executive Director shall be responsible for selecting the members of the news media who will be permitted to witness the execution.

(a) After the court sets a date for the execution of the death penalty, news directors may request permission for a member of their organization to witness the execution by directing the request, in writing, to the attention of the Executive Director at least 21 days prior to the execution.

(b) When administrative convenience or fairness to the news media dictates, the Department, in its discretion, may extend the request deadline.

(c) Requests for consideration may be granted by the Executive Director provided they contain the following:

(i) a statement setting forth facts showing that the requesting individual falls within the definition of member of the "press" and "broadcast news media" as set forth in this rule;

(ii) an agreement to act as a pool representative for other news gathering agencies desiring information on the execution;

(iii) an agreement that the media member will abide by all of the conditions, rules and regulations while in attendance at the execution; and

(iv) agreement that they will conduct themselves consistent with existing press standards.

(d) Upon receipt of media member's request for permission to attend the execution, the Executive Director may take the steps necessary to verify the statements made in the request. After verifying the information in the request, selection of witnesses shall be made by the Executive Director.

(e) The Executive Director shall identify the media members who have been selected to witness the execution. Media members shall be selected on a rotating basis from the following organizations:

(i) Salt Lake City and Utah County daily newspapers;

(ii) television stations licensed and broadcasting daily in the State of Utah;

(iii) one newspaper of general circulation in the county in which the crime occurred;

(iv) one radio station licensed and broadcasting in the State of Utah; and

(v) the remainder from a pool of broadcast, print, and wire services news media organizations operating in Utah.

(f) In the event that the Executive Director is unable to name a media member from each of the above-described organizations, he shall name other qualifying media members to attend.

(g) No media members other than those named to attend the execution as described in this rule shall be permitted to witness the execution.

(h) Additional members of the press and broadcast news media who request and receive permission from the Executive Director shall be permitted on prison property during the execution at a location designated by the Executive Director.

(i) The Department shall arrange for pre-execution briefings, distribution of media briefing packages, briefings throughout the execution event, and post-execution briefings by the news media who witnessed the execution.

(j) No special access nor briefings will be provided to members of the press who are not selected as witnesses nor selected for the alternate site.

(k) Two photographers shall be appointed as pool photographers to film the execution site following clean up.

(l) One photographer shall provide for the needs of the electronic media and the other shall take photos for the print media.

(m) The pool photographers should be selected from agencies other than those represented among the nine witnessing the execution.

(n) If any attempt is made to photograph in any area or at any time other than that specifically authorized, the photographer shall be expelled, film confiscated and criminal charges, if appropriate, filed.

(5) The Warden shall permit the members of the press and broadcast news media, selected by the Executive Director, to witness the execution.

(6) Each media member attending the execution shall be carefully searched prior to admittance to the execution chamber.

(a) No strip search of any media member shall be conducted unless and until the Warden has reasonable suspicion to believe the media member is concealing weapons, drugs, audio or visual recording devices, or any other item not expressly authorized.

(i) Electronic or mechanical recording devices include still, moving picture or videotape cameras, tape recorders or similar devices, broadcasting devices, or artistic paraphernalia, including notebooks, and drawing pencils or pens.

(ii) Only a small notebook and a pen or pencil issued by the Department shall be permitted.

(b) In the event of a strip search, the search shall be conducted in private, away from the execution area.

(i) If the media members are found not to be concealing any of the items described, they will be permitted to return to the execution site and attend the execution.

(ii) Any media member found to possess prohibited items shall be escorted from the execution area, from prison property and shall be subject to criminal charges, if appropriate.

(c) Persons representing the news media witnessing the execution shall be required to sign a statement or release absolving the institution or any of its staff from any legal recourse resulting from the exercise of search requirements or other provisions of the witness agreement.

(d) The Warden shall not exclude any media member duly selected from attendance at the execution except as described in these policies, nor may the Warden cause a selected media member to be removed from the execution chamber unless the media member:

(i) refuses to submit to a reasonable search as permitted in these policies;

(ii) faints, becomes ill or requests to be allowed to leave during the execution;

(iii) causes a disturbance within the execution chamber that disrupts the conduct of the execution; or

(iv) refuses or fails to abide by the conditions and policies set forth by the Department.

(e) The execution chamber shall be arranged so as to provide space for the attending media members and the space arranged shall have a view of the execution site, with the exception of:

(i) a view of the members of the firing squad, if employed; or

(ii) if lethal injection is chosen, those directly administering the method of execution, who shall be concealed from the view of the media members so that their identities will remain unknown.

(f) The selected media members shall be transported as a group to the execution location prior to the execution and shall be allowed to remain there throughout the proceeding.

(g) The Department shall designate a representative or representatives to remain with the media members throughout the execution proceedings for the purpose of supervising and answering questions related to the execution.

(h) Media members shall be admitted to the execution area on the date set for the execution only after:

(i) proof of identification has been presented to the Public Affairs Director/designee at the staging area;

(ii) being issued special identification credentials;

(iii) receiving an orientation by the Public Affairs Director/designee; and

(iv) signing an agreement to abide by conditions required of media witnesses to the execution.

(i) After the execution has been completed and the site has been restored to an orderly condition, news media members may be permitted to return to the execution chamber for purposes of filming, photographing and recording the site.

(i) Re-entry to the site shall be permitted only after the site has been restored to an orderly condition, including:

(A) removal of the body of the condemned;

(B) evacuation of those involved in administering the execution; and

(C) clean up of the execution site.

(ii) Restoring the site to an "orderly condition" prior to the filming opportunity shall not unnecessarily disturb the physical arrangements for the execution.

(iii) Media members permitted to return to the execution chamber for the filming and recording of the site shall include:

(A) the news media members who were selected to witness the execution;

(B) one pool television photographer; and

(C) one pool newsprint photographer.

(iv) The film/videotape shall not be used in any news or other broadcast until made available to all agencies participating in the pool. All agencies receiving the film/videotape will be permitted to use them in news coverage and to retain the film/videotape for file footage.

(j) News media representatives shall, after being returned from the execution to the staging area, act as pool representatives for other media representatives covering the event.

(i) The pool representatives shall meet at the designated media center and provide an account of the execution and shall freely answer all questions put to them by other media members and shall not be permitted to report their coverage of the execution back to their respective news organizations until after the non-attending media members have had the benefit of the pool representatives' account of the execution.

(A) News media members attending the post-execution briefing shall agree to remain in the briefing room and not leave nor communicate with persons outside the briefing room until the briefing is over.

(B) The briefing shall end when the attending news media members are through asking questions or after [~~90~~]60 minutes, whichever comes first.

(ii) The media witnesses shall be transported as a group between the staging area and the execution chamber in Department transportation. Media members arriving late and missing the shuttle shall not be permitted to attend the execution.

(k) The Department may alter these policies to impose additional conditions, restrictions and limitations on media coverage of the execution when requirements become necessary for the preservation of prison security, personal safety or other legitimate interests which may be in jeopardy.

(l) If extraordinary circumstances develop, additional conditions and restrictions shall be no more restrictive than required to meet the exigent circumstances.

KEY: corrections, executions[~~*~~], prisons
Date of Enactment or Last Substantive Amendment: [~~April 18, 2002~~]2006
Notice of Continuation: February 20, 2002
Authorizing, and Implemented or Interpreted Law: 77-19-10; 77-19-11

Environmental Quality, Solid and Hazardous Waste

R315-1

Utah Hazardous Waste Definitions and References

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29085
FILED: 09/29/2006, 10:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change adds definitions associated with military munitions and manifest rules.

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 260.10, 264.18(a)(2), and 279.1, 2005 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste

regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

AUTHORIZED BY: Dennis Downs, Director

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

(a) Terms used in R315-1 through R315-101 are defined in Sections 19-1-103 and 19-6-102.

(b) For R315-1 through R315-101, the terms defined in 40 CFR 260.10, 264.18(a)(2), and 279.1, [~~2000~~]2005 ed., [~~as amended by 67 FR 2962, January 22, 2002,~~]are adopted and incorporated by reference with the following revisions:

(1) Substitute "Executive Secretary" for "Regional Administrator" or "Administrator," except in the following cases:

(i) In the actual definitions of "Administrator" and "Regional Administrator;" and

(ii) In the definitions of "hazardous waste constituent" and "industrial furnace" where "Board" shall be substituted.

(2) Insert in the definition of "existing tank system" or "existing component" the following additional phrase after "July 14, 1986," "or December 16, 1988 for purposes of implementing the non-HSWA requirements of the tank regulations as promulgated by EPA on July 14, 1986, 51 FR 25470, as they have been incorporated into the corresponding rules of R315. A non-HSWA existing tank system or non-HSWA tank component is one which does not implement any of the requirements of the federal Hazardous and Solid Waste Amendments of 1984 (HSWA) as identified in Table 1 of 40 CFR 271.1."

(3) Insert in the definition of "new tank system" or "new tank component" the following additional phrase after "July 14, 1986," "or December 16, 1988 for purposes of implementing the non-HSWA requirements of the tank regulations as promulgated by EPA on July 14, 1986, 51 FR 25470, as they have been incorporated into the corresponding rules of R315; except, however, for purposes of 40 CFR 265.193(g)(2) and 40 CFR 264.193(g)(2), a new tank system is one which construction commences after July 14, 1986. A non-HSWA new tank system or non-HSWA new tank component is one which does not implement any of the requirements of the federal Hazardous and Solid Waste Amendments of 1984 (HSWA) as identified in Table 1 of 40 CFR 271.1."

(c) The terms defined in 40 CFR 261.1(c), 1997 ed., are adopted and incorporated by reference.

(d) For purposes of R315-3 regarding application and permit procedures for hazardous waste facilities, the terms defined in 40 CFR 270.2, 1999 ed., are adopted and incorporated by reference with the following revisions:

(1) "Permit" means the plan approval as required by subsection 19-6-108(3)(a), or equivalent control document issued by the Executive Secretary to implement the requirements of the Utah Solid and Hazardous Waste Act;

(2) "Director" or "State Director" means "Executive Secretary;" and

(3) Replace existing definition of "corrective action management unit" with the definition as found in 40 CFR 260.10, 2000 ed.

(e) The definitions of "Polychlorinated biphenyl, PCB," and "Polychlorinated item" as found in 761.3, 40 CFR, 1990 ed., are adopted and incorporated by reference.

(f) In addition, the following terms are defined as follows:

(1) "Approved hazardous waste management facility" or "approved facility" means a hazardous waste treatment, storage, or disposal facility which has received an EPA permit in accordance with federal requirements, has been approved under 19-6-108 and R315-3, or has been permitted or approved under any other EPA authorized hazardous waste state program.

(2) "Division" means the Division of Solid and Hazardous Waste.

(3) "Hazard class" means:

(i) The DOT hazard class identified in 49 CFR 172; and

(ii) If the DOT hazard class is "OTHER REGULATED MATERIAL," ORM, the EPA hazardous waste characteristic exhibited by the waste and identified in R315-2-9.

(4) "Monitoring" means all procedures used to systematically inspect and collect data on operational parameters of the facility or on the quality of the air, ground water, surface water, or soils.

(5) "POHC's" means principle organic hazardous constituents.

(6) "Permittee" means any person who has received an approval of a hazardous waste operation plan under 19-6-108 and R315-3 or a Federal RCRA permit for a treatment, storage, or disposal facility.

(7) "Precipitation run-off" means water generated from naturally occurring storm events. If the precipitation run-off has been in contact with a waste defined in R315-2-9, it qualifies as "precipitation run-off" if the water does not exhibit any of the characteristics identified in R315-2-9. If the precipitation run-off has been in contact with a waste listed in R315-2-10 or R315-2-11, then it qualifies as "precipitation run-off" when the water has been excluded under R315-2-16. Water containing any leachate does not qualify as "precipitation run-off".

(8) "Spill" means the accidental discharging, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes, into or on any land or water.

(9) "Waste management area" means the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(g) Terms used in R315-15 are defined in sections 19-6-703 and 19-6-706(2)(b)(ii).

(h) For purposes of R315-101 regarding cleanup action and risk-based closure standards, the following terms are defined as follows:

(1) "The concentration term, C" is calculated as the 95% upper confidence limit, UCL, on the arithmetic average for normally distributed data, or as the 95% upper confidence limit on the arithmetic average for lognormally distributed data. For normally distributed data, C=Mean + t x Standard Deviation/$n^{1/2}$, where n is the number of observations, and t is Student's t distribution (at the 95% one-sided confidence level and n-1 degrees of freedom), tables of which are printed in most introductory statistics textbooks. For lognormally distributed data, C=exp (Mean of lognormal-transformed data + 0.5 x Variance of lognormal-transformed data + Standard Deviation of lognormal-transformed data x H/$(n - 1)^{1/2}$), where n is the number of observations, and H is Land's H statistic (at the 95% one-sided confidence level), tables of which are printed in advanced statistics books. For data which are not normally nor lognormally distributed, appropriate statistics, such as nonparametric confidence limits, shall be applied.

(2) "Area of contamination" means a hazardous waste management unit or an area where a release has occurred. The boundary is defined as the furthest extent where contamination from a defined source has migrated in any medium at the time the release is first identified.

(3) "Contaminate" means to render a medium polluted through the introduction of hazardous waste or hazardous constituents as identified in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII.

(4) "Hazard index" means the sum of more than one hazard quotient for multiple substances, multiple exposure pathways, or both. The Hazard Index is calculated separately for chronic, subchronic, and shorter duration exposures.

(5) "Hazard quotient" means the ratio of a single substance exposure level over a specified time period, e.g. subchronic, to a reference dose for that substance derived from a similar exposure period.

(6) "Risk-based closure" means closure of a site where hazardous waste was managed or any medium has been contaminated by a release of hazardous waste or hazardous constituents, and where hazardous waste or hazardous constituents remain at the site in any medium at concentrations determined, under this rule, to cause minimal levels of risk to human health and the environment so as to require no further action or monitoring on the part of the responsible party nor any notice of hazardous waste management on the deed to the property.

(7) "Reasonable maximum exposure (RME)" means the highest exposure that is reasonably expected to occur at a site. The goal of RME is to combine upper-bound and mid-range exposure factors so that the result represents an exposure scenario that is both protective and reasonable; not the worst possible case.

(8) "Release" means spill or discharge of hazardous waste, hazardous constituents, or material that becomes hazardous waste when released to the environment.

(9) "Responsible party" means the owner or operator of a facility, or any other person responsible for the release of hazardous waste or hazardous constituents.

(10) "Site" means the area of contamination and any other area that could be impacted by the released contaminants, or could influence the migration of those contaminants, regardless of whether the site is owned by the responsible party.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~September 15, 2003~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 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.: 29093
FILED: 09/29/2006, 10:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change establishes conditions for excluding hazardous secondary materials used to make zinc fertilizers from the regulatory definition of solid waste and establishes new product specifications for contaminants in zinc fertilizers made from those secondary materials. This rule change also lists hazardous nonwastewaters generated from the production of certain dyes, pigments, and food, drug and cosmetic colorants (K181) to the list of hazardous wastes, and changes the size of a container from 110 gal. to 119 gal in determining whether the residue remaining in the container is a hazardous waste or not.

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: 70 FR 9138, February 24, 2005

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

AUTHORIZED BY: Dennis Downs, Director

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

. . . . . .

(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).

(20) Hazardous secondary materials used to make zinc fertilizers, provided that the conditions specified below are satisfied:

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in R315-1-1(c) which incorporates by reference 40 CFR 261.1(c)(8).

(ii) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must:

(A) Submit a one-time notice to the Executive Secretary which contains the name, address and EPA ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in R315-2-4(a)(20).

(B) Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and must have a floor, walls and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers used for this purpose must be kept closed except when it is necessary to add or remove material, and must be in sound condition. Containers that are stored outdoors must be managed within storage areas that:

(1) have containment structures or systems sufficiently impervious to contain leaks, spills and accumulated precipitation;

(2) provide for effective drainage and removal of leaks, spills and accumulated precipitation; and

(3) prevent run-on into the containment system.

(C) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of R315-2-4(a)(20).

(D) Maintain at the generator's or intermediate handler's facility for no less than three years records of all shipments of excluded hazardous secondary materials. For each shipment these records must at a minimum contain the following information:

(1) Name of the transporter and date of the shipment;

(2) Name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment; and

(3) Type and quantity of excluded secondary material in each shipment.

(iii) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must:

(A) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in R315-2-4(a)(20)(ii)(B).

(B) Submit a one-time notification to the Executive Secretary that, at a minimum, specifies the name, address and EPA ID number of the manufacturing facility, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in R315-2-4(a)(20).

(C) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, name of transporter and date the materials were received, the quantity received, and a brief description of the industrial process that generated the material.

(D) Submit to the Executive Secretary an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial process(s) from which they were generated.

(iv) Nothing in this section preempts, overrides or otherwise negates the provision in R315-5-1.11, which incorporates by reference 40 CFR 262.11, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.

(v) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in R315-2-4(a)(20)(ii)(A), and that afterward will be used only to store hazardous secondary materials excluded under this paragraph, are not subject to the closure requirements of R315-7 and R315-8.

(21) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under R315-2-4(a)(20), provided that:

(i) The fertilizers meet the following contaminant limits:

(A) For metal contaminants:

TABLE

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

(B) For dioxin contaminants the fertilizer must contain no more than eight (8) parts per trillion of dioxin, measured as toxic equivalent (TEQ).

(ii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product(s) introduced into commerce.

(iii) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with the requirements of R315-2-4(a)(21)(ii). Such records must at a minimum include:

(A) The dates and times product samples were taken, and the dates the samples were analyzed;

(B) The names and qualifications of the person(s) taking the samples;

(C) A description of the methods and equipment used to take the samples;

(D) The name and address of the laboratory facility at which analyses of the samples were performed;

(E) A description of the analytical methods used, including any cleanup and sample preparation methods; and

(F) All laboratory analytical results used to determine compliance with the contaminant limits specified in R315-2-4(a)(21).

(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.

. . . . . .

(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, K172, K174, K175, K176, K177, [~~and~~]K178, and K181 if these wastes had been generated after the effective date of the listing;

(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) As of February 13, 2001, leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. [~~After~~]As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K 178 [~~will~~]is no longer [~~be~~]exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 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.

. . . . . .

R315-2-7. Residues of Hazardous Waste in Empty Containers.

(a)(1) Any hazardous waste remaining in either

(i) an empty container, or

(ii) an empty inner liner removed from a container, as defined in paragraph (b) of this section, is not subject to regulation under R315-2 through R315-13.

(2) Any hazardous waste in either:

(i) a container that is not empty, or

(ii) an inner liner removed from a container that is not empty, as defined in paragraph (b) of this section, is subject to regulation under R315-2 through R315-13.

(b)(1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as acute hazardous waste listed in sections R315-2-10 or R315-2-11 is empty if:

(i) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating; and

(ii) No more than 2.5 centimeters, one inch, of residue remains on the bottom of the container or inner liner; or

(iii)(A) No more than three percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 11[~~0~~]9 gallons in size, or

(B) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 11[~~0~~]9 gallons in size.

(2) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(3) A container or an inner liner removed from a container that has held an acute hazardous waste listed in sections R315-2-10 or R315-2-11 is empty if:

(i) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

(ii) The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(iii) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

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, 2002 ed., as amended by 70 FR 9138, February 24, 2005, is adopted and incorporated by reference.

R315-2-23. Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities.

The Executive Secretary shall use the following procedures when determining whether to regulate hazardous waste recycling activities described in R315-2-6, which incorporates by reference the requirements of 40 CFR 261.6 regarding recyclable materials, under the provisions of 40 CFR 261.6 (b) and (c), rather than under the provisions of 40 CFR 266.70 concerning precious metals recovery.

(a) If a generator is accumulating the waste, the Executive Secretary will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of R315-5. The notice will become final within 30 days, unless the person served requests a public hearing before the Board to challenge the decision. Upon receiving such a request, the Board will hold a hearing. The Board will provide notice of the hearing to the public and allow public participation at the hearing. The Board will issue a final order after the hearing stating whether or not compliance with R315-5 is required. The order becomes effective 30 days after service of the decision unless the Board specifies a later date.

(b) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a hazardous waste [~~operation~~]permit in accordance with all applicable provisions of R315-3. The owner or operator of the facility must apply for a [~~hazardous waste operation plan approval~~]permit within no less than 60 days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the Board's decision, he may do so in his hazardous waste [~~operation plan~~]permit, in a public hearing held on the draft [~~plan approval~~]permit, or in comments filed on the draft [~~hazardous waste operation plan approval~~]permit, or on the notice of intent to deny the [~~hazardous waste operation plan~~]permit. The fact sheet accompanying the [~~hazardous waste operation plan approval~~]permit will specify the reasons for the Board's determination. The question of whether the Board's decision was proper will remain open for consideration during the public comment period discussed under R315-4-1.11 and in any subsequent hearing.

KEY: hazardous wastes
Date of Enactment or Last Substantive Amendment: [~~September 15, 2004~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-106, 19-6-105

♦ ♦

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.: 29086
FILED: 09/29/2006, 10:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change specifies record retention for emergency responses that involve military munitions and it corrects technical errors made by EPA in earlier rulemaking concerning controls of emissions of hazardous air pollutants from incinerators, cement kilns, and lightweight aggregate kilns that burn hazardous waste. This rule change also corrects some errors in the state rules that were not consistent with corresponding federal regulations.

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 270.22, 2003 ed.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.
- ❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.
- ❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

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.
R315-3-1. General Information.

1.1 PURPOSE AND SCOPE OF THESE REGULATIONS

(a) No person shall own, construct, modify, or operate any facility for the purpose of treating, storing, or disposing of hazardous waste without first submitting, and receiving the approval of the Executive Secretary for, a hazardous waste permit for that facility. However, any person owning or operating a facility on or before November 19, 1980, who has given timely notification as required by section 3010 of the Resource Conservation and Recovery Act (RCRA) of 1976, 42 U.S.C., section 6921, et seq., and who has submitted a proposed hazardous waste permit pursuant to this section and section 19-6-108 for that facility, may continue to operate that facility without violating this section until the time as the permit is approved or disapproved pursuant to this section.

. . . . . .

(3) Further exclusions.

(i) A person is not required to obtain a permit for treatment or containment activities taken during immediate response to any of the following situations;

(A) Discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of hazardous waste.

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(ii) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part for those activities.

(iii) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(4) Permits for less than an entire facility. The Executive Secretary may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

(5) Closure by removal. Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under R315-7 standards shall obtain a post-closure permit unless they can demonstrate to the Executive Secretary that the closure met the standards for closure by removal or decontamination in R315-8-11.5, R315-8-13.8, or R315-8-12.6, respectively. The demonstration may be made in the following ways:

(i) If the owner or operator has submitted a part B application for a post-closure permit, the owner or operator may request a determination, based on information contained in the application, that R315-8 closure by removal standards were met. If the Executive Secretary believes that R315-8 standards were met, he will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in R315-3-1.1(e)(6);

(ii) If the owner or operator has not submitted a part B permit application for a post-closure permit, the owner or operator may petition the Executive Secretary for a determination that a post-closure permit is not required because the closure met the applicable R315-8 closure standards;

(A) The petition shall include data demonstrating that closure by the removal or decontamination standards of R315-8 were met.

(B) The Executive Secretary shall approve or deny the petition according to the procedures outlined in R315-3-1.1(e)(6).

(6) Procedures for Closure Equivalency Determination.

(i) If a facility owner or operator seeks an equivalency demonstration under R315-3-1.1(e)(5), the Executive Secretary will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner or operator within 30 days from the date of the notice. The Executive Secretary will also, in response to a request or at his own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the equivalence of the R315-7 closure to an R315-8 closure. The Executive Secretary will give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.

(ii) The Executive Secretary will determine whether the R315-7 closure met R315-8 closure by removal or decontamination requirements within 90 days of its receipt. If the Executive Secretary finds that the closure did not meet the applicable R315-8 standards, he will provide the owner or operator with a written statement of the reasons why the closure failed to meet R315-8 standards. The owner or operator may submit additional information in support of an equivalency demonstration within 30 days after receiving a written statement. The Executive Secretary will review any additional information submitted and make a final determination within 60 days.

(iii) If the Executive Secretary determines that the facility did not close in accordance with R315-8-7, which incorporates by reference 40 CFR 264.110 through 264.116, closure by removal standards, the facility is subject to post-closure permit requirements.

(7) Enforceable documents for post-closure care. At the discretion of the Executive Secretary, an owner or operator may obtain, in lieu of a post-closure permit, an enforceable document imposing the requirements of R315-7-14, which incorporates by reference 40 CFR 265.121. "Enforceable document" means an order, a permit, or other

document issued by the Executive Secretary that meets the requirements of 19-6-104, 19-6-112, 19-6-113, and 19-6-115, including a corrective action order issued by EPA under section 3008(h), a CERCLA remedial action, or a closure or post-closure permit.

1.4 EFFECT OF A PERMIT

(a) Compliance with a permit during its term constitutes compliance, for purposes of enforcement, with these rules, except for those requirements not included in the permit which:

(1) Become effective by statute;

(2) Are promulgated under R315-13, which incorporates by reference 40 CFR 268, restricting the placement of hazardous wastes in or on the land;

(3) Are promulgated under R315-8 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action permits, and will be implemented through the procedures of R315-3-4.3, which incorporates by reference 40 CFR 270.42, Class 1 permit modifications; or

(4) Are promulgated under R315-7-26, which incorporates by reference 40 CFR 265.1030 through 265.1035, R315-7-27, which incorporates by reference 40 CFR 265.1050 through 265.1064 or R315-7-30, which incorporates by reference 40 CFR 265.1080 through 265.1091.

(b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

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~~]an application 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 or of hazardous waste management facilities in existence on the effective date of statutory or regulatory amendment under Utah Solid and Hazardous Waste Act or RCRA that render the facility subject to the requirement to have a RCRA permit or State permit 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.

. . . . . .

(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 under R317-214-2, which incorporates by reference 40 CFR 63.1207(j) and 63.1210(b)), 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).

. . . . . .

2.13 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[~~2~~]3 ed., are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for "Director."

. . . . . .

R315-3-3. Permit Conditions.

3.1 CONDITIONS APPLICABLE TO PERMITS

The following conditions apply to all permits. All conditions applicable to permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation of these rules shall be given in the permit.

(a) Duty to comply. The permittee shall comply with all conditions of this permit, except that the permittee need not comply with the conditions of this permit to the extent and for the duration any noncompliance is authorized in an emergency permit. (See R315-3-6.2). Any plan noncompliance except under the terms of an emergency permit, constitutes a violation of the Utah Solid and Hazardous Waste Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(b) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit.

(c) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the approved activity in order to maintain compliance with the conditions of this permit.

(d) In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out all measures as are reasonable to prevent significant adverse impact on human health or the environment.

(e) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control, and related appurtenances, which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(f) Permit actions. This permit may be modified, revoked and reissued, or terminated in accordance with the provisions of R315-3-4.2 or R315-4.4 and the procedures of R315-4-1.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification or planned changes or anticipated noncompliance, does not stay any permit condition.

(g) Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

(h) Duty to provide information. The permittee shall furnish to the Executive Secretary within a reasonable time, any relevant information which the Executive Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Executive Secretary upon request, copies of records required to be kept by this permit.

(i) Inspection and entry. The permittee shall allow the Executive Secretary, the Board, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(1) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment, including monitoring and control equipment, practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Utah Solid and Hazardous Waste Act, any substances or parameters at any location.

(j) Monitoring and records.

(1) Sample and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by R315-8-5.3, which incorporates by reference 40 CFR 264.73(b)(9), and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the Executive Secretary and the Board at any time. The permittee shall maintain records [~~of~~]from all groundwater [~~quality~~]monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well.

(3) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of all analyses.

(k) Signatory requirement. All applications, reports, or information submitted to the Executive Secretary shall be signed and certified, see R315-3-2.2.

(l) Reporting requirements.

(1) Planned changes. The permittee shall give notice to the Executive Secretary as soon as possible of any planned physical alterations or additions to the approved facility.

(2) Anticipated noncompliance. The permittee shall give advance notice to the Executive Secretary of any planned changes in the approved facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility except as provided in R315-3-4.3, which incorporates by reference 40 CFR 270.42, until:

(i) The permittee has submitted to the Executive Secretary by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(ii)(A) The Executive Secretary or the Board has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(B) Within 15 days of the date of submission of the letter in R315-3-3.1(l)(2)(i), the permittee has not received notice from the Executive Secretary or Board of their intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.

(3) Transfers. The permit is not transferable to any person except after notice to the Executive Secretary. The Executive Secretary may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate any other requirements as may be necessary. See R315-3-4.1.

(4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) Twenty-four hour reporting. See R315-9 for Emergency Controls.

(i) The permittee shall report any noncompliance which may endanger health or the environment orally within 24 hours from the time the permittee becomes aware of the circumstances, including:

(A) Information concerning release of hazardous waste that may cause an endangerment to public drinking water supplies.

(B) Any information of a release of hazardous waste or of a fire or explosion from the hazardous waste management facility, which could threaten the environment or human health outside the facility.

(ii) The description of the occurrence and its cause shall include:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(iii) A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance. The Executive Secretary may waive the five-day written notice requirement in favor of a written report within 15 days.

(7) Manifest discrepancy report. If a significant discrepancy in a manifest is discovered, the permittee shall attempt to reconcile the discrepancy. If not resolved within fifteen days, the permittee shall submit a letter report, including a copy of the manifest, to the Executive Secretary. (See R315-8-5.4)

(8) Unmanifested waste report. This report shall be submitted to the Executive Secretary within 15 days of receipt of unmanifested wastes.

(9) Biennial report. A biennial report shall be submitted covering facility activities during odd numbered calendar years.

(10) Other noncompliance. The permittee shall report all instances of noncompliance not reported under R315-3-3.1(l)(4), (5), and (6), at the time monitoring reports are submitted. The reports shall contain the information listed in R315-3-3.1(l)(6).

(11) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Executive Secretary, he shall promptly submit all facts or information.

(m) Information repository. The Executive Secretary may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in R315-4-2.33(b). The information repository will be governed by the provisions in R315-4-2.33 (c) through (f).

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3.4 SCHEDULES OF COMPLIANCE

(a) The permit may, when appropriate, specify a schedule of compliance leading to compliance with these rules.

(1) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

(2) Interim dates. Except as provided in R315-3-3.4(b)(1)(ii), if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

(i) The time between interim dates shall not exceed one year.

(ii) If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(3) Reporting. The permit shall be written to require that no later than 14 days following each interim date and the final date of compliance, the permittee shall notify the Executive Secretary or Board or both in writing, of its compliance or noncompliance with the interim or final requirement, or submit progress reports if R315-3-3.4(a)(2)(ii) is applicable.

(b) Alternative schedules of permit compliance. An applicant or permittee may cease conducting regulated activities, by receiving a terminal volume of hazardous waste, and for treatment and storage facilities, closing pursuant to applicable requirements; and for disposal facilities, closing and conducting post-closure care pursuant to applicable requirement, rather than continue to operate and meet permit requirements as follows:

(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(ii) The permittee shall cease conducting activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to permit termination which will ensure timely compliance with applicable requirements.

(3) If the permittee is undecided whether to cease conducting regulated activities, the Executive Secretary may issue or modify a permit to contain two schedules as follows:

(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

(ii) One schedule shall lead to timely compliance with applicable requirements.

(iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements;

(iv) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under R315-3-3.4(b)(3)(i) it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

(4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Executive Secretary, such as resolution of the board of directors of a corporation.

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 under R317-214-2, which incorporates

by reference 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of R317-214-2, which incorporates by reference 40 CFR 63, subpart EEE), 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).

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6.6 PERMITS FOR BOILERS AND INDUSTRIAL FURNACES BURNING HAZARDOUS WASTE

The requirements of 40 CFR 270.66, 200[~~2~~]3 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.

R315-3-7. Interim Status.

7.1 QUALIFYING FOR INTERIM STATUS

(a) Any person who owns or operates an "existing hazardous waste management facility" or a facility in existence on the effective date of statutory or regulatory amendments under the State or Federal Act that render the facility subject to the requirement to have a RCRA permit or State permit shall have interim status and shall be treated as having been issued a permit to the extent he or she has:

(1) Complied with the Federal requirements of section 3010(a) of RCRA pertaining to notification of hazardous waste activity or the notification requirements of these rules.

Comment: Some existing facilities may not be required to file a notification under section 3010(a) of RCRA. These facilities may qualify for interim status by meeting R315-3-7.1(a)(2).

(2) Complied with the requirements of 40 CFR 270.10 or R315-3-2.1 governing submission of part A applications;

(b) Failure to qualify for interim status. If the Executive Secretary has reason to believe upon examination of a part A application that it fails to meet the requirements of R315-3-2.4, the Executive Secretary shall notify the owner or operator in writing of the apparent deficiency. The notice shall specify the grounds for the Executive Secretary's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to the notification and to explain or cure the alleged deficiency in his part A application. If, after the notification and opportunity for response, the Executive Secretary determines that the application is deficient he may take appropriate enforcement action.

(c) R315-3-7.1(a) shall not apply to any facility which has been previously denied a permit [~~or RCRA permit~~]or if authority to operate the facility under State or Federal authority has been previously terminated.

7.2 OPERATION DURING INTERIM STATUS

(a) During the interim status period the facility shall not:

(1) Treat, store, or dispose of hazardous waste not specified in part A of the permit or permit application;

(2) Employ processes not specified in part A of the permit or permit application; or

(3) Exceed the design capacities specified in part A of the permit or permit application.

(b) Interim status standards. During interim status, owners or operators shall comply with the interim status standards in R315-7.

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KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~September 15, 2003~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

♦ ♦

Environmental Quality, Solid and Hazardous Waste
R315-4-1
General Program Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29094
FILED: 09/29/2006, 10:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change adds information required for public notices of permit action that had not previously been included.

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: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-4. Procedures for Decisionmaking.
R315-4-1. General Program Requirements.

. . . . . .

1.10 PUBLIC NOTICE OF PERMIT ACTIONS AND PUBLIC COMMENT PERIOD

(a) Scope.

(1) The Executive Secretary shall give public notice that the following actions have occurred:

(i) The permit application has been tentatively denied under R315-4-1.6(b).

(ii) A draft permit has been prepared under R315-4-1.6(c).

(iii) A hearing has been scheduled under R315-4-1.12; or

(iv) An appeal has been granted by the Board.

(2) No public notice is required when a request for a permit modification, revocation and reissuance, or termination is denied under R315-4-1.5(b). Written notice of that denial shall be given to the requestor and to the permittee.

(3) Public notices may describe more than one permit or permit action.

(b) Timing.

(1) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under R315-4-1.10(a), shall allow at least 45 days for public comment.

(2) Public notice of a public hearing shall be given at least 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.

(c) Methods.

Public notices of activities described in R315-4-1.10(a)(1) shall be given by the following methods:

(1) By mailing a copy of a notice to the following persons:

(i) The applicant;

(ii) Any other agency which the Executive Secretary knows has issued or is required to issue a permit, for the same facility or activity including EPA;

(iii) Federal and State agencies with jurisdiction over fish, and wildlife resources, State Historic Preservation Officers, and other appropriate government authorities;

(iv) Persons on a mailing list developed by:

(A) Including those who request in writing to be on the list;

(B) Soliciting persons for area lists from participants in past permit proceedings in the area of the facility; and

(C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in regional- and state-funded newsletters, environmental bulletins, or law journals. The Executive Secretary may update the mailing list by requesting written indication of continued interest from those listed. The Executive Secretary may delete from the list the name of any person who fails to respond to a request from the Executive Secretary to remain on the mailing list; and

(v)(A) To any unit of local government having jurisdiction over the area where the facility is proposed to be located;

(B) To each State agency having any authority under State law with respect to the construction or operation of the facility.

(2) Publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity and broadcast over local radio stations;

(3) In a manner constituting legal notice to the public under State law; and

(4) Any other method reasonably calculated to give actual notice of the action in question to the person potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d)(1) All public notices issued under this section shall contain the following minimum information:

(i) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(ii) A brief description of the business conducted at the facility or activity described in the permit application or draft permit;

(iii) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or fact sheet, and the application;

(iv) A brief description of the comment procedures required by R315-4-1.11 and R315-4-1.12, and the time and place of any hearing that will be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled and other procedures by which the public may participate in the final permit decision;[~~and~~]

(v) Any additional information considered necessary or proper[~~.~~]; and

(vi) Name and address of the office processing the permit action for which notice is being given.

(2) Public notices of hearings. In addition to the general public notice described in R315-4-1.10(d)(1), the public notice of a hearing under R315-4-1.12, shall contain the following information:

(i) Reference to the date of previous public notices relating the permit;

(ii) Date, time, and place of the hearing;

(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and

(e) In addition to the general public notice described in R315-4-1.10(d)(1), all persons identified in R315-4-1.10(c)(1)(i), (ii), and (iii) shall be mailed a copy of the fact sheet.

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KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~October 20, 2000~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

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Environmental Quality, Solid and Hazardous Waste
R315-5
Hazardous Waste Generator Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29088
FILED: 09/29/2006, 10:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change includes provisions that increase the amount of time a hazardous waste generator may accumulate waste without a permit or interim status. Reporting requirements are also simplified for some generators. This rule change also includes revisions to the Uniform Hazardous Waste Manifest used to track hazardous waste from a generator's site to the site of disposition.

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 262.21, 262.50 - 262.58, and 262.60, 2005 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-5. Hazardous Waste Generator Requirements.
R315-5-1. General.

1.10 PURPOSE, SCOPE, AND APPLICABILITY.

(a) R315-5 establishes standards for generators of hazardous waste.

(b) R315-2-5, which incorporates by reference, 40 CFR 261.5(c) and (d), must be used to determine the applicability of provisions of R315-5 that are dependent on calculations of the quantity of hazardous waste generated per month.

(c) A generator who treats, stores, or disposes of hazardous waste on-site shall only comply with the following sections of this rule with respect to that waste: R315-5-1.11, which incorporates by reference 40 CFR 262.11, for determining whether or not he has a hazardous waste, R315-5-1.12 for obtaining an EPA identification number, R315-5-3.34 for accumulation of hazardous waste, R315-5-4.40(c) and (d) for recordkeeping, R315-5-4.43 for additional reporting, and if applicable, R315-5-7 for farmers.

(d) Any person who exports or imports hazardous waste as identified in R315-5-8, which incorporates by reference 40 CFR 262.80(a), and is subject to the manifesting requirements of R315-5, or subject to the universal waste management standards as found in R315-16, to or from the countries listed in 40 CFR 262.58(a)(1), which R315-5-5 incorporates by reference, for recovery shall comply with R315-5-8, which incorporates by reference 40 CFR 262 subpart H.

(e) Any person who imports hazardous waste into the United States shall comply with the standards applicable to generators established in R315-5.

(f) A farmer who generates waste pesticides which are hazardous wastes and who complies with all the requirements of R315-5-7 is not required to comply with other standards in this rule or R315-3, R315-7, R315-8, or R315-13, which incorporates by reference 40 CFR 268, with respect to these pesticides.

(g) A person who generates a hazardous waste as defined by R315-2 is subject to the compliance requirements and penalties prescribed in The Utah Solid and Hazardous Waste Act if he does not comply with the requirements of this rule.

A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and [~~plan approval~~]permit requirements set forth in R315-3, R315-7, and R315-8.

(h) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility shall comply with the generator standards established in R315-5.

The provisions of R315-5-3.34, which incorporates by reference 40 CFR 262.34, are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of R315-5-3.34, which incorporates by reference 40 CFR 262.34, only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and permit requirements set forth in R315-3, R315-7, R315-8, R315-13, which incorporates by reference 40 CFR 268, and R315-14.

1.11 HAZARDOUS WASTE DETERMINATION

The requirements of 40 CFR 262.11, 1994 ed., as amended by 60 FR 25540, May 11, 1995, are adopted and incorporated by reference with the following exception:

Substitute "Board" for all federal regulation references made to "Administrator".

1.12 EPA IDENTIFICATION NUMBERS

(a) A generator shall not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Executive Secretary.

(b) A generator who has not received an EPA identification number may obtain one by applying to the Executive Secretary using EPA form 8700-12. Upon receiving the request the Executive Secretary will assign an EPA identification number to the generator.

(c) A generator shall not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that do not have an EPA identification number.

R315-5-2. The Manifest.

A sample hazardous waste manifest form containing information required pursuant to these rules is found in the Appendix to 40 CFR 262. All applicable sections of each manifest shall be completely and legibly filled out.

2.20 GENERAL REQUIREMENTS

(a)(1) A generator who transports, or offers for transportation, a hazardous waste for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility who offers for transport a rejected hazardous waste load shall prepare a Manifest OMB control number 2050-0039 on EPA form 8700-22, and, if necessary, EPA form 8700-22A, according to the instructions, including the additional information requirements, found in R315-50-1, which incorporates by reference 40 CFR 262, Appendix.

(2) The revised Manifest form and procedures in R315-1-1(b), which incorporates by reference 40 CFR 260.10, R315-2-7, R315-5-2.20, 21, 27, R315-5-3.32, 33, 34, which incorporates by reference 40 CFR 262.34, R315-5-5, which incorporates by reference 40 CFR 262.54, R315-5-6, which incorporates by reference 40 CFR 262.60, and R315-50-1, which incorporates by reference 40 CFR 262 Appendix, shall not apply until September 5, 2006. The manifest form and procedures in R315-1-1(b), which incorporates by reference 40 CFR 260.10, R315-2-7, R315-5-2.20, 21, R315-5-3.32, 33, 34, which incorporates by reference 40 CFR 262.34, R315-5-5, which incorporates by reference 40 CFR 262.54, R315-5-6, which incorporates by reference 40 CFR 262.60, and R315-50-1, which incorporates by reference 40 CFR 262 Appendix , contained in the R315-1 to 8, edition revised as of September 15, 2004 shall be applicable until September 5, 2006.

(b) A generator shall designate on the manifest one facility which is permitted to handle the waste described on the manifest.

(c) A generator may also designate on the manifest one alternate facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

(d) If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator shall either designate another facility or instruct the transporter to return the waste.

(e) These manifest requirements do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1000 kg in a calendar month where:

(1) The waste is reclaimed under a contractual agreement pursuant to which:

(i) The type of waste and frequency of shipments are specified in the agreement;

(ii) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and

(2) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

(f) The requirements of R315-5-2 and R315-5-3.32(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding R315-6-1.10(a), the generator or transporter shall comply with the requirements for

transporters set forth in R315-9-1 and R315-9-3 in the event of a discharge of hazardous waste on a public or private right-of-way.

2.21 [~~ACQUISITION OF MANIFESTS~~

~~(a) If the State to which the shipment is manifested (consignment State) supplies the manifest and requires its use, then the generator must use that manifest.~~

~~(b) If the consignment State does not supply the manifest, but the State in which the generator is located, generator State, supplies the manifest and requires its use, then the generator must use that State's manifest.~~

~~(c) If neither the generator State nor the consignment State supplies the manifest, then the generator may obtain the manifest from any source.~~]MANIFEST TRACKING NUMBERS, MANIFEST PRINTING, AND OBTAINING MANIFESTS

The requirements of 40 CFR 262.21, 2005 ed., are adopted and incorporated by reference.

2.22 NUMBER OF COPIES

The manifest shall consist of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

2.23 USE OF THE MANIFEST

(a) The generator shall:

(1) Sign the manifest certification by hand; and

(2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(3) Retain one copy, in accordance with R315-5-4.40(a).

(b) The generator shall give the transporter the remaining copies of the manifest.

(c) Hazardous wastes to be shipped within Utah solely by water (bulk shipments only) require that the generator send three copies of the manifest dated and signed in accordance with this section to the owner and operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(d) For rail shipments of the hazardous wastes within Utah which originate at the site of generation, the generator shall send at least three copies of the manifest dated and signed in accordance with this section to:

(1) The next non-rail transporter, if any; or

(2) The designated facility if transported solely by rail; or

(3) The last rail transporter to handle the waste in the United States if exported by rail.

(e) The generator shall include on the manifest a description of the hazardous waste(s) as set forth in the regulations of the U.S. Department of Transportation in 49 CFR 172.101, 172.202, and 172.203.

(f) For shipments of hazardous waste to a designated facility in an authorized state which has not yet obtained federal authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

2.27 WASTE MINIMIZATION CERTIFICATION

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

(a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;" or

(b) "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

R315-5-3. Pre-Transport Requirements.

3.30 PACKAGING

Prior to transporting or offering hazardous waste for transportation off-site, a generator shall package the waste in accordance with the Department of Transportation regulations on packaging under 49 CFR 173, 178, and 179.

3.31 LABELING

Prior to transporting or offering hazardous waste for transportation off-site, a generator shall label each hazardous waste package in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR 172.

3.32 MARKING

(a) Before transporting or offering hazardous waste for transportation off-site, a generator shall mark each package of hazardous waste in accordance with the Department of Transportation regulations on hazardous materials under 49 CFR 172.

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall mark each container of [~~110~~]119 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304:

HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address

Generator's EPA Identification Number

Manifest [~~Document~~]Tracking Number

3.33 PLACARDING

Prior to transporting hazardous waste or offering hazardous waste for transporting off-site, a generator shall placard or offer the initial transporter the appropriate placards according to the Department of Transportation regulations for the movement of hazardous materials under 49 CFR 172, subpart F. If placards are not required, a generator shall mark each motor vehicle according to 49 CFR 171.3(b)(1).

3.34 ACCUMULATION TIME

(a) These requirements as found in 40 CFR 262.34, [~~2000~~]2005 ed., are adopted and incorporated by reference with the following addition.

(b) The notification required by 40 CFR 262.34(d)(5)(iv)(C) shall also be made to the Executive Secretary or to the 24-hour answering service listed in R315-9-1(b).

R315-5-5. Exports of Hazardous Waste.

The provisions of 40 CFR 262 subpart E, 262.50 - 262.58, [~~1996~~]2005 ed., are adopted and incorporated by reference within this rule, except for the following changes:

(a) Other than in Section 40 CFR 262.53, substitute "Executive Secretary" for all references to "EPA" or "Regional Administrator".

(b) Paragraph 40 CFR 262.58(a) shall be as follows:

Any person who exports or imports hazardous waste as identified in 40 CFR 262.80(a) and is subject to the manifesting requirements of R315-5-2, or subject to the universal waste management standards as found in R315-16, to or from the countries listed in 40 CFR 262.58(a)(1), which R315-5-5 incorporates by reference, for recovery

shall comply with R315-5-8, which incorporates by reference 40 CFR 262 subpart H. The requirements of subparts E and F do not apply.

R315-5-6. Imports of Hazardous Waste.

The requirements of 40 CFR 262.60, [~~1990~~] 2005 ed., are adopted and incorporated by reference.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~April 20, 2001~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Solid and Hazardous Waste
R315-6
Hazardous Waste Transporter Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29092
FILED: 09/29/2006, 10:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change revises the Uniform Hazardous Waste Manifest regulations used to track hazardous waste from a generator's site to the site of disposition. The changes standardize the content and appearance of the manifest form and make these forms available from a greater number of sources and adopt new procedures for tracking certain types of waste shipments with the manifest.

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: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-6. Hazardous Waste Transporter Requirements.
R315-6-2. Compliance With the Manifest System and Recordkeeping.

2.20 THE MANIFEST SYSTEM

(a)(1) Manifest Requirement. A transporter may not accept hazardous waste from a generator unless [~~it is accompanied by a manifest signed in accordance with the provisions of R315-5-2.20~~]the transporter is also provided with a mainfest signed in accordance with the requirements of R315-5-2.23.

(2) Exports. In the case of exports other than those subject to R315-5-8, which incorporates by reference 40 CFR 262 subpart H, a transporter may not accept hazardous waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator as provided inR315-6-2.20, the transporter shall also be provided with[~~in accordance with the provisions of R315-5-2.20, the waste is also accompanied by~~] an EPA Acknowledgment of

Consent which, except for shipments by rail, is attached to the manifest, or shipping paper for exports by water (bulk shipment). For exports of hazardous waste subject to the requirements of R315-5-8, which incorporates by reference 40 CFR 262 subpart H, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84, which R315-5-8 incorporates by reference.

(3) Compliance Date for Form Revisions. The revised Manifest form and procedures in R315-1-1, which incorporates by reference 40 CFR 260.10, R315-2-7, R315-6-2.20, and R315-6-2.21, contained in R315-1 to R315-8, edition revised as of September 15, 2004, shall be applicable until September 5, 2006.

(b) Before transporting the hazardous waste, the transporter shall hand sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter shall return a signed copy to the generator before leaving the generator's property.

(c) The transporter shall ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter shall ensure that a copy of the EPA Acknowledgment of Consent also accompanies the hazardous waste.

(d) A transporter who delivers a hazardous waste to another transporter or to the designated facility shall:

(1) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest; and

(2) Retain one copy of the manifest in accordance with R315-6-5; and

(3) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(e) The requirements of R315-6-2.10(c), (d), and (f) do not apply to water (bulk shipment) transporters if:

(1) The hazardous waste is delivered by water (bulk shipment) to the designated facility; and

(2) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generators certification, and signatures) and, for exports, an EPA Acknowledgment of Consent accompanies the hazardous waste; and

(3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and

(4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the manifested facility; and

(5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with R315-6-2.22.

(f) For shipments involving rail transportation, the requirements of R315-6-2.20(c), (d) and (e) do not apply and the following requirements do apply:

(1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter shall:

(i) Sign and date the manifest acknowledging acceptance of the hazardous waste;

(ii) Return a signed copy of the manifest to the non-rail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next non-rail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States.

(iv) Retain one copy of the manifest and rail shipping paper in accordance with R315-6-2.22.

(2) Rail transporters shall ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports, an EPA Acknowledgment of Consent accompanies the hazardous waste at all times.

(3) When delivering hazardous waste to the designated facility, a rail transporter shall:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper, if the manifest has not been received by the facility; and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with R315-6-2.22.

(4) When delivering hazardous waste to a non-rail transporter a rail transporter shall:

(i) Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with R315-6-2.22.

(5) Before accepting hazardous waste from a rail transporter, a non-rail transporter shall sign and date the manifest and provide a copy to the rail transporter.

(g) Transporters who transport hazardous waste out of the United States shall:

(1) Sign and date the manifest in the International Shipments block to i[~~I~~]ndicate [~~on the manifest~~]the date that the [~~hazardous waste~~]shipment left the United States;[~~ and~~]

(2) [~~Sign the manifest and r~~]Retain one copy as specified in R315-6-2.22(d);[~~ and~~]

(3) Return a signed copy of the manifest to the generator; and

(4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

(h) A transporter transporting hazardous waste from a generator who generates greater than 100 kilograms of hazardous waste in a calendar month need not comply with the requirements of R315-6-2.20 or those of R315-6-2.22 provided that:

(1) The waste is being transported pursuant to a reclamation agreement as provided for in R315-5-2.20(e);

(2) The transporter records, on a log or shipping paper, the following information for each shipment:

(i) The name, address, and U.S. EPA Identification Number of the generator of the waste;

(ii) The quantity of waste accepted;

(iii) All DOT-required shipping information;

(iv) The date the waste is accepted; and

(3) The transporter carries this record when transporting waste to the reclamation facility; and

(4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(i) A transporter shall not transport hazardous waste not properly labeled or hazardous waste containers which are leaking or appear to be damaged, since those packages become the transporter's responsibility during transport.

2.21 COMPLIANCE WITH THE MANIFEST

(a) The transporter shall deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:

(1) The designated facility listed on the manifest; or

(2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(3) The next designated transporter; or

(4) The place outside the United States designated by the generator.

(b)(1) If the hazardous waste cannot be delivered in accordance with R315-6-2.21(a) because of an emergency condition other than rejection of the waste by the designated facility, then the transporter shall contact the generator for further directions and shall revise the manifest according to the generator's instructions.

(2) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter shall obtain the following:

(i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter shall retain a copy of this manifest in accordance with R315-6-2.22, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter shall obtain a new manifest to accompany the shipment, and the new manifest shall include all of the information required in R315-8-5.4(e)(1) through (6) or (f)(1) through (6) or R315-7-12.3(e)(1) through (6) or (f)(1) through (6).

(ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment shall be delivered. The transporter shall retain a copy of the manifest in accordance with R315-6-2.22, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter shall obtain a new manifest for the shipment and comply with R315-8-5.4(e)(1) through (6) or R315-7-12.3(e)(1) through (6).

2.22 RECORDKEEPING

(a) A transporter of hazardous waste shall keep a copy of the manifest signed by the generator, himself, and the next designated transporter of the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(b) For shipments delivered to the designated facility by water (bulk shipment), each water (bulk shipment) transporter shall retain a copy of the shipping paper containing all the information required in R315-6-2.20(e)(2) for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(c) For shipments of hazardous waste by rail within the United States:

(1) The initial rail transporter shall keep a copy of the manifest and shipping paper with all the information required in R315-6-2.20(f)(2) for a period of three years from the date the hazardous waste was accepted by the initial transporter; and

(2) The final rail transporter shall keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(d) A transporter who transports hazardous waste out of the United States shall keep a copy of the manifest indicating that the hazardous waste left the United States for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(e) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Executive Secretary.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~October 20, 2000~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

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Environmental Quality, Solid and Hazardous Waste
R315-7
Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29089
FILED: 09/29/2006, 10:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change provides for the safe storage and transport of military munitions waste. It also revises the Uniform Hazardous Waste manifest regulations and the manifest and continuation sheet forms used to track hazardous waste from a generator's site to the site of disposition. The rule change adopts new procedures for tracking certain types of waste shipments with the manifest.

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: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

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.
R315-7-8. General Interim Status Requirements.

8.1 PURPOSE, SCOPE, APPLICABILITY

(a) The purpose of R315-7 is to establish minimum State of Utah standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(b) Except as provided in R315-7-30, which incorporates by reference 40 CFR 265.1080(b), the standards of R315-7 and of R315-8-21, which incorporates by reference 40 CFR 264.552 through 264.554, apply to owners and operators of facilities that treat, store, or dispose of hazardous waste who have fully complied with the requirements of interim status under State or Federal requirements and R315-3-2.1 until either a permit is issued under R315-3 or until applicable R315-7 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by Section 3010(a) of RCRA or failed to file part A of the permit application as required by R315-3-2.1(d) and (f). These standards apply to all treatment, storage, and disposal of hazardous waste at these facilities after the effective date of these rules, except as specifically provided otherwise in R315-7 or R315-2.

(c) The requirements of R315-7 do not apply to the following:

(1) The owner or operator of a POTW with respect to the treatment or storage of hazardous wastes which are delivered to the POTW;

(2) The owner or operator of a facility approved by the State of Utah to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under R315-7 by R315-2-5;

(3) The owner or operator of a facility managing recyclable materials described in 40 CFR 261.6(a)(2), (3), and (4), which is incorporated by reference in R315-2-6, except to the extent that they are referred to in R315-15 or R315-14-2, which incorporates by reference 40 CFR subpart D, R315-14-5, which incorporates by reference 40 CFR 266 subpart F, and R315-14-6, which incorporates by reference 40 CFR 266 subpart G;

(4) A generator accumulating hazardous waste on-site in compliance with R315-5-3.34, which incorporates by reference 40 CFR 262.34, except to the extent the requirements are included in R315-5-3.34, which incorporates by reference 40 CFR 262.34;

(5) A farmer disposing of waste pesticides from his own use in compliance with R315-5-7;

(6) The owner or operator of a totally enclosed treatment facility, as defined in R315-1;

(7) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes, other than the D001 High TOC Subcategory defined in the Table of Treatment Standards for Hazardous Wastes in 40 CFR 268.40 as incorporated by reference at R315-13, or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in R315-7-9.8(b);

(8) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of R315-5-3.30 at a transfer facility for a period of ten days or less;

(9)(i) Except as provided in R315-7-8(c)(9)(i), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of a hazardous waste;

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by this section shall comply with all applicable requirements of R315-7-10 and R315-7-11.

(iii) Any person who is covered by R315-7-8(c)(9)(i) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of R315-7 and of R315-3 for those activities.

(iv) In the case of an explosives or munitions emergency response, if a State or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material

or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(10) The addition of absorbent material to waste in a container, as defined in R315-1, or the addition of waste to the absorbent material in a container provided that these actions occur at the time waste is first placed in the containers; and R315-7-9.8(b), R315-7-16.2 and R315-7-16.3 are complied with;

(11) Universal waste handlers and universal waste transporters (as defined in R315-16-1.9) handling the wastes listed below. These handlers are subject to regulation under section R315-16, when handling the below listed universal wastes:

(i) Batteries as described in R315-16-1.2;

(ii) Pesticides as described in R315-16-1.3;

(iii) Mercury thermostats as described in R315-16-1.4; and

(iv) Mercury lamps as described in R315-16-1.5.

(d) Notwithstanding any other provisions of these rules enforcement actions may be brought pursuant to R315-2-14 or Section 19-6-115 Utah Solid and Hazardous Waste Act.

(e) The following hazardous wastes shall not be managed at facilities subject to regulation under R315-7.

(1) EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, or F027 unless:

(i) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

(ii) The waste is stored in tanks or containers;

(iii) The waste is stored or treated in waste piles that meet the requirements of R315-8-12.1(c) as well as all other applicable requirements of R315-8-12;

(iv) The waste is burned in incinerators that are certified pursuant to the standard and procedures in R315-7-22.6; or

(v) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in R315-7-23.7.

(f) The requirements of this rule apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in R315-13, which incorporates by reference 40 CFR 268, and the R315-13 standards are considered material conditions or requirements of the R315-7 interim status standards.

R315-7-12. Manifest System, Recordkeeping, and Reporting.

12.1 APPLICABILITY

(a) The rules in R315-7-12 apply to owners and operators of both on-site and off-site facilities, except as provided otherwise in R315-7-8.1. R315-7-12.2, R315-7-12.3, and R315-7-12.7 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, nor to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 40 CFR 266.203(a).

(b) The revised Manifest form and procedures in R315-1-1, which incorporates by reference 40 CFR 260.10, R315-2-7, R315-7-12.1, R315-7-12.2, R315-7-12.3, and R315-7-12.7, contained in R315-1 to R315-8, edition revised as of September 15, 2004, shall be applicable until September 5, 2006.

12.2 USE OF MANIFEST SYSTEM

(a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner [~~or~~], operator, or his agent, shall[~~:~~

~~(1)~~] [~~S~~]sign and date [~~each copy of~~] the manifest as indicated in R315-7-12.1(a)(2) to certify that the hazardous waste covered by the manifest was received[~~;~~], that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his agent shall:

(i) Sign and date, by hand, each copy of the manifest;

([~~2~~]ii) Note any significant discrepancies in the manifest, as defined in R315-7-12.3, on each copy of the manifest;

[~~The Board does not intend that the owner or operator of a facility whose procedures under R315-7-9.4(e) include waste analysis shall perform that analysis before signing the manifest and giving it to the transporter. R315-7-12.3(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.~~

] ([~~3~~]iii) Immediately give the transporter at least one copy of the [~~signed~~] manifest;

([~~4~~]iv) Within 30 days [~~after the~~] of delivery, send a copy of the manifest to the generator; and

([~~5~~]v) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility shall mail a copy of the manifest to the following addresses within 30 days of delivery: International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460 and Utah Division of Solid and Hazardous Waste, P O Box 144880, Salt Lake City, Utah 84114-4880.

(b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures) the owner or operator, or his agent, shall:

(1) Sign and date each copy of the manifest or shipping paper, if the manifest has not been received, to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies, as defined in R315-7-12.3(a), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper;

(3) Immediately give the rail or water, bulk shipment, transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest to the generator or a signed and dated copy of the shipping paper,[~~; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, shall send a copy of the signed and dated shipping paper~~] to the generator; and

(5) Retain at the facility a copy of the manifest and shipping paper, if signed in lieu of the manifest at the time of delivery for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of R315-5.

The provisions of R315-5-9.1 are applicable to the on-site accumulation of hazardous wastes by generators and only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

(d) Within three working days of the receipt of a shipment subject to R315-5-15, which incorporates by reference 40 CFR 262 subpart H, the owner or operator of the facility shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Division of Solid and Hazardous Waste, P.O. Box 144880, Salt Lake City, Utah, 84114-4880; Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to competent authorities of all other concerned countries. The original copy of the tracking document shall be maintained at the facility for at least three years from the date of signature.

(e) A facility shall determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under its state hazardous waste program. Facilities shall also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

12.3 MANIFEST DISCREPANCIES

(a) Manifest discrepancies are:

(1) Significant differences as defined by R315-7-12.3(b) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity [~~or~~]and type of hazardous waste a facility actually receives[~~.~~];

(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in R315-2-7(b).

(b) Significant discrepancies in quantity are: [~~(1) t~~]For bulk waste, variations greater than ten percent in weight[~~, and (2)~~]; for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant [~~discrepancies~~]differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

([~~b~~]c) Upon discovering a significant [~~discrepancy~~]difference in quantity or type, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter, e.g., with telephone conversations. If the discrepancy is not resolved within 15 days of receipt of the waste, the owner or operator shall immediately submit to the Executive Secretary a letter describing the discrepancy, and attempts to reconcile it, including a copy of the manifest or shipping paper at issue[~~, to the Board~~].

(d)(1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in R315-2-7(b), the facility shall consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility shall send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under R315-7-12.3, it must ensure that either the delivering transporter retains custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under R315-7-12.3(e) or (f).

(e) Except as provided in R315-7-12.3(e)(7), for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with R315-5-2.20(a) and the following instructions:

(1) Write the generator's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a) of R315.

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked, and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility shall retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility shall use a new manifest and comply with R315-7-12.3(e)(1), (2), (3), (4), (5), and (6).

(f) Except as provided in R315-7-12.3(f)(7), for rejected wastes and residues that shall be sent back to the generator, the facility is required to prepare a new manifest in accordance with R315-5-2.20(a) and the following instructions:

(1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked, and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility shall retain a copy for its records and then give the remaining copies of the manifest to the transporter to

accompany the shipment. If the original manifest is not used, then the facility shall use a new manifest and comply with R315-7-12.3(f)(1), (2), (3), (4), (5), and (6).

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set for in R315-2-7(b) after it has signed, date, and returned a copy of the manifest to the delivering transporter or to the generator, the facility shall amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility shall also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and shall re-sign and date the manifest to certify to the information as amended. The facility shall retain the amended manifest for at least three years from the date of amendment, and shall within30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

12.4 OPERATING RECORD

The requirements as found in 40 CFR 265.73, 1997 ed., as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference.

12.5 AVAILABILITY, RETENTION, AND DISPOSITION OF RECORDS

(a) All records, including plans, required under R315-7 shall be furnished upon written request, and made available at all reasonable times for inspection.

(b) The retention period for all records required under R315-7 is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the Board.

(c) A copy of records of waste disposal locations required to be maintained under R315-7-12.4, which incorporates by reference 40 CFR 265.73, shall be turned over to the Board and the local land authority upon closure of the facility, see R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120.

12.6 BIENNIAL REPORT

Owners or operators of facilities that treat, store, or dispose of hazardous waste shall prepare and submit a single copy of a biennial report to the Board by March 1 of each even numbered year. The biennial report shall be submitted on EPA form 8700-13B. The biennial report shall cover facility activities during the previous calendar year and shall include the following information:

(a) The EPA identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA identification number of each hazardous waste generator from which a hazardous waste was received during the year; for imported shipments, the name and address of the foreign generator shall be given;

(d) A description and the quantity of each hazardous waste received by the facility during the year. For off-site facilities, this information shall be listed by EPA identification number of each generator;

(e) The method(s) of treatment, storage, or disposal for each hazardous waste;

(f) Monitoring data, where required under R315-7-13.5(a)(2)(ii) and (iii) and (b)(2) where required;

(g) The most recent closure cost estimate under R315-7-15, which incorporates by reference 40 CFR 265.140 - 265.150, and for disposal facilities, the most recent post-closure cost estimate under R315-7-15, which incorporates by reference 40 CFR 265.144;

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(i) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent the information is available for the years prior to 1984; and

(j) The certification signed by the owner or operator of the facility or his authorized representative.

12.7 UNMAINFESTED WASTE REPORT

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in R315-[~~4-3(e)(2)~~]6-2.20(e)[~~- of these rules~~], and if the waste is not excluded from the manifest requirements [~~by R315-2-2~~]of R315, then the owner or operator shall prepare and submit a single copy of a report to the Board within 15 days after receiving the waste. These reports shall be designated "Unmanifested Waste Report" and include the following information:

([~~a~~]1) The EPA identification number, name, and address of the facility;

([~~b~~]2) The date the facility received the waste;

([~~c~~]3) The EPA identification number, name, and address of the generator and the transporter, if available;

([~~d~~]4) A description and the quantity of each unmanifested hazardous waste the facility received;

([~~e~~]5) The method of treatment, storage, or disposal for each hazardous waste;

([~~f~~]6) The certification signed by the owner or operator of the facility or his authorized representative; and

([~~g~~]7) A brief explanation of why the waste was unmanifested, if known.

[~~Small quantities of hazardous waste are excluded from regulation under R315-7 and do not require a manifest. Where a facility receives unmanifested hazardous wastes, the owner or operator should obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, the owner or operator should file an unmanifested waste report for the hazardous waste movement.~~

~~——~~]12.8 ADDITIONAL REPORTS

In addition to the biennial and unmanifested waste reporting requirements described in R315-7-12.6, and R315-7-12.7, a facility owner or operator shall also report to the Board:

(a) Discharges, fires, and explosions as specified in R315-7-11.7(j);

(b) Groundwater contamination and monitoring data as specified in R315-7-13.4 and R315-7-13.5;

(c) Facility closure as specified in R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120;

(d) Upon its request, all information as the Board may deem necessary to determine compliance with the requirements of R315-7;

(e) As otherwise required by R315-7-26, which incorporates by reference 40 CFR 265.1030 - 265.1035, R315-7-27, which incorporate by reference 40 CFR 265 265.1050 - 265.1064 and R315-7-30, which incorporates by reference 40 CFR 265.1080 - 265.1091.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~September 15, 2003~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Solid and Hazardous Waste
R315-8
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29090
FILED: 09/29/2006, 10:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change provides for the safe storage and transport of military munitions waste. It revises the Uniform Hazardous Waste manifest regulations and the manifest and continuation sheet forms used to track hazardous waste from a generator's site to the site of disposition. The rule change adopts new procedures for tracking certain types of waste shipments with the manifest. This rule change also includes emission standards for hazardous air pollutants (NESHAP) for automobile and light-duty truck surface coating operations at major sources of hazardous air pollutants (HAP). It requires these operations to meet HAP emission standards reflecting the application of the maximum achievable control technology. It also amends air emission standards for owners and operators of treatment, storage, and disposal facilities (TSDF) to exempt air emissions from certain activities that are covered by the final NESHAP.

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 subpart BB, 264.1050 - 1065, 2004 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

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.
R315-8-1. Purpose, Scope and Applicability.

(a) The purpose of R315-8 is to establish minimum State of Utah standards which define the acceptable management of hazardous waste.

(b) The standards in R315-8 apply to owners and operators of all facilities which treat, store, or dispose of hazardous waste, except as specifically provided otherwise in R315-8 or R315-2.

(c) The requirements of R315-8 apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under the Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the extent they are required by R315-3. R315-8 applies to the above-ground treatment or storage of hazardous waste before it is injected underground.

(d) The requirements of R315-8 apply to the owner or operator of a POTW which treats, stores, or disposes of hazardous waste only to the extent they are included in a RCRA permit by rule granted to such a person under R315-3.

(e) The requirements of R315-8 do not apply to:

(1) The owner or operator of a state approved facility managing municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under R315-2-5, conditionally exempt small quantity generator exemption;

(2) A generator accumulating waste on-site in compliance with R315-5-3.34, which incorporates by reference 40 CFR 262.34;

(3) A farmer disposing of waste pesticides from his own use in compliance with R315-5-7;

(4) The owner or operator of a totally enclosed treatment facility. A totally enclosed treatment facility is a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment;

(5) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of R315-5-3.30 at a transfer facility for a period of ten days or less;

(6)(i) Except as provided in R315-8-1(e)(6)(ii), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of hazardous waste; and

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by R315-8 shall comply with all applicable requirements of R315-8-3 and R315-8-4.

(iii) Any person who is covered by R315-8-1(e)(6)(i), and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of R315-8 and R315-3 for those activities.

(iv) In the case of an explosives or munitions emergency response, if a State or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(7) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes, other than the D001 High TOC Subcategory defined in R315-13, which incorporates by reference 40 CFR 268.40, or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator shall comply with the requirements set out in R315-8-2.8(b);

(8) The addition of absorbent material to waste in a container, as defined in R315-1, or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and R315-8-2.8(b), R315-8-9.2, and R315-8-9.3 are complied with;

(9) The owner or operator of a facility managing recyclable materials described in R315-2-6, which incorporates by reference 40 CFR 261.6, except to the extent that they are referred to in R315-15 or R315-14-2, which incorporates by reference 40 CFR 266 subpart C, R315-14-5, which incorporates by reference 40 CFR 266 subpart F, [~~and~~] R315-14-6, which incorporates by reference 40 CFR 266 subpart G, and R315-14-7, which incorporates by reference 40 CFR 266 subpart H; and

(10) Universal waste handlers and universal waste transporters (as defined in R315-16-1.9), handling the wastes listed below. These handlers are subject to regulation under R315-16, when handling the below listed universal wastes:

(i) Batteries as described in R315-16-1.2;

(ii) Pesticides as described in R315-16-1.3;

(iii) Mercury thermostats as described in R315-16-1.4; and

(iv) Mercury lamps as described in R315-16-1.5.

(f) The requirements of this rule apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in R315-13, which incorporates by reference 40 CFR 268.

(g) The requirements of R315-8-2 through 8-4 and R315-8-6.12 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional hazardous waste permit because the facility is also treating, storing or disposing of hazardous wastes that are not remediation wastes. In these cases, R315-8-2 through 8-4 and R315-8-6.12 do apply to the facility subject to the traditional hazardous waste permit). Instead of the requirements of R315-8-2 through 8-4, owners or operators of remediation waste management sites must:

(1) Obtain an EPA identification number by applying to the Division of Solid and Hazardous Waste using EPA Form 8700-12;

(2) Obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation waste to be managed at the site. At a minimum, the analysis must contain all of the information which must be known to treat, store, or dispose of the waste according to R315-13, which incorporates by reference 40 CFR 268, and R315-8, and must be kept accurate and up to date;

(3) Prevent people who are unaware of the danger from entering, and minimize the possibility for unauthorized people or livestock to enter onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate to the Executive Secretary that:

(i) Physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock who may enter the active portion of the remediation waste management site; and

(ii) Disturbance of the waste or equipment by people or livestock who enter onto the active portion of the remediation waste management site, will not cause a violation of the requirements of R315-8;

(4) Inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing, or may lead to, a release of hazardous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and must remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner/operator must take remedial action immediately;

(5) Provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of R315-8, and on how to respond effectively to emergencies;

(6) Take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and prevent threats to human health and the environment from ignitable, reactive and incompatible waste;

(7) For remediation waste management sites subject to regulation under R315-8-9 through 8-15, and R315-8-16, which incorporates by reference 40 CFR 264.600 - 603, the owner/operator must design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner/operator can meet the demonstration of R315-8-2.9(b);

(8) Not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave;

(9) Develop and maintain a construction quality assurance program for all surface impoundments, waste piles and landfill units that are required to comply with R315-8-11.2(c) and (d), R315-8-12.2(c) and (d), and R315-8-14.2(c) and (d) at the remediation waste management site, according to the requirements of R315-8-2.10;

(10) Develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store, and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment;

(11) Designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;

(12) Develop, maintain and implement a plan to meet the requirements in R315-8-1(g)(2) through (g)(6) and R315-8-1(g)(9) through (g)(10); and

(13) Maintain records documenting compliance with R315-8-1(g)(1) through (g)(12).

1.1 RELATIONSHIP TO INTERIM STATUS STANDARDS

A facility owner or operator who has fully complied with the requirements for interim status--as defined in section 3005(e) of the Federal RCRA Act and regulations under R315-3-7.1 shall comply with the regulations specified in R315-7 in lieu of R315-8, until final administrative disposition of his permit application is made, except as provided under R315-8-21, which incorporates by reference 40 CFR 264.552 and 264.553.

R315-8-5. Manifest System, Recordkeeping, and Reporting.

5.1 APPLICABILITY

(a) The rules in [~~this section~~]R315-8-5 apply to owners and operators of both on-site and off-site facilities, except as provided otherwise in R315-8-1. R315-8-5.2, R315-8-5.4, and R315-8-5.7 do not apply to owners and operators of on-site facilities that do not receive hazardous waste from off-site sources, nor to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 40 CFR 266.203(a). R315-8-5.3, which incorporates by reference 40 CFR 264.73(b) only applies to permittees who treat, store, or dispose of hazardous wastes on-site where such wastes were generated .

[~~R315-8-5.3, incorporates by reference 40 CFR 264.73, July 1, 1992. However, 264.73(b) only applies to permittees who treat, store, or dispose of hazardous wastes on-site where the wastes were generated.~~](b) The revised Manifest form and procedures in R315-1-1, which incorporates by reference 40 CFR 260.10, R315-2-7, R315-8-5.1, R315-8-5.2, R315-8-5.4, and R315-8-5.7, contained in R315-1 to R315-8, edition revised as of September 15, 2004, shall be applicable until September 5, 2006.

5.2 USE OF MANIFEST SYSTEM

(a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his agent, shall sign and date the manifes as indicated in R315-8-5.2(a)(2) to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifes, or that the hazardous waste was rejected as noted in the manifest discrepancy space.[~~:~~

~~(1) Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;~~]

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his agent shall:

(i) Sign and date, by hand, each copy of the manifest;

([~~2~~]ii) Note any [~~significant~~]discrepancies in the manifest, as defined in R315-8-5.4([~~e~~]a), on each copy of the manifest;

[~~Comment: The Agency does not intend that the owner or operator of a facility whose procedures under R315-8-2.4, which incorporates by reference 40 CFR 264.13(c), include waste analysis shall perform that analysis before signing the manifest and giving it to the transporter. R315-8-5.4(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.~~

~~——~~]([~~3~~]iii) Immediately give the transporter at least one copy of the signed manifest;

([4]iv) Within 30 days [~~after~~]of the delivery, send a copy of the manifest to the generator; and

([~~5~~]v) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a faciity receives hazardous waste imported from a foreign source, the receiving facility shall mail a cop of the manifest to the following addresses within 30 days of delivery: International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460 and Utah Division of Solid and Hazardous Waste, P O Box 144880, Salt Lake City, Utah 84114-4880.

(b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, shall:

(1) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies, as defined in R315-8-5.4(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper.

Comment: The Agency does not intend that the owner or operator of a facility whose procedures under R315-8-2.4, which incorporates by reference 40 CFR 264.13(c), include waste analysis shall perform that analysis before signing the shipping paper and giving it to the

transporter. R315-8-5.4(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(3) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping papaer (if the manifest has not been received within 30 days after delivery) to the generator[~~to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, shall send a copy of the shipping paper signed and dated to the generator~~]; and

Comment: R315-5-2.23(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

(5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of R315-5.

Comment: The provisions of R315-5-3.34, which incorporates by reference 40 CFR 262.34, are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of R315-5-3.34, which incorporates by reference 40 CFR 262.34, only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

(d) Within three working days of the receipt of a shipment subject to R315 -5-8, which incorporates by reference 40 CFR 262, subpart H, the owner or operator of the facility shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document shall be maintained at the facility for at least three years from the date of signature.

(e) A facility shall determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under its state hazardous waste program. Facilities shall also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

5.3 OPERATING RECORD

The requirements as found in 40 CFR 264.73, 2000 ed., are adopted and incorporated by reference.

5.4 MANIFEST DISCREPANCIES

(a) Manifest discrepancies are:

(1) Significant differences (as defined by R315-8-5.4(b)) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity [~~or~~]and type of hazardous waste a facility actually receives[~~,~~] ;

(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in R315-2-7(b).

(b) Significant discrepancies in quantity are: [~~(1)~~]for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload[~~, and~~]; [~~(2)~~]for bulk waste, variations greater than 10 percent in weight. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

([~~b~~]c) Upon discovering a significant discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter, e.g., with telephone conversations. If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the Executive Secretary a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.[~~The Executive Secretary does not intend that the owner or operator of a facility whose procedures under R315-8-2.4 which incorporates by reference 40 CFR 264.13, include waste analysis shall perform that analysis before signing the manifest and giving it to the transporter. However, unreconciled discrepancies discovered during later analysis shall be reported.~~]

(d)(1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in R315-2-7(b), the facility shall consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility shall send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under R315-8-5.4, it must ensure that either the delivering transporter retains custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under R315-8-5.4(e) or (f).

(e) Except as provided in R315-8-5.4(e)(7), for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with R315-5-2.20(a) and the following instructions:

(1) Write the generator's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a) of R315.

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked, and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility shall retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original

manifest is not used, then the facility shall use a new manifest and comply with R315-8-5.4(e)(1), (2), (3), (4), (5), and (6).

(f) Except as provided in R315-8-5.4(f)(7), for rejected wastes and residues that shall be sent back to the generator, the facility is required to prepare a new manifest in accordance with R315-5-2.20(a) and the following instructions:

(1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked, and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility shall retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility shall use a new manifest and comply with R315-8-5.4(f)(1), (2), (3), (4), (5), and (6).

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set for in R315-2-7(b) after it has signed, date, and returned a copy of the manifest to the delivering transporter or to the generator, the facility shall amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility shall also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and shall re-sign and date the manifest to certify to the information as amended. The facility shall retain the amended manifest for at least three years from the date of amendment, and shall within30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

5.5 AVAILABILITY, RETENTION, AND DISPOSITION OF RECORDS

(a) Records of waste disposal locations and quantities required to be maintained under R315-8-5.3, which incorporates by reference 40 CFR 264.73(b)(2) shall be submitted to the Board and local land authority upon closure of the facility.

(b) The retention period for all records required under this section is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the Executive Secretary.

(c) All records, including plans, required under R315-8 shall be furnished upon request, and made available at all reasonable times for inspection.

5.6 BIENNIAL REPORT

Owners or operators of facilities that treat, store, or dispose of hazardous waste shall prepare and submit a single copy of an biennial report to the Board by March 1 of each even numbered year. The biennial report shall be submitted on EPA form 8700-13B. The biennial report shall cover facility activities during the previous calendar year and shall include the following information:

(a) The EPA identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA identification number of each hazardous waste generator from which a hazardous waste was received during the year; for imported shipments, the name and address of the foreign generator shall be given in the report;

(d) A description and the quantity of each hazardous waste received by the facility during the year. For off-site facilities, this information shall be listed by EPA identification number of each generator;

(e) The method(s) of treatment, storage, or disposal for each hazardous waste; and

(f) The most recent closure cost estimate under R315-8-8, which incorporates by reference 40 CFR 264. 140 - 264.151, and for disposal facilities, the most recent post-closure cost estimate under R315-8-8, which incorporates by reference 40 CFR 264.140 - 264.151; and

(g) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent the information is available for the years prior to 1984;

(i) The certification signed by the owner or operator of the facility or his authorized representative.

5.7 UNMANIFESTED WASTE REPORT

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in R315-6-2.20(e)(2), [~~except for shipments that do not require a manifest because of the exclusions in R315-2,~~]and if the waste is not excluded from the manifest requirement of R315, then the owner or operator shall prepare and submit a [~~single copy of a report to the Board~~]letter to the Executive Secretary within 15 days of the receipt of the waste. The unmanifested waste report shall include the following information:

([~~a~~]1) The EPA identification number, name, and address of the facility;

([~~b~~]2) The date of receipt of the waste;

([~~c~~]3) [~~The word "unmanifested" under the comments section, or check appropriate box of the report form~~]The EPA identification number, name and address of the generator and the transporter, if available;

([~~d~~]4) [~~The EPA identification number, name, and address of the generator and the transporter, if available~~]A description and the quantity of each unmanifested hazardous waste the facility received;

([~~e~~]5) [~~A description and the quantity of each unmanifested hazardous waste received by the facility~~]The method of treatment, storage, or disposal for each hazardous waste;

([~~f~~]6) [~~The method(s) of treatment, storage, or disposal for each hazardous waste;~~]The certification signed by the owner or operator of the facility or his authorized representative; and

([~~g~~]7) [~~A certification signed by the owner or operator of the facility or his authorized representative; and~~]A brief explanation of why the waste was unmanifested, if known.

[~~(h) A brief explanation of why the shipment was unmanifested, in the comments section of the report form. If a facility owner or operator accepts unmanifested hazardous waste, believing it to be excluded under R315-2, he should obtain from the generator a certification that the waste qualifies for exclusion, otherwise he should file an unmanifested waste report for the hazardous waste movement.~~

~~———~~]5.8 ADDITIONAL REPORTS

In addition to the biennial and unmanifested waste reporting requirements described in R315-8-5.6 and R315-8, a facility owner operator shall also report the following to the Board:

(a) Discharges, fires, and explosions as specified in R315-8-4.7(j);

(b) Upon its request, all information as the Board may deem necessary to determine compliance with the requirements of R315-8;

(c) Facility closure as specified in R315-8-7, which incorporates by reference 40 CFR 264.110 - 264.120; and

(d) As otherwise required in R315-8-6, R315-8-11, R315-8-12, R315-8-13, R315-8-14, R315-8-17, which incorporates by reference 40 CFR 264-1030 - 264.1036, R315-8-18, which incorporates by reference 40 CFR 264.1050 - 264.1065, and R315-8-22, which incorporates by reference 40 CFR 264.1080 - 264.1090.

R315-8-11. Surface Impoundments.

11.1 APPLICABILITY

The rules in this section apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste except as provided otherwise in R315-8-1.

11.2 DESIGN AND OPERATING REQUIREMENTS

(a) Any surface impoundment that is not covered by R315-8-11.2(f) or R315-7-18.9 shall have a liner for all portions of the impoundment, except for existing portions of such impoundments. The liner shall be designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or groundwater or surface water at any time during the active life, including the closure period, of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner, but not into the adjacent subsurface soil or groundwater or surface water, during the active life of the facility, provided that the impoundment is closed in accordance with R315-8-11.[~~9~~]5(a)(1). For impoundments that will be closed in accordance with R315-8-11.5(a)(2), the liner shall be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner shall be:

(1) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients, including static head and external hydrogeologic forces, physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(2) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(3) Installed to cover all surrounding earth likely to be in contact with the waste or leachate.

. . . . . .

R315-8-18. Air Emission Standards for Equipment Leaks.

The requirements as found in 40 CFR subpart BB sections 264.1050 through 264.1065, [~~1997~~]2004 ed., [~~as amended by 62 FR 64636, December 8, 1997,~~]are adopted and incorporated by reference with the following exception:

(1) substitute "Board" for all federal regulation references made to "Regional Administrator."

R315-8-19. Drip Pads.

The requirements as found in 40 CFR subpart W sections 264.570 through 264.575, 1996 ed., are adopted and incorporated by reference with the following exception:

(1) substitute "Board" for all federal regulation references made to "Regional Administrator".

(2) Add, following December 6, 1990, in 40 CFR 264.570(a), "for all HSWA drip pads or [~~January 31, 1992~~]July 30, 1993 for all non-HSWA drip pads."

(3) Add, following December 24, 1992, in 40 CFR 570(a), "for all HSWA drip pads or July 30, 1993 for all non-HSWA drip pads."

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~September 15, 2003~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Solid and Hazardous Waste

R315-12

Administrative Procedures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29083
FILED: 09/29/2006, 10:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This adds the Mercury Switch Removal Act rules that are applicable to administrative procedures of the Hazardous Waste Rules.

SUMMARY OF THE RULE OR CHANGE: This rule change adds the Mercury Switch Removal Act to the list of rules that are applicable under Administrative Procedures for the Hazardous Waste Rules.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-1001 and 63-46b-4

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Existing staff and resources will be used to implement the rule so there are no cost or savings to the state budget.
❖ LOCAL GOVERNMENTS: The rule does not require local government resources so there are no cost or savings to local government.
❖ OTHER PERSONS: The proposed rule does not require other persons resources. Costs for affected persons would only be incurred if the appeals process is utilized and these costs would be variable depending on the resources used to implement an appeal. Costs could vary anywhere from $0 to several thousand dollars.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs for affected persons would only be incurred if the appeals process is utilized and these costs would be variable depending on the resources used to implement an appeal. Costs could vary anywhere from $0 to several thousand dollars.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Costs for businesses would only be incurred if the appeals process is utilized and these costs would be variable depending on the resources used to implement an appeal. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-12. Administrative Procedures.
R315-12-1. Application of Rule.

(a) This rule applies to proceedings under Title 19, Chapter 6, Part 1 (Solid and Hazardous Waste Act), Title 19, Chapter 6, Part 5 (Solid Waste Management Act), Title 19, Chapter 6, Part 6 (Lead Acid Battery Disposal), Title 19, Chapter 6, Part 7 (Used Oil Management Act), [~~and~~]Tile 26, Chapter 32a (Waste Tire Recycling), and Title 19, Chapter 6, Part 10 (Mercury Switch Removal Act).

(b) For purposes of these rules, an appeal under the Used Oil Management Act shall mean the process of agency decision making under the Utah Administrative Procedures Act (UAPA), Section 63-46b-0.5 through 63-46b-11, and the standards, deadlines, procedures, and other requirements for an appeal shall be same as the standards, deadlines, procedures, and other requirements for contesting the validity of an initial order or violation under R315-12.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~June 15, 1999~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 63-46b-4

♦ ——————————————— ♦

Environmental Quality, Solid and Hazardous Waste
R315-13
Land Disposal Restrictions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29091
FILED: 09/29/2006, 10:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change adds Land Disposal Restrictions (LDR) treatment standards for specific constituents of the listed hazardous waste K181.

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: 67 FR 48393, July 24, 2002 and 70 FR 9138, February 24, 2005

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.
❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.
❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

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; 67 FR 48393, July 24, 2002; and 70 FR 9138, February 24, 2005, 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
Date of Enactment or Last Substantive Amendment: [~~September 15, 2003~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-106; 19-6-105

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Environmental Quality, Solid and Hazardous Waste
R315-14
Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29087
FILED: 09/29/2006, 10:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change promulgates regulations that identify when conventional and chemical military munitions become a hazardous waste. It also establishes a more consistent regulatory framework for the practice of making zinc fertilizer products from recycled hazardous secondary materials.

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 266.20 - 266.23, 2003 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

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.
R315-14-2. Recyclable Materials Used in a Manner Constituting Disposal.

(a) The requirements regarding recyclable materials used in a manner constituting disposal of 40 CFR 266.20 to 266.23, inclusive, [~~1994 ed., as amended by 59 FR 43496, August 24, 1994 and 59 FR 47982, September 19, 1994~~]2003 ed., are adopted and incorporated by reference.

R315-14-8. Military Munitions.

For purposes of 19-6-102(17)(a), a used or fired military munition is a solid waste, and, therefore, is potentially subject to 19-6-105(1)(d) and 19-6-112, or imminent and substantial endangerment authorities under 19-6-115 if the munition lands off-range and is not promptly rendered safe or retrieved or both. Any imminent and substantial threats associated with any remaining material shall be addressed. If remedial action is infeasible, the operator of the range shall maintain a record of the event for as long as any threat remains. The record shall include the type of munition and its location, to the extent the location is known.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~September 15, 2003~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

♦ ♦

Environmental Quality, Solid and Hazardous Waste
R315-50
Appendices

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29084
FILED: 09/29/2006, 10:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This rule change lists hazardous nonwastewaters generated from the production of certain dyes, pigments, and food, drug and cosmetic colorants (K181) to the list of hazardous waste. It also amends the instructions for completion of the Uniform Hazardous Waste Manifest form.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-106, and 19-6-108; and 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 262, 2005 ed., and 70 FR 9138, February 24, 2005

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no additional costs or savings for state agencies beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ LOCAL GOVERNMENTS: There are no additional costs or savings for local governments beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

❖ OTHER PERSONS: There are no additional costs or savings for other persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs or savings for affected persons beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional costs or savings for businesses beyond those associated with implementing and complying with the federal hazardous waste regulations previously promulgated by EPA and which are a part of this proposed rule change. Dianne R. Nielson, Executive Director

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 11/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 12/15/2006

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-50. Appendices.
R315-50-1. Instructions for Completion of Uniform Hazardous Waste Manifest.

The requirements of the Appendix to Part 262 of 40 CFR, Uniform Hazardous Waste Manifest, [~~1990~~]2005 ed., are adopted and incorporated by reference with the following additional requirements:

(a) Generators and owners and operators shall complete the following additional items of the manifest form:

(1) Item D. Transporter's phone

Enter the phone number of the first transporter who will transport the waste.

(2) Item F. Transporter's phone

If applicable, enter the phone number of the second transporter who will transport the waste.

(3) Item H. Facility's phone

Enter the phone number of the facility designated to receive the waste listed on the manifest.

(4) Item I. Waste number

Enter the 4-digit EPA Hazardous Waste number assigned to the waste. If the waste is a mixture, include all EPA Hazardous Waste numbers for the wastes known to be present, regardless of the quantity of each individual waste component.

(5) Item J. Additional Descriptions for Materials Listed Above

If the DOT shipping description in item 11, a, b, c, d, of the manifest form contains only NOS or other general term, the hazardous waste constituent(s) must be provided here for each. The specific gravity is assumed to be one (1.00) unless otherwise indicated here.

(6) Item O. Transporter's phone

Refer to Item D

(7) Item Q. Transporter's phone

Refer to Item F

(8) Item R. Waste number

Refer to Item I

(9) Item S. Additional Descriptions for Materials Listed Above

Refer to Item J

R315-50-9. Basis for Listing Hazardous Wastes.

The requirements of 40 CFR 261, Appendix VII, 2002 ed., as amended by FR 70 9138, February 24, 2005, 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, 2002 ed., as amended by FR 70 9138, February 24, 2005, are adopted and incorporated by reference.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~September 15, 2003~~]2006
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 19-6-106; 19-6-108; 19-6-105

Environmental Quality, Water Quality
R317-1-7
TMDLs

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29098
FILED: 10/02/2006, 17:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to incorporate by reference seven completed and approved Total Maximum Daily Loads (TMDLs) into the rule.

SUMMARY OF THE RULE OR CHANGE: This section incorporates by reference seven completed and approved TMDLs into the rule. Each TMDL document has gone through an individual public review process, have been approved by the Environmental Protection Agency (EPA), and adopted by the Utah Water Quality Board.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Upper Bear River, August 4, 2006; Echo Creek, August 4, 2006; Soldier Creek, August 4, 2006; East Fork Sevier River, August 4, 2006; Koosharem Reservoir, August 4, 2006; Lower Box Creek Reservoir, August 4, 2006; and Otter Creek Reservoir, August 4, 2006

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated impacts to the state budget. The proposed amendments will be addressed using existing resources.

❖ LOCAL GOVERNMENTS: No cost impacts to local governments are anticipated. However, individual TMDLs may or may not result in capital construction costs or costs associated with changes in management strategies to address point sources and nonpoint source pollution problems. If increased compliance costs to local governments are identified as a result of a TMDL, they are presented to the public for comment and discussion prior to the adoption of the TMDL.

❖ OTHER PERSONS: No anticipated cost to other persons are anticipated. However, individual TMDLs may or may not result in capital construction costs or costs associated with changes in management strategies to address point sources and nonpoint source pollution problems. If increased compliance costs to other persons are identified as a result of a TMDL, they are presented to the public for comment and discussion prior to the adoption of the TMDL.

COMPLIANCE COSTS FOR AFFECTED PERSONS: TMDLs may or may not result in capital construction costs or costs associated with changes in management strategies to address point sources and nonpoint source pollution problems. If increased compliance costs to individuals or local governments are identified as a result of a TMDL, they are presented to the public for comment and discussion prior to the adoption of the TMDL.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Each state is required under Section 303 of the federal Clean Water Act to establish TMDLs for waters identified as impaired, i.e., those waters included on the 303(d) list. States must complete and implement TMDLs. Fiscal impacts to businesses that may result from TMDL implementation, if any, will be declared and discussed in public forums during the development of individual TMDLs. Dianne Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
WATER QUALITY
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:
Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2006

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.
R317-1. Definitions and General Requirements.
R317-1-7. TMDLs.

The following TMDLs are approved by the Board and hereby incorporated by reference into these rules:

7.1 Bear River -- December 23, 1997
7.2 Chalk Creek -- December 23, 1997
7.3 Otter Creek -- December 23, 1997
7.4 Little Bear River -- May 23, 2000
7.5 Mantua Reservoir -- May 23, 2000
7.6 East Canyon Creek -- September 1, 2000
7.7 East Canyon Reservoir -- September 1, 2000
7.8 Kents Lake -- September 1, 2000
7.9 LaBaron Reservoir -- September 1, 2000
7.10 Minersville Reservoir -- September 1, 2000
7.11 Puffer Lake -- September 1, 2000
7.12 Scofield Reservoir -- September 1, 2000
7.13 Onion Creek (near Moab) -- July 25, 2002
7.14 Cottonwood Wash -- September 9, 2002
7.15 Deer Creek Reservoir -- September 9, 2002
7.16 Hyrum Reservoir -- September 9, 2002
7.17 Little Cottonwood Creek -- September 9, 2002
7.18 Lower Bear River -- September 9, 2002
7.19 Malad River -- September 9, 2002
7.20 Mill Creek (near Moab) -- September 9, 2002
7.21 Spring Creek -- September 9, 2002
7.22 Forsyth Reservoir -- September 27, 2002
7.23 Johnson Valley Reservoir -- September 27, 2002
7.24 Lower Fremont River -- September 27, 2002
7.25 Mill Meadow Reservoir -- September 27, 2002
7.26 UM Creek -- September 27, 2002
7.27 Upper Fremont River -- September 27, 2002
7.28 Deep Creek -- October 9, 2002
7.29 Uinta River -- October 9, 2002
7.30 Pineview Reservoir -- December 9, 2002
7.31 Browne Lake -- February 19, 2003
7.32 San Pitch River -- November 18, 2003
7.33 Newton Creek -- June 24, 2004
7.34 Panguitch Lake -- June 24, 2004
7.35 West Colorado -- August 4, 2004
7.36 Silver Creek -- August 4, 2004
7.37 Upper Sevier River -- August 4, 2004
7.38 Lower and Middle Sevier River -- August 17,2004
7.39 Lower Colorado River -- September 20, 2004
7.40 Upper Bear River -- August 4, 2006
7.41 Echo Creek -- August 4, 2006

7.42 Soldier Creek -- August 4, 2006
7.43 East Fork Sevier River -- August 4, 2006
7.44 Koosharem Reservoir -- August 4, 2006
7.45 Lower Box Creek Reservoir -- August 4, 2006
7.46 Otter Creek Reservoir -- August 4, 2006

KEY: water pollution, waste disposal, industrial waste, effluent standards
Date of Enactment or Last Substantive Amendment: [~~August 22, 2005~~]2006
Notice of Continuation: October 7, 2002
Authorizing, and Implemented or Interpreted Law: 19-5

Governor, Administration
R355-2
Complaint Procedure for Americans With Disabilities Act (ADA)

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 29045
FILED: 09/18/2006, 05:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is no longer necessary as information contained in the rule has been incorporated into policy.

SUMMARY OF THE RULE OR CHANGE: The rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-32

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The rule change does not alter the Americans with Disabilities Act (ADA) requirements in the Governor's Office and does not result in either costs or savings to the state.
❖ LOCAL GOVERNMENTS: The rule change applies only to the Governor's Office and does not apply to local governments.
❖ OTHER PERSONS: The rule change applies only to the Governor's Office and does not apply to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule change does not alter ADA requirements in the Governor's Office and does not result in either costs or savings to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule repeal does not fiscally impact businesses as the rule only applies to the Governor's Office. John Nixon, Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
GOVERNOR
ADMINISTRATION
Room E220 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2220, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Hunter Finch at the above address, by phone at 801-538-1553, by FAX at 801-538-1547, or by Internet E-mail at HFINCH@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2006

AUTHORIZED BY: John Nixon, Director

R355. Governor, Administration.
[~~R355-2. Complaint Procedure for Americans With Disabilities Act (ADA).~~]
~~R355-2-1. Authority and Purpose.~~
~~(a) This rule is promulgated pursuant to Section 67-19-32 of the Personnel Management Act and Section 63-46a-3 of the State Administrative Rulemaking Act. For purposes of this rule, the Utah Governor's Office includes the Office of the Lt. Governor, the Governor's Office of Planning and Budget, and the Office of the Commission on Criminal and Juvenile Justice. These Governor's Office entities (hereinafter, "department"), adopt and define this complaint procedure to provide for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans With Disabilities Act, pursuant to 42 U.S.C. 12201.~~
~~(b) Pursuant to Section 67-19-32, no qualified individual with a disability, by reason of such disability, shall be excluded from participation in or be denied benefits of services, programs, or activities of this department, or be subjected to discrimination by this department.~~

~~R355-2-2. Definitions.~~
~~(a) "Department ADA Coordinator" means the Utah Governor's Office's coordinator, or designee, who is responsible for investigating and providing prompt and equitable resolution of complaints filed by qualified individuals with disabilities in accordance with the Americans With Disabilities Act, or provisions of this rule.~~
~~(b) "State ADA Coordinating Committee" means that committee with representatives designated by the directors of the following agencies:~~
~~(1) Governor's Office of Planning and Budget;~~
~~(2) Department of Human Resource Management;~~
~~(3) Division of Risk Management, Department of Administrative Services;~~
~~(4) Division of Facilities Construction Management, Dept. of Administrative Services; and~~
~~(5) Office of the Attorney General.~~
~~(c) "Disability" means, with respect to an individual with a disability, a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; a record of such an impairment; or being regarded as having such an impairment.~~

~~(d) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.~~

~~(e) "Individual with a disability" (individual) means a person who has a disability which limits one of his major life activities and who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities provided by the Utah Governor's Office, or who would otherwise be an eligible applicant for vacant state positions, as well as those who are employees of the state.~~

~~R355-2-3. Filing of Complaints.~~

~~(a) The complaint shall be filed in a timely manner to assure prompt, effective assessment and consideration of the facts, but no later than 60 days from the date of the alleged act of discrimination.~~

~~(b) The complaint shall be filed with the department's ADA Coordinator in writing or in another accessible format suitable to the individual.~~

~~(c) Each complaint shall:~~

~~(1) include the individual's name and address;~~

~~(2) include the nature and extent of the individual's disability;~~

~~(3) describe the department's alleged discriminatory action in sufficient detail to inform the department of the nature and date of the alleged violation;~~

~~(4) describe the action and accommodation desired; and~~

~~(5) be signed by the individual or by his or her legal representative.~~

~~(d) Complaints filed on behalf of classes or third parties shall describe or identify by name, if possible, the alleged victims of discrimination.~~

~~R355-2-4. Investigation of Complaint.~~

~~(a) The ADA Coordinator shall conduct an investigation of each complaint received, and shall assure that all relevant facts are determined and documented. This may include gathering all information listed in Section (3)(c) of this rule if it is not made available by the individual.~~

~~(b) In conducting the investigation, the ADA Coordinator retains the option to obtain input from the department's human resource and budget staff, and the State ADA Coordinating Committee in considering what actions could be taken on the complaint that would involve:~~

~~(1) an expenditure of funds which is not absorbable within the agency's budget and would require appropriation authority;~~

~~(2) facility modifications; or~~

~~(3) personnel reclassification or reallocation in grade.~~

~~R355-2-5. Issuance of Decision.~~

~~(a) Within 15 working days after receiving the complaint, the ADA Coordinator shall issue a decision outlining in writing or another acceptable suitable format stating what action, if any, shall be taken on the complaint.~~

~~(b) If the ADA Coordinator is unable to reach a decision within the 15 working day period, he shall notify the individual with a disability in writing or by another acceptable suitable format why the decision is being delayed and what additional time is needed to reach a decision.~~

~~R355-2-6. Appeals.~~

~~(a) The individual may appeal the decision of the ADA Coordinator by filing an appeal within five working days from the receipt of the decision.~~

~~(b) The appeal shall be filed in writing with the department's Chief of Staff or a designee other than the department's ADA Coordinator.~~

~~(c) Filing of an appeal shall be considered as authorization by the individual to allow review of all information classified as private or controlled, by the Chief of Staff, or designee.~~

~~(d) The appeal shall describe in sufficient detail why the coordinator's decision is in error, is incomplete or ambiguous, is not supported by the evidence, or is otherwise improper.~~

~~(e) The Chief of Staff, or designee, shall review the factual findings of the investigation and the individual's statement regarding the inappropriateness of the coordinator's decision and arrive at an independent conclusion and recommendation. Additional investigations may be conducted if necessary to clarify questions of fact before arriving at an independent conclusion before making a decision that would involve the Chief of Staff or designee to:~~

~~(1) an expenditure of funds which is not absorbable and would require appropriation authority;~~

~~(2) facility modifications; or~~

~~(3) reclassification or reallocation in grade; he shall also consult with the State's ADA Coordinating Committee.~~

~~(f) The decision shall be issued within ten working days after receiving the appeal and shall be in writing or in another accessible suitable format to the individual.~~

~~(g) If the Chief of Staff or his designee is unable to reach a decision within the ten working day period, he shall notify the individual in writing or by another acceptable suitable format why the decision is being delayed and the additional time needed to reach a decision.~~

~~R355-2-7. Relationship to Other Laws.~~

~~This rule does not prohibit or limit the use of remedies available to individuals under the State Anti-Discrimination Complaint Procedures (Section 67-19-32); the Federal ADA Complaint Procedures (28 CFR Part 35.170, 1992 edition); or any other Utah State or federal law that provides equal or greater protection for the rights of individuals with disabilities.~~

~~KEY: disabilities act, ADA, grievance~~
~~Date of Enactment or Last Substantive Amendment: November 19, 1996~~
~~Notice of Continuation: October 10, 2001~~
~~Authorizing, and Implemented or Interpreted Law: 67-19-32~~]

♦ ♦

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-304

Income and Budgeting

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29073
FILED: 09/20/2006, 17:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is needed to set a limit on deducting from income the amount of medical and remedial care expenses an institutionalized individual incurs either during a transfer of asset penalty period or when institutional services are denied because the individual has equity in his or her home over $500,000. The amount of such expenses that can be deducted will be limited to zero. An institutionalized person includes individuals who qualify for home- and community-based services under a Medicaid waiver, as well as those in medical institutions. The intent of this rulemaking is to prevent Medicaid from indirectly paying these expenses, which can happen if the Medicaid agency were to allow the client to deduct the amount of these expenses from his income to reduce what he would have to pay for Medicaid coverage if he later becomes eligible for Medicaid-covered institutional services. It is also needed to modify the order in which the agency deducts medical expenses from income in compliance with federal regulations, and to define how the agency will refund clients who pay a cash spenddown for Medicaid and then have to pay for other medical expenses during the month. Other changes are being made to clarify deductions from income.

SUMMARY OF THE RULE OR CHANGE: This rulemaking limits deductions of medical expenses incurred by an institutionalized person on Medicaid. Without this limitation, such persons could indirectly transfer the costs of those expenses to Medicaid by using those expenses later to reduce what the individual would otherwise have to pay for institutional or waiver Medicaid. This change is needed to comply with federal regulations about deducting medical expenses. Other changes include making language easier to understand and clarifications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 42 CFR 435.601, 435.831, 2005 ed.; 42 CFR 435.725, 435.726 and 435.832, 2005 ed.; and 1905(a), 1902(r)(1) and 1924(d) of Title XIX of the Social Security Act, 2005

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Some savings to the state budget is anticipated; however, it is difficult to determine what the savings may be because we do not have data on how many institutionalized individuals may have a penalty period applied due to a transfer of assets for less than fair market value. We also do not know how many applicants will have more than $500,000 in equity in their home. Historical data is limited, and would likely not be a good indicator of future trends because of the major changes affecting coverage for long-term care services required by the Deficit Reduction Act of 2005, Pub. L. No. 109-171.

❖ LOCAL GOVERNMENTS: There is no impact on local governments, because local governments do not determine eligibility for Medicaid, nor do they cover the medical costs of institutionalized persons.

❖ OTHER PERSONS: The aggregate cost is based on what Medicaid clients may face in terms of increased costs for medical services because they will not be able to deduct from their income the medical expenses they incur during a penalty period or when they have excess equity in a home. This cost is difficult to determine because we do not have data about how many people may be affected by these changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: While it is likely that individuals may see increased costs for medical care, the costs to individual clients is difficult to determine because we do not have data on who will transfer assets, nor how much they may transfer. We also do not know how many people will have equity over $500,000 in their home.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The federal Deficit Reduction Act of 2005, Pub. L. No. 109-171, requires that state Medicaid programs make it more difficult for institutionalized individuals to shelter assets and remain eligible for Medicaid. This rule change is necessary to stay in compliance with federal law. Fiscal impact on businesses that serve Medicaid clients should be positive, if long-term care facilities are able to charge a market based private pay rate to anyone made ineligible for Medicaid by these rule changes. David N. Sundwall, MD, 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 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-304. Income and Budgeting.
R414-304-7. A, B and D Medicaid and Family Medicaid Income Deductions.

(1) This section sets forth income deductions for non-institutional aged, blind, disabled and family Medicaid programs, except for the Medicaid Work Incentive program.

([~~1~~]2) The Department [~~adopts~~]applies the financial methodologies required by 42 CFR 435.601, and the deductions defined in 42 CFR 435.831, [~~2001~~]2005 ed., which [~~is~~]are incorporated by reference. Any additional income deductions or limitations are described in this rule.

([~~2~~]3) For aged, blind and disabled individuals eligible under 42 CFR 435.301(b)(2)(iii),(iv),and (v), described more fully in 42 CFR 435.320, .322 and .324, the Department [~~shall allow an income deduction~~]deducts from income an amount equal to the difference between 100% of the federal poverty guideline and the current BMS income standard for the applicable household size[~~,~~] to determine the spenddown amount.

([~~3~~]4) To determine eligibility for and the amount of a spenddown under medically needy programs, the[~~The~~] Department [~~shall allow~~]deducts from income health insurance premiums the client or a financially responsible family member pays providing coverage for the client or any family members living with the client [~~as deductions from income~~]in the month of payment. The Department [~~shall also allow an income deduction for~~]also deducts from income the amount of a health insurance premium[~~s for~~] the month it is due when the Department [~~is paying~~]pays the premium on behalf of the client as authorized by Section 1905(a) of Title XIX of the Social Security Act, [~~2001~~]2005 ed., except no deduction is allowed for Medicare premiums the Department pays for or reimburses to recipients.

(a) The Department deducts the entire payment[~~shall be allowed as a deduction~~] in the month it is due and [~~will not be prorated~~]does not prorate the amount.

(b) The Department [~~shall not allow~~]does not deduct health insurance premiums [~~as a deduction for determining~~]to determine eligibility for the poverty-related medical assistance programs or 1931 Family Medicaid.

([~~4~~]5) To determine the spenddown under medically needy programs, the Department deducts from income health[~~Health~~] insurance premiums the client or a financially responsible family member paid in the application month or during the three month retroactive period. [~~which are not fully used as a deduction to reduce a spenddown in the month paid may be allowed as a deduction to reduce a spenddown~~]The deduction is allowed either in the month paid or in any month after the month paid to the extent the full amount was not deducted in the month paid, but only through the month of application.[

~~(5) Medicare premiums shall not be allowed as income deductions if the state will pay the premium or will reimburse the client.~~]

(6) To determine eligibility for medically needy coverage groups, the Department deducts from income medically necessary medical[~~Medical~~] expenses [~~shall be allowed as income deductions~~]that the client verifies only if the expenses meet all of the following conditions:

(a) The medical service was received by the client, client's spouse, parent of [~~an unemancipated~~]dependent client or [~~unemancipated~~]dependent sibling of [~~an unemancipated~~]a dependent client, a deceased spouse or a deceased dependent child.

(b) The medical bill [~~shall~~]will not be paid by Medicaid [~~or be~~]and is not payable by a third party.

(c) The medical bill remains unpaid, or the medical service was received and paid during the month of application or during the three-month time-period immediately preceding the date of application. The date the medical service was provided on an unpaid expense does not matter if the client still owes the provider for the service. Bills for services received and paid during the application month or the three-month time-period preceding the date of application can be used as deductions only through the month of application.

(7) A medical expense [~~shall~~]cannot be allowed as a deduction more than once.

(8) A medical expense allowed as a deduction must be for a medically necessary service. The Department [~~shall be responsible for deciding~~]decides if services are [~~not~~]medically necessary.

(9) The Department deducts medical expenses in the order required by 42 CFR 435.831(h)(1). When expenses have the same priority, the Department deducts paid expenses before unpaid expenses.

([~~9~~]10) [~~The Department shall not allow as a medical expense, co-payments or co-insurance amounts required under the State Medicaid Plan that are owed or paid by the client to receive Medicaid covered services.~~]A client who pays a cash spenddown may present proof of medical expenses paid during the coverage month and request a refund of spenddown paid up to the amount of bills paid by the client. The following criteria apply:

(a) Expenses for which a refund can be made include medically necessary medical expenses not covered by Medicaid or any third party, co-payments required for prescription drugs covered under a Medicare Part D plan, and co-payments or co-insurance amounts for Medicaid-covered services as required under the State Medicaid Plan.

(b) The expense must be for a service received during the benefit month.

(c) The Department will not refund any portion of any medical expense the client uses to meet a Medicaid spenddown because the client assumes responsibility to pay any expenses used to meet a spenddown.

(d) A refund cannot exceed the actual cash spenddown amount paid by the client.

(e) The Department does not refund spenddown amounts paid by a client based on unpaid medical expenses for services the client receives during the benefit month. The client may present to the agency any unpaid bills for non-Medicaid-covered services that the client receives during the coverage month. The unpaid bills may be used to meet or reduce the spenddown the client owes for a future month of Medicaid coverage to the extent such bills remain unpaid at the beginning of such future month.

(f) The Department will reduce a refund by the amount of any unpaid obligation the client owes the Department.

([~~10~~]11) For poverty-related medical assistance, an individual or household [~~shall be~~]is ineligible if countable income exceeds the applicable income limit. Medical costs [~~are not allowable deductions for determining~~]cannot be deducted from income to determine eligibility for poverty-related medical assistance programs. [~~No spenddown shall be allowed to meet~~]Individuals cannot pay the difference between countable income and the applicable income limit to become eligible for poverty-related medical assistance programs.

(12) When a client must meet a spenddown to become eligible for a medically needy program, the client must sign a statement that says:

(a) the agency told the client how spenddown can be met,

(b) the client expects his or her medical expenses to exceed the spenddown amount, and

(c) whether the client intends to pay cash or use medical expenses to meet the spenddown.

(13) A client may meet the spenddown by paying the agency the amount with cash or check, or by providing proof to the agency of medical expenses the client owes equal to the spenddown amount.

(a) The client may elect to deduct from countable income unpaid medical expenses for services received in non-Medicaid covered months to meet or reduce the spenddown.

(b) Expenses must meet the criteria for allowable medical expenses.

(c) Expenses cannot be payable by Medicaid or a third party.

(d) For each benefit month, the client can choose to change the method of meeting spenddown by either presenting proof of allowable medical expenses to the agency or by presenting a cash or check payment to the agency equal to the spenddown amount.

[~~(11) As a condition of eligibility, clients must certify on a form approved by the Department that medical expenses in the benefit month are expected to exceed the spenddown amount. The client must do this when spenddown starts and at each review when the client continues to be eligible under the spenddown program. If medical expenses are less than or equal to the spenddown, the client shall not be eligible for that month. The client may elect to use allowable medical expenses the client still owes from previous months to reduce the spenddown so that expected medical expenses for the benefit month exceed the remaining spenddown owed, if neither Medicaid nor a third party will pay the bill.~~

] ([~~12~~]14) The Department deducts only the amount of [~~P~~]prepaid medical expenses [~~shall not be allowed as deductions~~]that equals the cost of services actually received in the month such expenses are paid. Payments a client makes for medical services in a month before the month services are actually received cannot be deducted from income.

[~~(13) The Department elects not to set limits on the amount of medical expenses that can be deducted.~~

~~(14) Clients may choose to meet their spenddown obligation by incurring medical expenses or by paying a corresponding amount to the Department.~~

~~]~~([~~15~~]15) [~~For A, B and D Medicaid, institutional costs shall be allowed as deductions if the services are medically necessary.~~]For non-institutional Medicaid programs, the Department deducts institutional medical expenses the client owes only if the expenses are medically necessary. The Department [~~shall be responsible for deciding~~]decides if services for institutional care are [~~not~~]medically necessary.

([~~16~~]16) [~~No one shall be required~~]The Department does not require a client to pay a spenddown of less than $1.

([~~17~~]17) Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in a Medicaid Health Plan. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown if Medicaid contracts with a single mental health provider to provide mental health services to all recipients in the client's county of residence.[~~the client will be eligible for Medicaid and lives in a county which has a single mental health provider under contract with Medicaid to provide services to all Medicaid clients who live in that county.~~] Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown [~~as long as the services were not provided by the mental health provider in the client's county of residence which is under contract with Medicaid to provide services to all Medicaid clients~~]only if the services were not provided by the Medicaid-contracted, mental health provider.

R414-304-8. Medicaid Work Incentive Program Income Deductions.

[~~(1) The Department shall allow the provisions found in R414-304-7 (1), (3) and (5).~~](1) This section sets forth income deductions for the Medicaid Work Incentive (MWI) program.

(2) To determine eligibility for the MWI program, t[~~T~~]he Department [~~shall apply the following deductions~~]deducts the following amounts from income [~~in determining~~]to determine countable income that is compared to 250% of the federal poverty guideline:

(a) $20 from unearned income. If there is less than $20 in unearned income, the Department deducts the balance of the $20 from earned income;

(b) Impairment-related work expenses;

([~~b~~]c) $65 plus one half of the remaining earned income;

(d) A current-year loss from a self-employment business can be deducted only from other earned income.

(3) For the [~~Medicaid Work Incentive Program (~~]MWI[~~)~~] program, an individual or household [~~shall be~~]is ineligible if countable income exceeds the applicable income limit. Health insurance premiums and medical costs [~~will not be~~]are not deducted from income before comparing countable income to the applicable limit.

(4) The Department deducts from countable income the amount of health[~~Health~~] insurance premiums paid by the [~~Medicaid Work Incentive Program~~]MWI-eligible individual or a financially responsible household member, to purchase health insurance for himself or other family members in the household [~~shall be deducted from income~~]before determining the MWI buy-in premium.

(5) An eligible individual may meet the MWI buy-in premium with cash, check or money order payable to the [~~Office of Recovery Services~~]Department. The MWI premium cannot be met with medical expenses.

(6) [~~No one will be required~~]The Department does not require a client to pay a MWI buy-in premium of less than $1.

R414-304-9. A, B, and D Institutional Medicaid and Family Institutional Medicaid Income Deductions.

(1) This section sets forth income deductions for aged, blind, disabled and family institutional Medicaid programs.

([~~1~~]2) The Department [~~adopts~~]applies the financial methodologies required by 42 CFR 435.601 and the deductions defined in 42 CFR 435.725, 435.726, and 435.832, [~~2001~~]2005 ed., which are incorporated by reference. The Department [~~adopts~~]applies Subsection 1902(r)(1) and 1924(d) of the Compilation of the Social Security Laws[~~, in effect January 1, 2001~~], which are incorporated by reference. Any additional income deductions or limitations are described in this rule.

([~~2~~]3) The following definitions apply to this section:

(a) "Family member" means a son, daughter, parent, or sibling of the client or the client's spouse who lives with the spouse.

(b) "Dependent" means earning less than $2,000 a year, not being claimed as a dependent by any other individual, and receiving more than half of one's annual support from the client or the client's spouse.

([~~3~~]4) Health insurance premiums:

(a) For institutionalized and waiver eligible clients, the Department [~~shall allow an income deduction for~~]deducts from income health insurance premiums only for the institutionalized or waiver eligible client and only if paid with the institutionalized or waiver eligible client's funds. Health insurance premiums [~~shall be~~

~~allowed as an income deduction~~]are deducted in the month due. The payment [~~shall~~]is not [~~be~~]pro-rated. The Department [~~also allows an income deduction for~~]deducts the amount of a health insurance premium[~~s~~] for the month it is due if the Department is paying the premium on behalf of the client as authorized by Section 1905(a) of Title XIX of the Social Security Act[~~, 2001 ed.~~], except no deduction is allowed for Medicare premiums the Department pays for or reimburses to recipients.

(b) The Department [~~shall allow~~]deducts from income the portion of a combined premium, attributable to the institutionalized or waiver-eligible client[~~, as an income deduction~~] if the combined premium includes a spouse or dependent family member and is paid from the funds of the institutionalized or waiver eligible client.[

~~(4) Medicare premiums shall not be allowed as income deductions if the state pays the premium or reimburses the client.~~]

(5) The Department deducts medical[~~Medical~~] expenses [~~shall be allowed as income deductions~~]from income only if the expenses meet all of the following conditions:

(a) the medical service was received by the client;

(b) the unpaid medical bill [~~shall~~]will not be paid by Medicaid or [~~be payable~~]by a third party;

(c) [~~the~~]a paid medical bill can be [~~allowed only in~~]deducted only through the month it is paid. No portion of any paid bill can be [~~allowed~~]deducted after the month of payment.

(6) The Department does not deduct medical or remedial care expenses that the Department is prohibited from paying because the expenses are incurred during a penalty period imposed due to a transfer of assets for less than fair market value. The Department does not deduct medical or remedial care expenses that the Department is prohibited from paying under Section 6014 of Pub. L. 109-171 because the equity value of the individual's home exceeds the limit set by such law. The Department will not deduct such expenses during the month the services are received nor for any month after the month services are received even when such expenses remain unpaid.

([~~6~~]7) [~~A~~]The Department does not allow a medical expense [~~shall not be allowed~~]as an income deduction more than once.

([~~7~~]8) A medical expense allowed as an income deduction must be for a medically necessary service. The Department of Health [~~shall be responsible for deciding~~]decides if services are [~~not~~]medically necessary.

([~~8~~]9) The Department deducts only the amount of [~~P~~]pre-paid medical expenses [~~shall not be allowed as income deductions~~]that equals the cost of services actually received in the month such expenses are paid. Payments a client makes for medical services in a month before the month the services are actually received cannot be deducted from income.

[~~(9) The Department shall not allow as a medical expense, co-payments or co-insurance amounts required under the State Medicaid Plan that are owed or paid by a client to receive Medicaid-covered services.~~

~~(10) The Department elects not to set limits on the amount of medical expenses that can be deducted.~~](10) When a client must meet a spenddown to become eligible for a medically needy program or receive Medicaid under a home and community based care waiver, the client must sign a statement that says:

(a) the agency told the client how spenddown can be met,

(b) the client expects his or her medical expenses to exceed the spenddown amount, and

(c) whether the client intends to pay cash or use medical expenses to meet the spenddown.

(11) A client may meet the spenddown by paying the agency the amount with cash or check, or by providing to the agency proof of medical expenses the client owes equal to the spenddown amount.

(a) The client may elect to deduct from countable income unpaid medical expenses for services received in non-Medicaid covered months to meet or reduce the spenddown.

(b) Expenses must meet the criteria for allowable medical expenses.

(c) Expenses cannot be payable by Medicaid or a third party.

(d) For each benefit month, the client may choose to change the method of meeting spenddown by either presenting proof of allowable medical expenses to the agency or by presenting a cash or check payment to the agency equal to the spenddown amount.

([~~11~~]12) Institutionalized clients are required to [~~contribute~~]pay all countable income remaining after allowable income deductions to the institution in which they reside as their contribution to the cost of their care.

(13) A client who pays a cash spenddown, or a liability amount to the medical facility in which he resides, may present proof of medical expenses paid during the coverage month and request a refund of spenddown or liability paid up to the amount of bills paid by the client. The following criteria applies:

(a) Expenses for which a refund can be made include medically necessary medical expenses not covered by Medicaid or any third party, co-payments required for prescription drugs covered under a Medicare Part D plan, and co-payments or co-insurance amounts for Medicaid-covered services as required under the State Medicaid Plan.

(b) The expense must be for a service received during the benefit month.

(c) The Department will not refund any portion of any medical expense the client uses to meet a Medicaid spenddown or to reduce the liability owed to the institution because the client assumes responsibility to pay any expenses used to meet a spenddown or reduce a liability.

(d) A refund cannot exceed the actual cash spenddown or liability amount paid by the client.

(e) The Department does not refund spenddown or liability amounts paid by a client based on unpaid medical expenses for services the client receives during the benefit month. The client may present to the agency any unpaid bills for non-Medicaid-covered services that the client receives during the coverage month. The unpaid bills may be used to meet or reduce the spenddown the client owes for a future month of Medicaid coverage to the extent such bills remain unpaid at the beginning of such future month.

(f) The Department reduces a refund by the amount of any unpaid obligation the client owes the Department.

([~~12~~]14) The Department deducts a personal needs allowance for residents of medical institutions[~~shall be~~] equal to $45.

([~~13~~]15) When a doctor verifies that a single person, or a person whose spouse resides in a medical institution is expected to return home within six months of entering a medical institution or nursing home, the Department [~~shall~~]deducts a personal needs allowance equal to the current Medicaid Income Limit (BMS) for one person, defined in R414-304-11([~~5~~]6), for up to six months to maintain the individual's community residence.

([~~14~~]16) Except for an individual eligible for the Personal Assistance Waiver, an individual receiving assistance under the terms of a Home and Community-Based Services Waiver [~~shall be~~]is eligible to receive a deduction for a non-institutionalized, non-waiver-eligible spouse and dependent family member as if that

individual were institutionalized. The Department applies the provisions of Section 1924(d) of the Compilation of Social Security Laws, or the provisions of 42 U.S.C. 435.726 or 435.832 to determine the deduction for a spouse and family members.

[~~(a) Income received by the spouse or dependent family member shall be counted in calculating the deduction if that type of income is countable to determine Medicaid eligibility. No income disregards shall be allowed. Certain needs-based income and state supplemental payments shall not be counted in calculating the deduction. Tribal income shall be counted.~~

~~(b) If the income of a spouse or dependent family member is not reported, no deduction shall be allowed for the spouse or dependent family member.~~

~~]([15]~~17) A client [~~shall not be~~]is not eligible for Medicaid coverage if medical costs are not at least equal to the contribution required towards the cost of care.

[~~(16) To determine an income deduction for a community spouse, the standard utility allowance for households with heating costs shall be equal to the standard utility allowance used by the federal food stamp program. For households without heating costs, actual utility costs shall be used. The maximum allowance for a telephone bill is equal to the amount allowed by the federal food stamp program. Clients shall not be required to verify utility costs more than once in a certification period.~~

~~]([17]~~18) Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in a Medicaid Health Plan. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown if Medicaid contracts with a single mental health provider to provide mental health services to all recipients in the client's county of residence.[~~the client will be eligible for Medicaid and lives in a county which has a single mental health provider under contract with Medicaid to provide services to all Medicaid clients who live in that county.~~] Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown [~~as long as the services were not provided by the mental health provider in the client's county of residence which is under contract with Medicaid to provide services to all Medicaid clients.~~]only if the services were not provided by the Medicaid-contracted, mental health provider.

KEY: financial disclosures, income, budgeting
Date of Enactment or Last Substantive Amendment: [~~July 1,~~]2006
Notice of Continuation: January 31, 2003
Authorizing, and Implemented or Interpreted Law: 26-18-1

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Health, Health Systems Improvement, Licensing
R432-2-6
Application

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29095
FILED: 09/29/2006, 12:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to impose a time-limited freeze on processing of certain application for Nursing Care Facilities.

SUMMARY OF THE RULE OR CHANGE: Applications for nursing care facility construction will not be processed by the Department until May 8, 2007, to allow for legislative study of the impact of Medicare-only facilities on Medicaid reimbursement rates.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 26-21-6(2)(c) and Sections 26-21-9 to 26-21-13

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: This amendment should reduce inflationary pressure on Medicaid rates.
❖ LOCAL GOVERNMENTS: There is no impact anticipated as no local governments operate these facilities.
❖ OTHER PERSONS: Some persons may have to postpone construction plans; the amount of cost is impossible to predict.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Some persons may have to postpone construction plans; the amount of cost is impossible to predict.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Medicaid pays for over 50% of the patient days in Nursing Homes. Medicare-only facilities are believed to have adverse impacts on cost and quality in Medicaid certified facilities. This temporary freeze will give the Legislature an opportunity to consider the issue in the 2007 legislative session. David N. Sundwall, MD, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
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:
Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-2. General Licensing Provisions.
R432-2-6. Application.

(1) An applicant for a license shall file a Request for Agency Action/License Application with the Utah Department of Health on a form furnished by the Department.

(2) Each applicant shall comply with all zoning, fire, safety, sanitation, building and licensing laws, regulations, ordinances, and codes of the city and county in which the facility or agency is located. The applicant shall obtain the following clearances and submit them as part of the completed application to the licensing agency:

(a) A certificate of fire clearance from the State Fire Marshal or designated local fire authority certifying compliance with local and state fire codes is required with initial and renewal application, change of ownership, and at any time new construction or substantial remodeling has occurred.

(b) A satisfactory Food Services Sanitation Clearance report by a local or state sanitarian is required for facilities providing food service at initial application and upon a change of ownership.

(c) Certificate of Occupancy from the local building official at initial application, change of location and at the time of any new construction or substantial remodeling.

(3) The applicant shall submit the following:

(a) a list of all officers, members of the boards of directors, trustees, stockholders, partners, or other persons who have a greater than 25 percent interest in the facility;

(b) the name, address, percentage of stock, shares, partnership, or other equity interest of each person; and

(c) a list, of all persons, of all health care facilities in the state or other states in which they are officers, directors, trustees, stockholders, partners, or in which they hold any interest;

(4) The applicant shall provide the following written assurances on all individuals listed in R432-2-6(3):

(a) None of the persons has been convicted of a felony;

(b) None of the persons has been found in violation of any local, state, or federal law which arises from or is otherwise related to the individual's relationship to a health care facility; and

(c) None of the persons who has currently or within the five years prior to the date of application had previous interest in a licensed health care facility that has been any of the following:

(i) subject of a patient care receivership action;

(ii) closed as a result of a settlement agreement resulting from a decertification action or a license revocation;

(iii) involuntarily terminated from participation in either Medicaid or Medicare programs; or

(iv) convicted of patient abuse, neglect or exploitation where the facts of the case prove that the licensee failed to provide adequate protection or services for the person to prevent such abuse.

(5) An applicant or licensee shall submit a feasibility study as part of its application for a license for a new facility or agency or for a new license for an increase in capacity at a health care facility or expansion of the areas served by an agency.

(a) The feasibility study shall be a written narrative and provide at a minimum:

(i) the purpose and proposed license category for the proposed newly licensed capacity;

(ii) a detailed description of the services to be offered;

(iii) identification of the operating entity or management company;

(iv) a listing of affiliated health care facilities and agencies in Utah and any other state;

(v) identification of funding source(s) and an estimate of the total project capital cost;

(vi) an estimate of total operating costs, revenues and utilization statistics for the twelve month period immediately following the licensing of the new capacity;

(vii) identification of all components of the proposed newly licensed capacity which ensures that residents of the surrounding area will have access to the proposed facility or service;

(viii) identification of the impact of the newly licensed capacity on existing health care providers; and

(ix) a list of the type of personnel required to staff the newly licensed capacity and identification of the sources from which the facility or agency intends to recruit the required personnel.

(b) The applicant or licensee shall submit the feasibility study no later than the time construction plans are submitted. If new construction is not anticipated, the applicant or licensee shall submit the study at least 60-days prior to beginning the new service. The applicant shall provide a statement with the feasibility study indicating whether it claims business confidentiality on any portion of the information submitted and, if it does claim business confidentiality, provide a statement meeting the requirements of Utah Code section 63-2-308.

(c) The Department shall publish public notice, at the applicant's expense, in a newspaper in general circulation for the location where the newly licensed capacity will be located that the feasibility study has been completed. The Department shall accept public comment for 30 days from initial publication. The Department shall retain the feasibility study and make it available to the public.

(d) The Department shall review the feasibility study, summarize the public comment, review demographics of the geographic area involved and prepare a written evaluation to the applicant regarding the viability of the proposed program.

(6) The licensee may apply to designate any number of beds within the facility's licensed capacity as banked beds on a form provided by the Department.

(a) The licensee may apply to designate beds as banked no later than December 1st of each year or upon application for license renewal.

(b) The Department shall thereafter show the facility as having an operational bed capacity equal to the licensed capacity minus any beds banked by the facility.

(c) Banking beds shall not alter the licensed capacity of a facility.

(7) The licensee may apply to return any number of banked beds to operational bed capacity on a form provided by the Department.

(a) The licensee may apply to return banked beds to operational capacity no later than December 1 of each year or upon application for license renewal.

(b) The Department shall thereafter show the facility as having an operational bed capacity equal to the licensed capacity minus any beds still banked by the facility.

(c) Beds previously banked that have been returned to operational capacity must meet the construction and life safety codes that were applicable to the facility at the time the beds were last banked.

(8) The Department shall not process any application for construction of new nursing care facilities received after the effective date of this rule. This rule provision shall remain in effect until May 8, 2007.

(9) The Department shall not process any application for additions or remodels to existing structures which would increase the licensed capacity of any existing nursing care facility received after the effective date of this rule, except as permitted in Utah Code Annotated 26-18-503(3)(f) which permits existing facilities to make limited expansions. This rule provision shall remain in effect until May 8, 2007.

KEY: health care facilities, Medicaid
Date of Enactment or Last Substantive Amendment: [~~September 14, 2004~~]2006
Notice of Continuation: January 5, 2004
Authorizing, and Implemented or Interpreted Law: 26-21-6; 26-21-9; 26-21-11; 26-21-12; 26-21-13

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Natural Resources, Water Rights
R655-14
Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29096
FILED: 09/29/2006, 14:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to clarify portions of the existing rule and to add procedures for determining and imposing administrative fines and penalties.

SUMMARY OF THE RULE OR CHANGE: Several changes clarify some of the definitions in the existing rule. Two changes are submitted to clarify that a respondent has a right to judicial review, and to define the associated time deadlines. Two changes are submitted to clarify the requirements for motions to set aside a Final Judgment and Order. A new section is added to put into rule the process and criteria for determining the administrative fine and penalties that should be assessed for water right violations based upon the considerations outlined in Subsections 73-2-26(2)(a) through (d).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 73-2-25 and 73-2-26

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No anticipated costs or savings to the State Budget. The administrative fines and penalties section is based on authority given to the State Engineer in Section 73-2-26 and assures that a standard process will be followed to determine the fines and penalties should be imposed for each individual water right violation.

❖ LOCAL GOVERNMENTS: No anticipated costs or savings to the local government. The administrative fines and penalties section is based on authority given to the State Engineer in Section 73-2-26 and assures that a standard process will be followed to determine the fines and penalties should be imposed for each individual water right violation.

❖ OTHER PERSONS: No anticipated costs or savings to other persons. The administrative fines and penalties section is based on authority given to the State Engineer in Section 73-2-26 and assures that a standard process will be followed to determine the fines and penalties should be imposed for each individual water right violation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs other than the requirement to pay the administrative fines and penalties in the event of a water right violation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no direct fiscal impacts on businesses. If a business unlawfully diverts and uses water, or other similar actions, they could be subject to a penalty and/or fine. The legislation passed during the 2005 General Session and set forth the type and extent of the penalties and fines. These amendments are intended to define the procedures of the State Engineer in enforcement of the law. Michael Styler, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kaelyn Anfinsen at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at KAELYNANFINSEN@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2006

AUTHORIZED BY: Jerry Olds, Director

R655. Natural Resources, Water Rights.
R655-14. Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights.
R655-14-1. Authority.

(1) These rules establish procedures for water enforcement adjudicative proceedings as required by Utah Code Ann. Section 73-2-25 of the Utah Water and Irrigation Code, which authorizes the State Engineer, as the Director of the Utah Division of Water Rights,

to make rules to implement the water enforcement powers and duties of the State Engineer and Division of Water Rights.

(2) The Division's powers and duties include acting on behalf of the State of Utah to administer, under the supervision of the State Engineer, the distribution and use of all surface and ground waters within the state in accordance with statutory authority, including but not limited to Utah Code Ann. Sections 73-2-1, 73-2-1.2, and 73-2-25.

R655-14-2. Application and Preamble.

(1) These rules are applicable statewide to the use of the waters of the state. Additional rules may be promulgated to address water enforcement for specific hydrologic areas.

(2) The [~~State Engineer, or his designated Presiding Officer~~]Division, may issue an Initial Order for any violation of the Water and Irrigation Code as set forth in Utah Code Ann. Sections 73-1-1 through 73-5a.

(3) Following the issuance of an Initial Order, the respondent may contest the Initial Order in a proceeding before the State Engineer or his appointed Presiding Officer. Water enforcement adjudicative proceedings are not governed by the Utah Administrative Procedures Act as provided under Utah Code Ann. Section 63-46b-1 and are not governed by Utah Admin. Code Sections R655-6-1 through R655-6-20.

(4) These rules shall be liberally construed to permit the Division to effectuate the purposes of Utah law.

R655-14-3. Purpose.

(1) These rules are intended to:

(a) Assure the protection of Utah's water and the public welfare by promoting compliance and deterring noncompliance with the statutes, rules, regulations, permits, licenses and orders administered and issued under the Division's authority by removing any economic benefit realized as a direct or indirect result of a violation; and

(b) Assure that the State Engineer assess administrative penalties lawfully, fairly, and consistently, which reflect:

(i) The nature and gravity of the violation and the potential for harm to Utah's water and the public welfare by the violation;

(ii) The length of time which the violation was repeated or continued; and

(iii) The additional costs which are actually expended by the Division during the course of the investigation and subsequent enforcement.

(c) Clarify the Division's authority to enforce the laws it administers under the State Engineer's supervision, and the rules, regulations, permits, and orders adopted pursuant to appropriate authority.

(2) The three elements of the statutorily provided penalties are intended to achieve different aims of equity and public policy. To achieve these aims, the following classes of penalties have been established by statute:

(a) Administrative fines are intended to remove the financial incentive of the violation by removing the economic benefit as well as imposing a punitive measure.

(b) Replacement of water is intended to make whole the resource and impacted water users, as far as this is possible, by requiring respondents to leave an amount of water undiverted or undiminished in the resource for use by others. The allowance of up to 200% replacement indicates the penalty can incorporate a punitive element, as appropriate.

(c) Reimbursement of enforcement costs is intended to make whole the state by requiring a violator to replace the public funds expended to achieve compliance with the law.

R655-14-4. Definitions.

(1) Terms used in this rule are defined in Utah Code Ann. Section[~~s~~] 73-3-24.

(2) In addition,

(a) "Administrative Cost" means a monetary sum assessed by the Presiding Officer for any expense incurred by the Division in investigating and stopping a violation of, or a failure to comply with, a law administered by the Division, or any rule, permit, license, or order adopted pursuant to the Division's authority.

(b) "Administrative Penalty" or "Administrative Fine" means a monetary sum assessed by the Presiding Officer in response to a violation of, or a failure to comply with, a law administered by the Division, or any rule, regulation, license, permit or order adopted pursuant to the Division's authority. "Administrative Penalty" and "Administrative Fine" may be used interchangeably.

(c) "Cease and Desist Order" (CDO) means a written order requiring a respondent to cease and desist his violations and/or directing that positive steps be taken to mitigate any harm or damage arising from the violation, including the imposition of administrative penalties and administrative costs. Cease and Desist Order's are further described in Utah Admin. Code Section R655-14-11. A CDO constitutes an Initial Order (IO), whether issued alone or in conjunction with a Notice of Violation (NOV).

(d) "Consent Order" means an order reflecting the voluntary agreement between the parties concerning the resolution of the water enforcement adjudicative proceeding.

(e) "Default Order" means an order that is issued by a Presiding Officer after a respondent fails to respond to an IO within the designated time frame. A Default Order constitutes a Final Order and Judgment.

(f) "Distribution Order" means a written order from the State Engineer that includes any or all of the following:

(i) An interpretation of the water rights on a river system or other water source and procedures for the regulation and distribution of water according to those water rights;

(ii) A requirement of specific action or actions on the part of a water right owner or a group of water right owners to ensure that water is diverted, stored, or used according to the water rights involved and that the diversion, storage, or use does not infringe on the rights of other water right owners;

(iii) A description of the hydrologic limitations of a river system or other water source and a plan based on the water rights of record designed to manage and maximize beneficial use of water while protecting the sustainability of the water source;

(iv) A requirement that reports be submitted to the Division as provided in Utah Code Ann. Section 73-5-8.

(v) A regulation tag issued by the Division or by a Water Commissioner according to Utah Code Ann. Section 73-5-3.

(g) "Division" means the Division of Water Rights. The terms State Engineer, Presiding Officer, or Division may be used interchangeably unless clearly indicated otherwise by the context of the sentence in which it appears.

(h) "Economic Benefit" means the benefit actually or potentially realized and/or a cost avoided by a violator as a result of the unlawful activity defined as a violation in the IO.

(i) "Enforcement Costs" are those costs defined in this rule at Utah Admin. Code R655-14-12(6). Collection of said costs is authorized at Utah Code Ann. Section 73-2-26 (1)(a)(iii).

[~~(h)~~](j) "Filed" means submission of papers to the Division pursuant to Utah Admin. Code R655-14-8(3).

[~~(i)~~](k) "Files" means information maintained in the Division files, which may include both paper and electronic information.

[~~(j)~~](l) "Final Judgment and Order" means a final decision issued by the State Engineer on the whole or part of a water enforcement adjudicative proceeding. This definition includes "Default Orders."

(m) "Initial Administrative Penalty" means an administrative fine, a requirement to replace water unlawfully taken, or the enforcement costs required to be repaid as these are assessed in the Initial Order (IO) as authorized at Utah Code Ann. Subsection 73-2-26(1)(a). These penalties do not include accrued penalties for violations continuing past the date of the IO.

[~~(m)~~](n) "Initial Order" (IO) means a Notice of Violation and/or Cease and Desist Order.

[~~(l)~~](o) "Issued" as it applies to an IO and Final Judgment and Order means the document has been[~~are issued when~~] deposited in the mail.

[~~(k)~~](p) "Knowing" or "Knowingly" as used in[~~required by~~] Utah Code Ann. Section 73-2-26, means the same as the definition contained in Utah Code Ann. Section 76-2-103, which is: a person engages in conduct knowingly, or with knowledge with respect to his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or the existing circumstances. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

[~~(n)~~](q) "License" means the express grant of permission or authority by the Division to carry on an activity or to perform an act, which, without such permission or authority, would otherwise be a violation of State law, rule or regulation.

[~~(o)~~](r) "Location" means the current, residential address of a party as recorded in the Division's files. If a current residential address is not available, "location" means an employment or business address if known, or nonresidential mailing address such as a Post Office Box or Rural Route, at which a party whose location information is being sought receives mail.

[~~(p)~~](s) "Mitigation" means to provide compensation acceptable to the Division for injury caused by the violation.

[~~(q)~~](t) "Mitigation Plan" means a document submitted to the Division by the respondent that identifies or proposes actions to provide mitigation.

[~~(r)~~](u) "Noncompliance" or "Nonconformance" or "Failure to Comply" or "Violation" each mean any act or failure to act which constitutes or results in:

(i) Engaging in any activity prohibited by, or not in compliance with, any law administered by the Division or any rule, license, permit or order adopted or granted pursuant to the Division's authority;

(ii) Engaging in any activity without a necessary permit or approval that is required by law or regulation;

(iii) The failure to perform, or the failure to perform in a timely fashion, anything required by a law administered by the Division or by a rule, license, permit or order adopted pursuant to the Division's authority.

[~~(s)~~](v) "Notice of Violation" (NOV) means a written notice that informs a respondent of Water and Irrigation Code violations. Notice of Violation is further described in Utah Admin. Code R655-14-11. A NOV constitutes an Initial Order (IO), whether issued alone or in conjunction with a Cease and Desist Order (CDO).

[~~(t)~~](w) "Participate" means, in an enforcement proceeding that was commenced by an IO, to:

(i) Present relevant information to the Presiding Officer within the time period described by statute or rule for requesting a hearing; and/or

(ii) Attend [~~the~~]a preliminary conference or hearing if a preliminary conference or hearing is scheduled.

[~~(u)~~](x) "Party" means the Division, and/or the respondent.

[~~(v)~~](y) "Permit" means an authorization, license, or equivalent control document issued by the Division to implement the requirements of any federally delegated program or Utah law administered or enforced by the Division.

[~~(w)~~](z) "Person" means an individual, trust, firm, joint stock company, corporation (including a quasi-governmental corporation), partnership, association, syndicate, municipality, municipal or state agency, fire district, club, non-profit agency or any subdivision, commission, department bureau, agency, department or political subdivision of State or Federal Government (including quasi-governmental corporation) or of any interstate body and any agent or employee thereof.

(aa) "Post Initial Order Penalty Adjustments" means those adjustments, in the form of increases or decreases, made to the initial administrative penalties assessed in the IO by the Presiding Officer in consideration of information pertaining to the violation.

[~~(x)~~](ab) "Presiding Officer" means the State Engineer, persons appointed by the State Engineer, or persons designated by the Division's rules, or statute, to conduct a water enforcement adjudicative proceeding. State Engineer, Presiding Officer, or Division may be used interchangeably unless clearly indicated otherwise by the context of the sentence in which it appears.

[~~(y)~~](ac) "Record" means the official collection of all written and electronic materials in water enforcement adjudicative proceedings, including but not limited to the administrative action, pleadings, motions, exhibits, orders and testimony that took place during the proceeding.

[~~(z)~~](ad) "Respondent" means any person against whom the Division commences an enforcement action by issuing an IO.

[~~(aa)~~](ae) "Requirement" means any law administered by the Division, or any rule, regulation, permit, license or order adopted or granted pursuant to the Division's authority.

[~~(ab)~~](af) "State Engineer" is the Director of the Division of Water Rights appointed as provided by Utah Code Ann. Sections 73-2-1 and 73-2-1.2. The terms State Engineer, Presiding Officer, or Division may be used interchangeably unless clearly indicated otherwise by the context of the sentence in which it appears.

[~~(ac)~~](ag) "Unknowingly" or "Not Knowing" means the converse of the definition of "Knowingly" contained in Utah Code Ann. Section 76-2-103, which is: a person engages conduct unknowingly, or without knowledge with respect to his conduct or to circumstances surrounding his conduct when he is unaware of the nature of his conduct or the existing circumstances. A person acts unknowingly, or without knowledge, with respect to a result of his conduct when he is unaware that his conduct is reasonably certain to cause the result.

[~~(ad)~~](ah) "Water Commissioner" means a person appointed to distribute water within a water distribution system pursuant to Utah Code Ann. Section 73-5-1.

R655-14-8. Computation of Time.

(1) Computation of any time period referred to in these rules shall begin with the first day following the act that initiates the running of the time period. The last day of the time period computed is included unless it is a Saturday, Sunday, or legal holiday or any other day on which the Division is closed, in which event the period shall run until the end of the business hours of the following business day. When the time period is less than seven (7) days, intervening days when the Division is closed shall be excluded in the computation.

(2) The State Engineer, for good cause shown, may extend any time limit contained in these rules, unless precluded by statute. All requests for extensions of time shall be made by motion[~~ before the expiration of the original or previously extended time period~~].

(3) Papers required or permitted to be filed under these rules shall be filed with the Division within the time limits for such filing as are set by the Division, the Presiding Officer, or other provision of law. Papers filed in the following manner shall be deemed filed as set forth:

(a) Papers hand delivered during regular business hours shall be deemed filed on the date of hand-delivery. Papers delivered by hand at times other than during regular business hours shall be deemed filed on the next regular business day when stamped by the Division.

(b) Papers deposited in the U.S. mail shall be deemed filed on the date stamped received by the Division. In the event that no stamp by the Division appears, papers shall be deemed filed on the postmarked date. All papers shall show the date received by the Division.

(c) Papers transmitted by facsimile, telecopier or other electronic transmission shall not be accepted for filing unless permitted in writing by the Presiding Officer.

R655-14-11. Options for Adjudicative Enforcement.

(1) The Presiding Officer may pursue any combination of the following administrative and judicial enforcement actions depending upon the circumstances and gravity of each case.

(a) Notice of Violation: a formal notice of a suspected violation issued in accordance with Section 73-2-25 which:

(i) Cites the law, rule, regulation, permit and/or order allegedly violated;

(ii) States the facts that form the basis for the Division's belief that a violation has occurred;

(iii) States the administrative penalty and cost, and/or other relief deemed appropriate by the Presiding Officer;

(iv) Specifies a reasonable deadline or deadlines by which the respondent:

(A) Shall come into compliance with the requirements described in the Notice of Violation, and/or

(B) Shall submit a written mitigation plan or proposal setting forth how and when that respondent proposes to achieve compliance.

(v) Informs the respondent:

(A) Of the right to file a timely written request for a hearing on either the alleged violation, administrative penalty and cost or remedy imposed, or both;

(B) That the respondent must file said written request for a hearing with Division within seven (7) days after service of the Notice of Violation;

(C) That said written request shall strictly comply with R655-14-[~~15~~]16;

(D) That said notice shall become a Final Judgment and Order of the Division upon the respondent's election to waive participation or failure to respond or otherwise participate in a timely manner, and

(E) That the Presiding Officer may treat each day's violation as a separate violation under Section 73-2-26(1)(d); that is, the administrative penalty continues to accrue each day from the time the Notice of Violation is issued until compliance is achieved.

(vi) Identifies the individual to whom correspondence and inquiries regarding the Notice of Violation should be directed;

(vii) States to whom and the date by which the administrative penalty and cost shall be paid if the respondent elects to waive or fails to request an adjudicative hearing in a timely manner and elects to pay the penalty and cost; and

(viii) States the Division's authority to pursue further administrative or judicial enforcement action.

(b) Cease and Desist Order: an immediate compliance order issued pursuant to Section 73-2-25 either upon discovery of a suspected violation of the Water and Irrigation Code or in combination with a Notice of Violation, which:

(i) Cites the law, rule, license, permit and/or order allegedly violated;

(ii) Describes the act or course of conduct which is prohibited by the Cease and Desist Order;

(iii) Orders the respondent to immediately cease the prohibited act or prohibited course of conduct;

(iv) States the mitigation action deemed necessary by the State Engineer.

(v) Takes effect immediately upon issuance or within such time as specified by the State Engineer in the CEASE AND DESIST ORDER; and

(vi) States the remedies, costs and penalties that the State Engineer may lawfully impose for any violation of the Cease and Desist Order.

(c) Court Action

(i) Civil: direct recourse to a court of competent jurisdiction either in addition to or in lieu of administrative action where:

(a) It is necessary to enforce a Final Judgment and Order and seek civil and/or administrative penalties

(b) An imminent threat to the public health, safety, welfare or environment exists which warrants injunctive or other emergency relief; or

(c) A pattern of continuous, significant violations exists such that administrative enforcement action alone is unlikely to achieve compliance; or

(d) The court is the most convenient or appropriate forum for resolution of the dispute.

(ii) Criminal: referral to the County Prosecutor or the Attorney General's Office for prosecution or criminal investigation where:

(a) The alleged act or failure to act may be defined as a criminal offense by State law;

(b) Enforcement is beyond the jurisdiction or investigative capability of the Division; or

(c) Criminal sanctions may be appropriate.

(d) Miscellaneous - other enforcement options may be pursued to achieve compliance. Additional options include, but are not limited to

(i) Joint actions with or referrals to other federal, state or local agencies;

(ii) Direct legal or equitable actions in state or federal court; and/or

(iii) Denial, suspension or revocation of state grants or required permits or certifications.

(2) Unless otherwise stated, all enforcement actions are effective upon issuance.

(3) Combinations of enforcement actions are not mutually exclusive and may be concurrent and/or cumulative.

(4) All IO's shall become final if not contested within 14 days after the date issued.

(5) The date of issuance of an IO is the date the IO is mailed.

(6) A respondent who [~~Failure~~]fails to timely contest an IO waives any right of reconsideration of the Final Judgment and Order [~~or judicial appeal~~]per Utah Admin. Code R655-14-25.

R655-14-12. Assessment of Administrative Penalties and Administrative Costs.

(1) Pursuant to Utah Code Ann. Sections 73-2-1, 73-2-25, and 26, and these rules, the Presiding Officer, may assess administrative penalties and administrative costs for any violation of the Water and Irrigation Code as set forth in Utah Code Ann. Sections73-1-1 through 73-5a et seq. Such penalties and costs may be assessed either before or after a hearing.

(2) No penalty shall exceed the maximum penalty allowed by State law for the violation(s). The maximum administrative penalty that the Presiding Officer has authority to impose is determined by reference to the civil penalty provision of Utah Code Ann. Section 73-2-26(1) as may be amended.

(3) Each day which the violation is repeated, continued or remains in place, constitutes a separate violation. The Presiding Officer may assess an administrative penalty, not to exceed five thousand dollars ($5,000) for each knowing violation or one thousand dollars ($1,000) for each unknowing violation.

(4) The penalty imposed shall begin on the first day the violation occurred, and continues to accrue through and including the day the Notice of Violation, Cease and Desist Order, or Final Judgment and Order is issued until compliance is achieved.

(5) The amount of the penalty shall be calculated based on:

(a) The value or quantity of water unlawfully taken, including the cost or difficulty of replacing the water;

(b) The gravity of the violation, including the economic injury or impact to others;

(c) Whether the respondent subject to fine or replacement attempted to comply with the State Engineer's orders; and

(d) The respondent's economic benefit from the violation.

(6) Administrative costs, interest, late payment charges, costs of compliance inspections, and collection costs may be assessed in addition to the administrative penalty. These include:

(a) Administrative costs: Time spent by water enforcement staff, supervisors and the Attorney General's Office, at the full cost of the each employee's hourly rate, including salary, benefits, overhead and other directly related costs.

(b) Late payment charges: due at the monthly percentage rate assessed by the Utah Division of Finance, Office of Debt Collections.

(c) Compliance inspections: based on staff time at the full cost of the hourly rate, including salary, benefits, overhead and other directly related costs.

(d) Collection costs: actual collection costs.

(7) The Division may report the total amount of administrative fines and/or administrative costs assessed to consumer reporting agencies and pursue collection as provided by Utah law.

(8) Any monies collected under Utah Code Ann. Section73-2-26 and these rules shall be deposited into the General Fund.

R655-14-13. Replacement and Mitigation.

(1) In addition to administrative fines and costs, the Presiding Officer, in accordance with Utah Code Ann. Sections 73-2-1, 73-2-25 and 73-2-26 and these rules, may order the respondent to mitigate damages caused by the violation and/or replace up to 200 percent of the water unlawfully taken.

(2) The Presiding Officer may require actual replacement of water after:

(a) a respondent fails to request judicial review of a final order issued under Utah Code Ann. Section 73-2-25; or

(b) the completion of judicial review, including any appeals.

(3) Pursuant to Utah Code Ann. Section 73-2-26, the Presiding Officer shall consider, before ordering replacement of water, the following factors:

(a) The value or quantity of water unlawfully taken, including the cost or difficulty of replacing the water;

(b) The gravity of the violation, including the economic injury or impact to others;

(c) Whether the respondent attempted to comply with the State Engineer's orders; and

(d) The respondent's economic benefit from the violation.

(4) The Presiding Officer may order the respondent to submit a mitigation plan to replace groundwater or surface water, which shall be submitted in writing and contain the following information:

(a) The name and mailing address of the respondent or persons submitting the plan;

(b) The case number the Division assigned to the IO which is the basis of the mitigation plan;

(c) Identification of the water rights or property for which the mitigation plan is proposed;

(d) A description of the mitigation plan; and

(e) Any information that assists the State Engineer in evaluating whether the proposed mitigation plan is acceptable.

(5) If the mitigation plan is submitted for the purpose of replacing water, the factors the State Engineer may consider to determine if the plan is acceptable include, but are not limited to:

(a) Whether the mitigation plan provides for the respondent to forgo use of a vested water right owned or leased by him until water is replaced to the Presiding Officer's is satisfaction;

(b) The reliability of the source of replacement water over the term in which it is proposed to be used under the mitigation plan; and

(c) Whether the mitigation plan provides for monitoring and adjustment as necessary to protect vested water rights.

(6) As provided in Utah Code Ann. Section 73-2-26, water replaced shall be taken from water that the respondent subject to the order requiring replacement would be entitled to use during the replacement period.

(7) In accordance with Utah Code Ann. Section 73-2-26(5)(a), or any other statutory authority, the Division [~~shall~~]may record any order requiring water replacement in the office of the county recorder where the place of use or water right is located. Any subsequent transferee of such property shall be responsible for complying with the requirements of said order.

(8) If the mitigation plan is submitted for the purpose of restoring an natural stream channel altered in violation of Section 73-3-29, the factors the State Engineer may consider to determine if the plan is sufficient include, but are not limited to:

(a) Whether the mitigation plan provides for reasonable means of replacing natural vegetation injured by the unlawful stream channel alteration;

(b) Whether the mitigation plan provides for a reasonable means to restore the bed and bank of the natural stream channel to its condition prior to the alteration;

(c) Whether the mitigation plan will not impair vested water rights;

(d) Whether the mitigation plan unreasonably or unnecessarily affects any recreation use or the natural stream environment;

(e) Whether the mitigation plan unreasonably or unnecessarily endangers aquatic wildlife;

(f) Whether the mitigation plan unreasonably or unnecessarily diminishes the natural channel's ability to conduct high flows; and

(g) Whether the mitigation plan uses generally accepted and appropriate engineering methods.

R655-14-14. Procedures For Determining The Amounts of Administrative Penalties, Enforcement Costs and Water Replacement.

(1) For water rights violations per Utah Code Ann. Section 73-2-25(2)(a)(i) through (v), the following procedures shall be employed:

(a) Administrative Fines: This penalty shall be based primarily on the actual economic benefit estimated to result or potentially to result from the violation. The economic benefit may come in the form of a direct economic benefit as income derived directly from the unlawful activity and it may come in the form of avoided costs that would otherwise be incurred in order to comply with a specific statute, rule, notice or order from the State Engineer. The administrative fine assessment procedure used (direct economic benefit or avoided costs) will be that which produces the greater fine. In order to implement the punitive intent of this penalty, a multiplier is to be calculated and applied to the estimated actual direct economic benefit or avoided costs.

(i) "Direct Economic Benefit" Initial Administrative Fine Calculations. The initial administrative fine shall be calculated in the following manner:

(A) The daily economic benefit is the gross income that could potentially be realized from the violation (without regard for production costs, taxes, etc.) through a full period of beneficial use, divided by the number of days in the period of beneficial use.

(B) The daily administrative fine amount is the product of the daily economic benefit and the multiplier to be calculated as described in paragraph (ii) below.

(C) The initial administrative fine shall be the product of the daily administrative fine and the number of days of continuing violation to date of the IO.

(D) The total initial administrative fine will have a maximum value of four times the direct economic benefit or the statutory maximum fine ($1,000 per day for an unknowing violation or $5,000 per day for a knowing violation), whichever is less.

(ii) The multiplier for penalties based on direct economic benefit shall be calculated utilizing the following statutory considerations. (Statutorily required considerations relative to the quantity of water taken and the gravity and impact of the violation are accommodated in the calculations of the economic "benefit" and "injury.")

(A) Whether the violation was committed knowingly or unknowingly;

(B) The economic injury to others;

(C) The length of time over which the violation has occurred; and

(D) The violator's efforts to comply. The multiplier is the sum of the points calculated using the following table:

TABLE

DIRECT ECONOMIC BENEFIT PENALTY MULTIPLIER	
CONSIDERATION / CRITERIA	MULTIPLIER POINTS
Knowing or unknowing violation	
Knowing	1.00
Unknowing	0.00
Economic injury to others	
greather than $15,000	1.00
$10,000 to $14,000	0.75
less than $9,999 or injury is not measurable or there is no evidence others suffered economic injury	0.50
Length of violation	
Three (3) or more years of violation	1.00
More than one (1), but less that three (3) years of violation	0.75
One (1) year or less of violation	0.50
Violator's efforts to comply prior to Initial Order	
Violator has made no efforts to comply	1.00
Violator has made limited but ineffective efforts to comply	0.75
Violator has made reasonable and partially effective efforts to comply	0.50
Violator fully complied prior to issuance of Initial Order	0.00

(iii) "Avoided Cost Economic Benefit" Initial Administrative Fine Calculation: Because all enforcement activities for violations under Utah Code Ann. Section 73-2-25(2)(a)(iii) through (v), must statutorily result from violation of a prior notice or order, an economic benefit will often result from an avoided cost of compliance. Statute provides for a daily administrative fine with the day following the compliance date in the notice or order being counted as the first day of violation. The economic benefit and daily administrative fine for an "avoided cost economic benefit" shall be calculated in the following manner:

(A) The economic benefit is equal to the estimated avoided costs of failing to implement specific actions required by a notice or order from the State Engineer.

(B) The daily administrative fine is initially calculated as the product of $100.00 or 5.00% of the economic benefit, whichever is greater, and the multiplier to be calculated as described in paragraph (iv), below.

(C) The initial administrative fine shall be the product of the daily administrative fine and the number of days of continuing violation preceding the date of the IO.

(D) The total initial administrative fine will have a maximum value of three times the economic benefit or the statutory maximum fine ($1,000 per day for an unknowing violation or $5,000 per day for a knowing violation), whichever is less.

(iv) The statutory considerations applicable to producing the multiplier for an avoided cost economic benefit are: (Statutorily required considerations relative to the quantity of water taken and the gravity and impact of the violation are accommodated in calculations of the economic "benefit" and "injury.").

(A) Whether the violation was committed knowingly or unknowingly;

(B) The economic injury to others; and

(C) The violator's efforts to comply. The penalty multiplier is the sum of the points resulting from the following table:

TABLE

AVOIDED COST ECONOMIC BENEFIT PENALTY MULTIPLIER CONSIDERATION / CRITERIA	MULTIPLIER POINTS
Knowing or unknowing violation	
Knowing	1.00
Unknowing	0.00
Economic injury to others	
greater than $15,000	1.00
$10,000 to $14,000	0.75
less than $9,999 or injury is not measurable or there is no evidence others suffered economic injury	0.50
Violator's efforts to comply prior to Initial Order	
Violator has made no efforts to comply	1.00
Violator has made limited but ineffective efforts to comply	0.75
Violator has made reasonable and partially effective efforts to comply	0.50
Violator fully complied prior to issuance of Initial Order	0.00

(b) Replacement of Water: This penalty will be initially calculated as 100% of the amount unlawfully taken times the multiplier previously calculated, but not to exceed 200% of that unlawfully taken. If replacement of water unlawfully taken is deemed not feasible, this penalty will not be further considered.

(c) Reimbursement of Enforcement Costs: This penalty will be initially based on a standard requiring 100% reimbursement of the State Engineer's enforcement costs to the date of the IO.

(2) For violations related to unlawful natural stream channel alteration or dam safety regulations per Utah Code Ann. Section 73-2-25(1)(a)(vi) through (vii), the following procedures shall be employed:

(a) Daily Administrative Fine: All enforcement activities for unlawful natural stream alteration or dam safety violations must statutorily result from violation of a prior notice or order. Statute provides for a daily administrative fine with the day following the compliance date in the notice/order being counted as the first day of violation. The calculated daily administrative fine would apply to violations continuing beyond the compliance date set forth in the notice or order. The economic benefit and daily administrative fine shall be calculated in the following manner:

(i) For stream alteration and dam safety violations, the economic benefit is typically equal to the avoided costs deriving from:

(A) Initiating an activity without the benefit of proper permitting and/or,

(B) Failing to implement specific actions required by a notice, order or permit from the State Engineer.

(ii) The daily administrative fine is initially calculated as $100 or 5.00% of the economic benefit, whichever is greater, times the multiplier to be calculated as described in paragraph (iii), below, but not to exceed the statutory maximum ($1,000 per day for an unknowing violation or $5,000 per day for a knowing violation).

(iii) The penalty multiplier is calculated as the sum of the points resulting from the following tables:

TABLE

STREAM ALTERATION PENALTY MULTIPLIER CONSIDERATION / CRITERIA	MULTIPLIER POINTS
Knowing or unknowing violation	
Knowing	1.00
Unknowing	0.00
Gravity of violation	
Natural stream environment harmed to significant levels not readily reversible by mitigation efforts	1.00
Natural stream environment harmed to moderate levels partially reversible by mitigation efforts	0.75
Natural stream environment harmed to minor levels Readily reversible by mitigation efforts	0.50
Violator's efforts to comply prior to Initial Order	
Violator has made no efforts to comply	1.00
Violator has made no reasonable or effective efforts to comply	0.75
Violator has made reasonable and partially effective efforts to comply	0.50
Violator achieved full compliance prior to issuance of Initial Order	0.00

DAM SAFETY PENALTY MULTIPLIER CONSIDERATION / CRITERIA	MULTIPLIER POINTS
Knowing or unknowing violation	
Knowing	1.00
Unknowing	0.00
Gravity of violation	
Failure to comply with a notice or order for a high-hazard or moderate-hazard dam: 1) related to building, enlarging or substantially altering same without prior approval or authorization; OR 2) addressing an existing unsafe condition	1.00
Failure to comply with a notice or order for a high-hazard or moderate-hazard dam: 1) addressing a developing unsafe condition OR 2) requiring monitoring or critical dam performance indicators; OR failure to prepare and file acceptable required operational documents, OR failure to comply with a notice or order for a low-hazard dam related to building, enlarging or substantially altering same without prior authorization	0.75
Failure to comply with a notice or order for a high-hazard or moderate-hazard dam related to routine operation or maintenance activities, OR failure to comply with a notice or order for a low-hazard dam to address an existing or developing unsafe condition	0.50
Violator's efforts to comply prior to Initial Order	
Violator has made no efforts to comply	1.00
Violator has made limited reasonable or effective efforts to comply	0.75
Violator has made reasonable and partially effective efforts to comply	0.50
Violator achieved full compliance prior to issuance of Initial Order	0.00

(b) Reimbursement of Enforcement Costs is initially based on a standard requiring 100% reimbursement of the State Engineer's enforcement costs to the date of the Initial Order.

(3) Post-Initial Order penalty adjustments: Subsequent to issuance of the IO, the Presiding Officer may make adjustments to the initial administrative fine, the requirement for replacement of water unlawfully taken, requirements for mitigation of the effects of unlawful natural stream channel alterations or violations of dam safety regulations, and/or the requirement for reimbursement of enforcement costs. Such adjustments may be based on one or more of the following considerations:

(a) Errors or Omissions in Calculation of the Initial Penalty: If the violator or Division can show by acceptable evidence or testimony that any fact used in calculation of the economic benefit or the penalty multiplier was in error, or that a significant fact or group of facts was omitted from consideration, the Presiding Officer shall recalculate the initial penalties taking consideration of the corrected or additional fact(s).

(b) Reduction in Penalty Multiplier: The penalty multiplier used in calculating the Initial Administrative Fine may be reduced according to the table shown below on the basis of the violator's efforts to comply after receiving the IO.

TABLE

PENALTY MULTIPLIER REDUCTION CONSIDERATION / CRITERIA	MULTIPLIER POINTS
Violator's efforts to comply with the Initial Order	
Violator has made extraordinary efforts to successfully achieve full and prompt compliance with the IO.	.1.00
Violator has made efforts to successfully achieve full and prompt compliance with the IO, but these efforts are not extraordinary	.0.50
Violator has made efforts that achieve full compliance with the IO, but the efforts were neither extraordinary nor prompt	0.25
Violator has made no efforts to comply or has made efforts that fail to achieve full compliance with the IO	0.00

If the Presiding Officer determines that the penalty multiplier should be reduced according to the table above, the appropriate number of points will be subtracted from the penalty multiplier used in calculating the initial administrative penalty and the penalty will be re-calculated with the new multiplier.

(c) Failure to take reasonable and effective measures to achieve full and prompt compliance with the requirements of the IO will allow the daily administrative fines to continue to accrue as provided in rule at Utah Admin. Code R655-14-12(4) until full compliance is achieved.

(d) Adjustments to recovery of enforcement costs:

(ii) If the violator can show by acceptable evidence or testimony that any expense incurred by the Division and assessed for reimbursement resulted from activities not pertinent to the violation, the Presiding Officer may reduce that portion of the initial reimbursement penalty accordingly.

(iii) Pursuit of an enforcement action after issuance of the IO will continue to require the expenditure of varying amounts of staff time and may require acquisition and analysis of special data or information. Such costs may be added to the initial reimbursement requirement, specifically including all costs incurred that are unique to the particular enforcement action under consideration.

(e) Mitigating Factors: Other factors which the Presiding Officer may consider in amendment of initial penalties for incorporation into a Final Order or Consent Order may include, as appropriate:

(i) Ability to pay: This factor will be considered only if raised by a Respondent and only if the Respondent provides all necessary information to evaluate the claim. The burden to demonstrate inability to pay rests solely on the Respondent. The Presiding Officer shall disregard this factor if a Respondent fails to provide sufficient or persuasive financial information.

If it is determined that a Respondent cannot afford the initial administrative fine or other initial penalty prescribed by this rule without suffering financial bankruptcy, or if it is determined that payment of all or a portion of the monetary fines or penalties will preclude the Respondent from achieving compliance or from carrying out remedial measures which are deemed more important than the deterent effect of the administrative penalties, the following options may be considered by the Presiding Officer:

(A) A delayed payment schedule;

(B) An installment payment plan with a reasonable rate of interest; or

(C) A direct reduction of the initial administrative fines and/or penalties, but only as a last recourse.

R655-14-[~~14~~]15. Procedures for Commencing an Adjudicative Enforcement Action.

(1) The procedures for water enforcement adjudicative proceedings are as follows:

(a) In proceedings initiated by a IO, the Presiding Officer shall issue a default order unless the respondent does one of the following within fourteen (14) days in response to service of the notice:

(i) Ceases the violation and pays the administrative penalty and cost in full; or,

(ii) Files with the Division a proper written response within the fourteen (14) day time period but waives a hearing and submits its case upon the record. Submission of a case without a hearing does not relieve the respondent from the necessity of providing the facts supporting his burdens, allegations or defenses; or

(iii) Files with the Division a proper written response and requests a hearing as provided in Utah Admin. Code Section R655-14-[~~15~~]16.

(b) Within a reasonable time after the close of a water enforcement adjudicative proceeding, the Presiding Officer shall issue a written and signed Final Judgment and Order, including but not limited to:

(i) Statement of law and jurisdiction;

(ii) Statement of facts;

(iii) Explanation of the Violation(s);

(iv) Order;

(v) A notice of the option to request reconsideration and the right to petition for judicial review;

(vi) The time limits for requesting reconsideration or filing a petition for judicial review; and

(vii) Other information the State Engineer deems appropriate.

(c) The Presiding Officer's Final Judgment and Order shall be based on the facts appearing in the Division's files and/or on the facts presented in evidence at any hearings or other adjudicative proceedings.

(d) A copy of the Presiding Officer's Final Judgment and Order shall be promptly mailed to each of the parties.

R655-14-[~~15~~]16. Request for Hearing.

(1) Regardless of any other provision of the general laws to the contrary, all requests for a hearing shall be in writing and shall be filed with the Division within seven (7) calendar days of the IO's issuance.

(2) The request for a hearing shall state clearly and concisely the specific issues that are in dispute, the supporting facts, the relief sought, the permit or order involved, and any additional information required by applicable statutes and rules.

(3) The Presiding Officer may, upon his own initiative or upon the motion of any party, order any party to file a response or other pleading, and further permit either party to amend its pleadings in a manner just to all parties.

(4) The Presiding Officer may, if he determines a hearing is warranted, give at least three (3) days notice of the date, time and place for the hearing. The Presiding Officer may grant requests for continuances for good cause shown.

(5) The respondent may, by motion, request that a hearing be held at some place other than that designated by the Presiding

Officer, due to disability or infirmity of any party or witness, or where justice and equity would be best served.

R655-14-[~~16~~]17. General Requirements for Hearings.

(1) A hearing before a Presiding Officer is permitted in a water enforcement adjudicative proceeding if:

(a) The proceeding was commenced by an IO;

(b) The respondent files a request for hearing that meets the requirements of Utah Admin. Code Section R655-14-[~~15~~]16; and

(c) The respondent raises a genuine issue of material fact.

(2) No genuine issue of material fact exists if:

(a) The evidence gathered by the Division and the evidence the respondent offered to the Presiding Officer are sufficient to establish the violation of the respondent under applicable law; and

(b) No other evidence presented by the respondent conflicts with the evidence the Presiding Officer relied on when issuing an order.

(3) The Presiding Officer may make a decision without holding a hearing if:

(a) Presentation of testimony or oral argument would not advance the Presiding Officer's understanding of the issues involved;

(b) Delay would cause serious injury to the public health and welfare;

(c) Disposition without a hearing would best serve the public interest.

(4) If no hearing is held, the Presiding Officer may rely upon evidence in the record, including but not limited to:

(a) Water commissioner reports or information from governmental sources;

(b) Affidavit(s) documenting the respondent's violation;

(c) Failure of the respondent to produce upon request of the Presiding Officer records documenting the respondent's water use, diversions, or stream alteration; or

(d) Other applicable documentation.

(5) A party at any time may withdraw his request for a hearing, but the withdrawal shall be filed with the Division, in writing, signed by the respondent or his authorized representative, and deemed final.

R655-14-[~~17~~]18. Preliminary Conference.

(1) The Presiding Officer may require the parties to appear for a preliminary conference prior to the scheduled commencement of the hearing or before issuing a Final Judgment and Order to consider:

(a) The simplification or clarification of the issues;

(b) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which shall avoid unnecessary proof;

(c) The limitation of the number of witnesses or avoidance of similar cumulative evidence, if the case is to be heard;

(d) The possibility of agreement disposing of all or any of the issues in dispute; and

(e) Such other matters as may aid in the disposition of the adjudicative enforcement proceeding.

(2) At the initial preliminary conference prior to the hearing, all parties shall prepare and exchange the following information:

(a) Names and addresses of prospective witnesses including proposed areas of expertise for expert witnesses;

(b) A brief summary of proposed testimony;

(c) A time estimate of each witness' direct testimony;

(d) Curricula vitae (resumes) of all prospective expert witnesses.

(3) The scheduling of a preliminary conference shall be solely within the discretion of the Presiding Officer.

(4) The Presiding Officer shall give the respondent at least three (3) days notice of the preliminary conference.

(5) The notice shall include the date, time and place of the preliminary conference.

R655-14-[~~18~~]19. Telephonic or Electronic Hearings and Preliminary Conferences.

(1) The Presiding Officer may conduct hearings or preliminary conferences by telephone or other reliable electronic technology.

R655-14-[~~19~~]20. Procedures and Standards for Orders Resulting from Service of a Initial Order.

(1) If the respondent agrees with the IO, he may enter into a Consent Order by stipulating to the facts, administrative penalties, and administrative costs. A stipulation, judgment, and Consent Order based on that stipulation, shall be prepared by the Division for the respondent's signature. Consent Orders 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 Division or is unavailable to sign a stipulation within 30 days after responding to the IO, and does not request a hearing, the Presiding Officer shall issue a Final Judgment and Order based on that participation.

(3) If the respondent requests a hearing, participates by attending a preliminary conference, and participates by attending the hearing, the Presiding Officer who conducts the hearing shall issue a Final Judgment and Order based upon the record.

(4) The Presiding Officer may issue a Default Order if the respondent fails to participate as follows:

(a) The respondent does not timely request a hearing or fails to respond to the IO;

(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.

(5) If a respondent's request for a hearing is denied under Utah Admin. Code Section R655-14-[~~16~~]17, the Presiding Officer shall issue a Final Judgment and Order based upon the information in the case record.

R655-14-[~~20~~]21. Conduct of Hearings.

(1) Hearings shall be conducted informally as circumstances require.

(2) All parties, authorized representatives, witnesses and other persons present at the hearing shall conduct themselves in a manner consistent with the standards and decorum commonly observed in Utah courts. Where such decorum is not observed, the Presiding Officer may take appropriate action including adjournment, if necessary.

(3) The Presiding Officer shall conduct the hearing, make all decisions regarding admission or exclusion of evidence or any other procedural matters, and have an oath or affirmation administered to all witnesses.

(4) The Presiding Officer, based upon the IO, objections thereto, if any, and the evidence adduced at the hearing, shall determine the responsibility and administrative penalty and cost, if

any, of the respondent under Utah Code Ann. Sections 73-2-25 and 26. Following determination of responsibility and penalty and cost, the Presiding Officer shall determine the acceptable periodic payment or alternative means of satisfaction of any violation amount, which shall be included in the Final Judgment and Order.

R655-14-[~~21~~]22. Rules of Evidence in Hearings.

(1) Discovery is prohibited, but the Division may issue subpoenas or other orders to compel production of necessary evidence.

(2) A party may call witnesses and present oral, documentary, and other evidence.

(3) A party may comment on the issues and conduct cross-examination of any witness as may be required for a full and true disclosure of all facts relevant to any issue designated for hearing, and as may affect the disposition of any interest which permits the person participating to be a party.

(4) A witness' testimony shall be under oath or affirmation.

(5) 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.

(6) Relevant evidence shall be admitted.

(7) The Presiding Officer's decision may not be based solely on hearsay.

(8) Official notice may be taken of all facts of which judicial notice may be taken in Utah courts.

(9) All parties shall have access to public information contained in the Division's files and to all materials and information gathered in the investigation, to the extent permitted by law.

(10) No evidence shall be admitted after completion of a hearing or after a case submitted on the record, unless otherwise ordered by the Presiding Officer.

(11) Intervention is prohibited.

(12) A respondent appearing before the Presiding Officer for the purpose of a hearing may be represented by a licensed attorney. A representative from the Division shall present before a Presiding Officer the Division's supporting evidence for its claim. At the State Engineer's discretion, a representative from the office of the Attorney General may present the Division's supporting evidence.

R655-14-[~~22~~]23. Transcript of Hearing.

(1) Testimony and argument at the hearing shall be either recorded electronically or stenographically. The Division shall make electronic recordings available to any party, upon written request. The Division is not responsible to supply any party with a transcript of the hearing.

(2) Corrections in the official transcript may be made only to conform it to the evidence presented at the hearing. Transcript corrections, agreed to by opposing parties, may be incorporated into the record, if and when approved by the Presiding Officer, at any time during the hearing, or after the close of evidence. The Presiding Officer may call for the submission of proposed corrections and may determine the disposition thereof at appropriate times during the course of the proceeding.

R655-14-[~~23~~]24. Consent Order.

(1) At any time prior to rendering a Final Judgment and Order, the parties may attempt to settle a dispute by stipulating to a Consent Order.

(2) Every Consent Order shall contain, in addition to an appropriate order:

(a) An admission of facts;

(b) A waiver of further procedural steps before the Presiding Officer and the right to judicial review; and

(c) A statement that the stipulation is enforceable as an order of the State Engineer and Division in accordance with procedures prescribed by law.

(3) The Consent Order may contain a statement that signing the Consent Order is for settlement purposes only and does not constitute an admission by any party that the law or rules have been violated as alleged in the IO.

R655-14-[~~24~~]25. Reconsideration.

(1) Within 14 days after the Presiding Officer issues a Final Judgment and Order, any party may file a written request for reconsideration with the Division, stating the specific grounds upon which relief is requested.

(2) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(3) The request for reconsideration shall be filed with the Division and one copy shall be mailed to each party by the person making the request.

(4) The Presiding Officer shall issue a written order granting the request or denying the request.

(5) If the Presiding Officer does not issue an order within 14 days after the filing of the request, the request for reconsideration shall be considered denied.

R655-14-[~~25~~]26. Setting Aside Final Judgment and Orders.

(1) On the motion of any party, the Presiding Officer may set aside a Final Judgment and Order, on any reasonable grounds, including:

(a) The respondent was not properly served with an IO;

(b) The order has been replaced by a judicial order that covers the same violation and time period;

(c) A rule or policy was not followed when the Final Judgment and Order was issued;

(d) Mistake, inadvertence, excusable neglect;

(e) Newly discovered evidence which by due diligence could not have been discovered before the Presiding officer issued the Final Judgment and Order; or

(f) Fraud, misrepresentation or other misconduct of an adverse party;

(2) The motion shall be made in a reasonable time and not more than three (3) months after the Final Judgment and Order was issued.

(3) The Division shall notify the respondent of the Presiding Officer's intent to set the order aside by serving the respondent with a notice.

(4) If after serving the respondent with a notice, the Presiding Officer determines the order shall be set aside, the Division shall notify the respondent.

R655-14-[~~26~~]27. Amending Administrative Orders.

(1) The Presiding Officer may amend an IO or Final Judgment and Order for reasons including but not limited to the following:

(a) A clerical mistake was made in the preparation of the order; or

(b) The time periods covered in the order overlap the time periods in another order for the same participants.

(2) The Division shall notify the respondent of the Presiding Officer's intent to amend the order by serving the respondent with a notice.

(3) If the respondent is served with notice, the Presiding Officer determines that the order shall be amended, the Division shall provide a copy of the amended order to the respondent.

R655-14-[~~27~~]28. Disqualification of Presiding Officers.

(1) A Presiding Officer shall disqualify himself from performing the functions of the Presiding Officer regarding any matter in which he, his spouse, or a person within the third degree of relationship to either of them or the spouse of such person:

(a) Is a party to the proceeding, or an officer, director, or trustee of a party;

(b) Has acted as an attorney in the proceeding or served as an attorney for, or otherwise represented, a party concerning the matter in controversy;

(c) Knows that he has a financial interest, either individually or as a fiduciary, in the subject matter in controversy or in a party to the proceeding;

(d) Knows that he has any other interest that could be substantially affected by the outcome of the proceeding; or

(e) Is likely to be a material witness in the proceeding.

(2) A Presiding Officer is also subject to disqualification under principles of due process and administrative law.

(3) These requirements are in addition to any requirements under the Utah Public Officers' and Employees' Ethics Act, Utah Code Ann. Section 67-16-1 et seq.

(4) A motion for disqualification shall be made first to the Presiding Officer. If the Presiding Officer is appointed, any determination of the Presiding Officer upon a motion for disqualification may be appealed to the State Engineer.

R655-14-[~~28~~]29. Judicial Review.

(1) Pursuant to Utah Code Ann. Section 73-2-25, a Final Judgment and Order may be reviewed by trial de novo by the district court:

(a) In Salt Lake County;

(b) Or the county [~~were~~]where the violation occurred.

(2) A respondent shall file a petition for judicial review of the Final Judgment and Order within 20 days from the day on which the order was served on that respondent, or if a request for reconsideration has been filed and denied within 20 days of the date of denial of the request for reconsideration.

(3) The Division may grant a stay of its order or other temporary remedy during the pendency of the judicial review on its own motion, or upon the motion of a party.

KEY: water rights, enforcement, fines
Date of Enactment or Last Substantive Amendment: [~~August 15, 2005~~]2006
Authorizing, and Implemented or Interpreted Law: 73-3

♦ ♦

End of the Notices of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN 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 CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends November 14, 2006. At its option, the agency may hold public hearings.

From the end of the waiting period through February 12, 2007, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Alcoholic Beverage Control, Administration
R81-1-25
Sexually-Oriented Entertainers and Stage Approvals

NOTICE OF CHANGE IN PROPOSED RULE
DAR File No.: 28904
Filed: 09/28/2006, 14:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on public comments received and recommendations by individuals who are experienced in writing local ordinances regarding sexually-oriented entertainment, the following changes to the proposed rule amendment are proposed.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to this rule amendment include language to clarify that the purpose of the rule amendment is, in part, to protect the public health, peace, safety, welfare, and morals. It also clearly defines the terms "licensee", "permittee", "semi-nude", "sexually-oriented entertainer", and "straddle dancing". The change amends and describes what will not be permitted in sexually-oriented entertainment on the licensees' premises and further clarifies requirements of stages where sexually-oriented entertainment takes place. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the August 15, 2006, issue of the Utah State Bulletin, on page 2. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107, and Subsections 32A-4-106(22), 32A-4-307(22), 32A-5-107(40), 32A-7-106(5), 32A-10-206(14), and 32A-10-306(5)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Some businesses that hold alcoholic beverage licenses choose to have sexually-oriented entertainment on their premises. This proposed change to the rule amendment only defines pertinent terms and establishes what types of entertainment are not permitted. There will be no fees assessed or collected from licensees by the Department of Alcoholic Beverage Control as a result of the passage of this rule, and the state's budget will not be affected.

❖ LOCAL GOVERNMENTS: None--Many local governments issue sexually-oriented business permits to alcoholic beverage licensees who choose to have sexually-oriented entertainment. Any costs or savings to local governments will be realized when the local permits are issued and not as a result of the passage and changes to this proposed rule amendment.

❖ OTHER PERSONS: None--The changes to this proposed rule merely define terms related to sexually-oriented entertainment and establish what conduct is not permitted by the performers for which licensees are responsible. The rule imposes no new fees and there will be no overall costs or savings to licensees as a result of the passage of this rule amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes to this proposed rule merely define terms related to sexually-oriented entertainment and establish what conduct is not permitted by the performers for which licensees are responsible. The rule imposes no new fees and there will be no costs or savings to licensees as a result of the passage of this rule amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this proposed rule amendment are being proposed in large part in response to the public comments received. Most of the public comments came from individuals involved in the modeling business. It became clear that an obvious distinction must be drawn between those who model clothing and those who are involved in entertainment of a sexual nature. The commission has, therefore, proposed these changes to the proposed rule amendment to impose guidelines and restrictions where it is needed to protect public welfare and morals. Kenneth F. Wynn, Director

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 11/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2006

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.
R81-1. Scope, Definitions, and General Provisions.
R81-1-25. Sexually-Oriented Entertainers and Stage Approvals.

(1) Authority. This rule is pursuant to:

(a) the police powers of the state under 32A-1-103 to regulate the sale, service and consumption of alcoholic beverages in a manner that protects the public health, peace, safety, welfare, and morals;

(b) the commission's powers and duties under 32A-1-107 to prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored[~~. It is also pursuant to~~]; and

(c) 32A-4-106(22), 32A-4-307(22), 32A-5-107(40), 32A-7-106(5), 32A-10-206(14), and 32A-10-306(5) that prescribe the attire and conduct of sexually-oriented entertainers in premises regulated by the commission and require [~~sexually-oriented entertainers to perform in premises regulated by the commission~~]them to perform only upon a stage or [~~at~~]in a designated area approved by the commission.

(2) Purpose. This rule:

(a) establishes reasonable and uniform guidelines governing the time, place and manner of operation of premises regulated by the commission that have sexually-oriented entertainers so as to reduce the adverse secondary effects that such premises have upon communities, and to protect the health, peace, safety, welfare, and morals of the residents of those communities;

(b) establishes guidelines used by the commission to approve stages or designated performance areas where sexually-oriented entertainers may perform[~~, and provides~~];

(c) establishes guidelines for licensees and permittees to control the attire and conduct of sexually-oriented entertainers when the entertainers mingle with patrons or other persons[~~, or interact with other sexually-oriented entertainers~~] in premises regulated by the commission; and

(d) shall be construed to protect the governmental interests identified by this rule in a manner consistent with protections provided by the constitutions of the United States and the state of Utah.

(3) Definitions.

(a) "Licensee" or "permittee" means a retailer authorized by the commission to sell, serve, and allow consumption of alcoholic beverages on its premises regardless of whether the retailer also holds a locally-issued sexually-oriented business license.

(b) "Semi-nude" means a state of dress in which opaque attire, costume, or clothing covers no more than the nipple and areola of the female breast and the male or female genitals, pubic area, and anus, which covering of the genitals, pubic area, and anus is no narrower than four inches (4") wide in the front, five inches (5") wide in the back, and does not taper to less than one inch (1") wide at the narrowest point.

[~~(a)~~](c) "Sexually-oriented entertainer"[~~, for purposes of this rule,~~] means any person[~~, male or female, paid or unpaid, licensed or unlicensed, who dances, models, entertains or performs in a sexually provocative manner before patrons of a premises regulated by the commission through use or movement of their body, including but not limited to a dancer, stripper, model, mud or oil wrestler, and participant in a wet t-shirt or wet underwear contest.~~] who appears at or performs on behalf of or at the request of a licensee or permittee on a premises regulated by the commission on a contractual or voluntary basis, whether or not the person is designated an employee, independent contractor, agent, or otherwise of the licensee or permittee, for the entertainment of patrons, and who appears semi-nude.

[~~(b) "Licensee" or "permittee" means a retailer authorized by the commission to sell, serve, or allow consumption of alcoholic beverages on its premises regardless of whether the retailer also holds a locally-issued sexually-oriented business license.~~

~~(c) "Mingling", for purposes of this rule, means the circulating, mixing, contacting, or having close face-to-face conversation between sexually-oriented entertainers and patrons, regardless of whether physical contact is made, on that portion of a premises regulated by the commission that is used by patrons.~~

~~](d) "Straddle dancing"[, for purposes of this rule,~~] means the use by any sexually-oriented entertainer of any part of his or her body to touch the genitals, pubic [~~region~~]area, buttocks, anus or female breast of any [~~patron or any~~]other person[~~, or the touching of the genitals, pubic region, buttock, anus or female breast of any person by a patron~~]. Conduct shall be "straddle dancing" regardless of whether the "touch" [~~or "touching"~~]is direct or through [~~a costume, clothing, or covering~~]attire, costume, or clothing. "Straddle dancing", shall include but not be limited to conduct commonly referred to by the terms "lap dancing", "table dancing", and "face dancing".

(4) Application of Rule.

(a) A licensee or permittee [~~may permit a sexually-oriented entertainer to perform only on a stage or performance area that has first been approved by the commission.~~

~~(b) A licensee or permittee may not permit a sexually-oriented entertainer to engage in mingling, as defined in this rule, if the sexually-oriented entertainer is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.~~

~~(c) A licensee or permittee may not permit a sexually-oriented entertainer, patron, or any other person engage in straddle dancing with another person in any premises regulated by the commission.~~

~~(d) A licensee or permittee may not permit a patron to be on the stage or performance area while a sexually-oriented entertainer is on the stage or performance area.~~

~~(e) ~~]shall not allow:

(i) a sexually-oriented entertainer to appear or perform except on a stage or in a performance area that complies with this rule, and has been approved by the commission;

(ii) a sexually-oriented entertainer, while in the portion of the premises used by patrons, to be dressed in other than opaque clothing which covers and conceals the entertainer's performance attire or costume from the top of the breast to the knee;

(iii) a sexually-oriented entertainer to engage in straddle dancing with another person on the premises;

(iv) a sexually-oriented entertainer to touch a patron during the entertainer's performance, or while the entertainer is dressed in performance attire or costume;

(v) a patron to be on the stage or in the performance area while a sexually-oriented entertainer is appearing or performing on the stage or in the performance area;

(vi) a patron to touch a sexually-oriented entertainer during the entertainer's performance, or while the entertainer is dressed in performance attire or costume; or

(vii) a patron to place money or any other object on or within the costume or the person of any sexually-oriented entertainer.

(b) Nothing herein precludes a local authority from being more restrictive with respect to attire[~~, costume, clothing, acts, or~~] and conduct of sexually-oriented entertainers in premises regulated by the commission.

[~~(f)~~](c) Stage requirements.

(i) The following shall submit for commission approval a floor-plan containing the location of any stage or performance area where sexually-oriented entertainers perform:

[~~(i)~~](A) an applicant for a license or permit from the commission who intends to have sexually-oriented entertainment on the premises;

[~~(ii)~~](B) a current licensee or permittee of the commission that did not have sexually-oriented entertainment on the premises when application was made for the license or permit, but now intends to have such entertainment on the premises; or

[~~(iii)~~](C) a current licensee or permittee of the commission that has sexually-oriented entertainment on the premises, but has not previously had the stage or performance area approved by the commission.

[~~(g)~~](ii) The commission may approve a stage or performance area where sexually-oriented entertainers may perform only if the stage or performance area:

[~~(i)~~](A) is horizontally separated from the portion of the premises on which patrons are allowed by a minimum of three (3) feet, which separation shall be delineated by a physical barrier or railing that is at least three (3) feet high from the floor;

[~~(ii)~~](B) is configured so as to preclude a patron from:

[~~(A)~~](I) touching the sexually-oriented entertainer;

[~~(B)~~](II) placing any money or object on or within the costume or [~~on~~] the person of any sexually-oriented entertainer;

[~~(iii)~~](III) is configured so as to preclude a sexually-oriented entertainer from touching a patron; and

[~~(iv)~~](IV) conforms to the requirements of any local ordinance of the jurisdiction where the premise is located relating to distance separation requirements between sexually-oriented entertainers[~~, as defined by this rule,~~] and patrons that may be more restrictive than the requirements of Sections [~~(4)(g)(i) through (iv)~~](4)(c)(i) and (ii) of this rule.

[~~(h)~~](iii) The person applying for approval of a stage[~~, platform, dance floor or~~] or performance area [~~approval~~]shall submit with their application:

(A) a diagram, drawn to scale, of the premises of the business including the location of any stage or performance area where sexually-oriented entertainers or performers will perform;

(B) a copy of any applicable local ordinance relating to distance separation requirements between sexually-oriented entertainers[~~, as defined by this rule,~~] and patrons; and

(C) evidence of compliance with any such applicable local ordinance.

KEY: alcoholic beverages
Date of Enactment or Last Substantive Amendment: 2006
Notice of Continuation: August 31, 2006
Authorizing, and Implemented or Interpreted Law: 32A-1-107; 32A-1-119(5)(c); 32A-3-103(1)(a); 32A-4-103(1)(a); 32A-4-106(22); 32A-4-203(1)(a); 32A-4-304(1)(a); 32A-4-307(22); 32A-4-403(1)(a); 32A-5-103(1)(a); 32A-5-107(40); 32A-6-103(2)(a); 32A-7-103(2)(a); 32A-7-106(5); 32A-8-103(1)(a); 32A-8-503(1)(a); 32A-9-103(1)(a); 32A-10-203(1)(a); 32A-10-206(14); 32A-10-303(1)(a); 32A-10-306(5); 32A-11-103(1)(a)

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End of the Notices of Changes in Proposed Rules Section

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).

Administrative Services, Finance
R25-2
Finance Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29077
FILED: 09/25/2006, 13:29

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 Utah Administrative Procedures Act, Title 63, Chapter 46b, requires state agencies to allow adjudicative proceedings. Section 63-46b-4 allows agencies to designate all adjudicative proceedings as informal.

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 Division of Finance has not received any written comments regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Finance has reviewed this rule and determined that the rule must be continued to comply with the statute.

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

ADMINISTRATIVE SERVICES
FINANCE
Room 2110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Marilee Richins at the above address, by phone at 801-538-3450, by FAX at 801-538-3244, or by Internet E-mail at MPRICHINS@utah.gov

AUTHORIZED BY: John Reidhead, Director

EFFECTIVE: 09/25/2006

Attorney General, Administration
R105-1
Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29097
FILED: 10/02/2006, 14:54

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: This rule is adopted pursuant to authority granted by the Chief Procurement Officer of the Division of Purchasing of the Department of Administrative Services under Section 63-56-10, and pursuant to Section 67-5-5, and the Utah Procurement Code (Title 63, Chapter 56) and the applicable sections thereof, viz., Sections 63-56-1, -2, -4, -5, -16, -17, -18, -19., -20.5, -21, -22, -23, -24, -25, -26, -27, -28., -29, -30, -32, -33, -34, -40, -41, -45, -46, -47, -48, -49, and -50.

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 adopted to allow the Attorney General to obtain the services of outside counsel, expert witnesses, or providers of litigation support services for agencies of the State without having to go through the

Division of Purchasing in recognition of the overlapping jurisdiction in this area under the Utah Constitution and applicable statutes and the unique needs of the Attorney General in obtaining these professional services. Therefore, this rule should be continued.

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

ATTORNEY GENERAL
ADMINISTRATION
Room E320 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2320, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
David Geary at the above address, by phone at 801-366-0572, by FAX at 801-366-0352, or by Internet E-mail at dgeary@utah.gov

AUTHORIZED BY: Ray Hintze, Chief Civil Deputy

EFFECTIVE: 10/02/2006

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Commerce, Occupational and Professional Licensing

R156-40

Recreational Therapy Practice Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 29059
FILED: 09/19/2006, 09:18

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: Title 58, Chapter 40, provides for the licensure of master therapeutic recreational specialist, therapeutic recreational specialist, and therapeutic recreational technician. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-40-4(3) provides that the Board of Recreational Therapy's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 40, with respect to the license classifications for recreational therapy.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in November 2001, it has been amended twice. In June 2006, amendments were filed with respect to definitions, education, experience, examination, and supervision requirements. A June 20, 2006, rule hearing was conducted. Following the end of the comment period, the Division filed a nonsubstantive rule filing on June 22, 2006, wherein minor nonsubstantive changes were made to incorporate verbal suggestions made during the June 20, 2006, rule hearing. In September 2006, the rule was again amended to delete the law/rule examination requirement for licensure. No written comments have been received by the Division with respect to this rule since it was last reviewed in November 2001.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 40, with respect to recreational therapy license classifications. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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:
Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 09/19/2006

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Corrections, Administration

R251-106

Media Relations

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 29052
FILED: 09/19/2006, 08:38

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 63-46a-3, 64-13-17, 63-2-102, and 77-19-11 authorize this rule and express the legislative recognition of the right of privacy and the right of

public access. This rule balances these rights with relation to the media.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments 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 should be continued because it defines those conditions under which the public interest in allowing restrictions on access by the media, may outweigh the public's interest in the media's access to records, correctional institutions, inmates, and other supervised offenders.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 09/19/2006

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Corrections, Administration
R251-107
Executions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 29053
FILED: 09/19/2006, 08:42

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: This rule is authorized by Sections 77-19-10 and 77-19-11 which require the Department to adopt and enforce rules governing procedures for the execution of judgments of death and the attendance of persons at the execution.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received about 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 should be continued because it addresses the need for public safety and security within prison facilities prior to, during, and immediately following an execution.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 09/19/2006

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Corrections, Administration
R251-108
Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 29049
FILED: 09/19/2006, 08:28

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: This rule is authorized by Sections 63-46a-3, 63-46b-4, and 63-46b-5. Sections 63-46b-4 and 63-46b-5 provide for the establishment of informal adjudicative proceedings regarding Department rules, orders, policies, or procedures.

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 should be continued because it has provided an effective and efficient process for handling petitions from persons outside the Department. There has been no opposition expressed to this process.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 09/19/2006

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Corrections, Administration
R251-703
Vehicle Direction Station

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 29050
FILED: 09/19/2006, 08:31

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: This rule is authorized under Sections 64-13-14 and 64-13-10 which require the Department to maintain and operate secure correctional facilities for the incarceration of offenders, and to make rules to carry out those requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments 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 should be continued because the Vehicle Direction Station is the main check point for entrance into, and exit from, secure prison facilities. This rule establishes the safety and security measures which help protect staff, inmates, visitors, and facilities.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 09/19/2006

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Corrections, Administration
R251-704
North Gate

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 29054
FILED: 09/19/2006, 08:45

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: This rule is authorized by Section 64-13-14, which mandates the Department maintain and operate secure correctional facilities for the incarceration of offenders. The North Gate Rule helps discharge those duties.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments 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 should be continued because the North Gate to the Utah State Prison is vital to the secure and safe incarceration of offenders housed there.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 09/19/2006

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Corrections, Administration
R251-705
Inmate Mail Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 29055
FILED: 09/19/2006, 08:49

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: This rule is authorized by Section 64-13-10 and Subsection 64-13-17(3) which require the Department to provide programs and facilities, as necessary, to accomplish its purposes. Facilitating the sending and receiving of inmate mail, while maintaining the safety and security of the facility, inmates, and staff are included in this responsibility.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments 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 should be continued because it has provided a safe and secure way of processing inmate mail.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 09/19/2006

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Corrections, Administration
R251-706
Inmate Visiting

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 29057
FILED: 09/19/2006, 08:52

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: This rule is authorized by Sections 63-46a-3, 64-13-10, and 64-13-17. Sections 64-13-10 and 64-13-17 require the Department to make rules establishing the guidelines for visitors regarding prohibited items and searches, as a condition of visitation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments 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 should be continued because it has proven effective in providing the guidelines for visiting in a manner that provides safety and security for the staff, inmates, and facilities.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 09/19/2006

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Transportation, Motor Carrier
R909-19
Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29080

FILED: 09/25/2006, 18:56

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: Title 72, Chapter 9, Part 6, gives the department authority to enact rules governing tow truck safety operations.

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 law requires that the department regulate tow truck safety and this rule has been successful in doing so and therefore, this rule should be continued.

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 09/25/2006

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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).

Governor

Administration

No. 29072 (filed 09/20/2006 at 12:06 p.m.): R355-2. Complaint Procedure for Americans With Disabilities Act (ADA).
ENACTED OR LAST REVIEWED: 10/10/2001 (No. 24101, 5YR, filed 10/10/2001 at 3:35 p.m., published 11/01/2001).
EXTENDED DUE DATE: 02/07/2007

(DAR NOTE: The proposed repeal of Rule R355-2 is under DAR No. 29045 in this issue.)

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

Commerce
Consumer Protection
No. 28777 (NEW): R152-1a. Internet Content Provider Ratings Methods.
Published: July 1, 2006
Effective: September 18, 2006

Health
Epidemiology and Laboratory Services, Environmental Services
No. 28825 (NEW): R392-110. Home-based Child Care Food Service.
Published: July 15, 2006
Effective: September 18, 2006

Insurance
Administration
No. 28887 (AMD): R590-164. Uniform Health Billing Rule.
Published: August 1, 2006
Effective: September 25, 2006

No. 28696 (AMD): R590-178. Securities Custody.
Published: May 15, 2006
Effective: September 19, 2006

No. 28696 (CPR): R590-178. Securities Custody.
Published: August 1, 2006
Effective: September 19, 2006

Tax Commission
Property Tax
No. 28908 (AMD): R884-24P-33. 2006 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.
Published: August 15, 2006
Effective: September 21, 2006

Transportation
Operations, Traffic and Safety
No. 28905 (AMD): R920-50. Ropeway Operation Safety Rules.
Published: August 15, 2006
Effective: September 21, 2006

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, 2006, including notices of effective date received through October 2, 2006, the effective dates of which are no later than October 15, 2006. 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. 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
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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R23-25	Administrative Rules Adjudicative Proceedings	28993	5YR	09/06/2006	2006-19/126
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R657-5	Taking Big Game	28718	AMD	07/11/2006	2006-11/78
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R657-48	Implementation of the Wildlife Species of Concern and Habitat Designation Advisory Committee	28797	AMD	08/08/2006	2006-13/37
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RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

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	28594	R430-4	AMD	05/25/2006	2006-8/34
	28248	R430-4	CPR	02/06/2006	2005-24/37

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	28249	R430-6	AMD	02/06/2006	2005-20/26
	28249	R430-6	CPR	02/06/2006	2005-24/41
child care providers					
Health, Epidemiology and Laboratory Services, Environmental Services	28825	R392-110	NEW	09/18/2006	2006-14/13
child support					
Human Services, Recovery Services	28412	R527-35	AMD	02/22/2006	2006-1/27
	28670	R527-200	5YR	04/24/2006	2006-10/88
child welfare					
Human Services, Administration	28927	R495-880	5YR	08/15/2006	2006-17/66
Human Services, Child and Family Services	28612	R512-11	NEW	06/01/2006	2006-9/23
	28919	R512-203	NSC	08/29/2006	Not Printed
	28613	R512-203	NEW	06/01/2006	2006-9/24
	28920	R512-300-4	NSC	08/29/2006	Not Printed
	28614	R512-300-4	AMD	06/01/2006	2006-9/26
	28662	R512-305	AMD	06/19/2006	2006-10/65
chiropractic physician					
Commerce, Occupational and Professional Licensing	28824	R156-73	5YR	06/19/2006	2006-14/39
chiropractors					
Commerce, Occupational and Professional Licensing	28824	R156-73	5YR	06/19/2006	2006-14/39
CIO					
Governor, Planning and Budget, Chief Information Officer	28791	R365-5	NSC	06/22/2006	Not Printed
citation monitoring service					
Public Safety, Driver License	28786	R708-44	NEW	08/08/2006	2006-13/46
civil procedures					
Human Services, Recovery Services	28752	R527-800	5YR	05/24/2006	2006-12/86
Class I area					
Environmental Quality, Air Quality	28322	R307-405	R&R	06/16/2006	2005-23/22
	28816	R307-405	5YR	06/16/2006	2006-14/45
	28322	R307-405	CPR	06/16/2006	2006-7/28
	28818	R307-410	5YR	06/16/2006	2006-14/51
client rights					
Community and Economic Development, Community Development, Community Services	28359	R202-201	NSC	01/01/2006	Not Printed
coal mining					
Natural Resources, Oil, Gas and Mining; Coal	28742	R645-106	5YR	05/17/2006	2006-12/87
communicable diseases					
Human Services, Administration	28598	R495-862	5YR	04/04/2006	2006-9/41

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community action programs					
Community and Economic Development, Community Development, Community Services	28353	R202-100	NSC	01/01/2006	Not Printed
community development					
Community and Culture, Housing and Community Development	28740	R199-11	AMD	07/25/2006	2006-12/15
Community and Economic Development, Community Development	28350	R199-11	NSC	01/01/2006	Not Printed
Community and Culture, Housing and Community Development	28647	R199-11	5YR	04/19/2006	2006-10/86
complaint					
Human Services, Child Protection Ombudsman (Office of)	28401	R515-1	NEW	02/01/2006	2006-1/26
computer software					
Governor, Planning and Budget, Chief Information Officer	28789	R365-3	NSC	06/22/2006	Not Printed
concealed firearm permit					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	28250	R722-300	AMD	01/09/2006	2005-20/48
	28296	R722-300-13	NSC	01/09/2006	Not Printed
concern					
Natural Resources, Wildlife Resources	28751	R657-48	5YR	05/24/2006	2006-12/88
confidentiality of information					
Community and Economic Development, Community Development, Community Services	28359	R202-201	NSC	01/01/2006	Not Printed
Human Resource Management, Administration	28689	R477-2	AMD	07/01/2006	2006-10/38
	28747	R895-1	NEW	07/25/2006	2006-12/43
conflict of interest					
Human Resource Management, Administration	28687	R477-9	AMD	07/01/2006	2006-10/55
connections					
Environmental Quality, Drinking Water	28422	R309-550-5	AMD	03/08/2006	2006-1/20
consumer protection					
Commerce, Consumer Protection	28574	R152-1	AMD	05/16/2006	2006-8/7
	28777	R152-1a	NEW	09/18/2006	2006-13/4
	28573	R152-22-3	AMD	05/16/2006	2006-8/9
continuous monitoring					
Environmental Quality, Air Quality	28226	R307-170	AMD	01/05/2006	2005-19/6
contractors					
Commerce, Occupational and Professional Licensing	28611	R156-55b	AMD	06/01/2006	2006-9/15
	28772	R156-55b	NSC	06/12/2006	Not Printed
	28286	R156-56	AMD	01/01/2006	2005-21/6
	28285	R156-56-707	AMD	01/01/2006	2005-21/25
	28805	R156-56-707	NSC	06/29/2006	Not Printed
	28427	R156-56-711	NSC	02/23/2006	Not Printed

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contracts					
Administrative Services, Facilities Construction and Management	28608	R23-1	AMD	06/01/2006	2006-9/10
	28609	R23-1	AMD	06/01/2006	2006-9/3
Capitol Preservation Board (State), Administration	28727	R131-4	5YR	05/12/2006	2006-11/92
Transportation, Operations, Construction	28559	R916-1-7	AMD	05/16/2006	2006-8/51
controlled substances					
Commerce, Occupational and Professional Licensing	28310	R156-37	AMD	02/16/2006	2005-22/8
	28310	R156-37	CPR	02/16/2006	2006-2/35
Tax Commission, Collections	28539	R867-2B	5YR	03/07/2006	2006-7/35
cooperative agreement					
Natural Resources, Forestry, Fire and State Lands	28525	R652-122	NSC	03/07/2006	Not Printed
copyright					
Governor, Planning and Budget, Chief Information Officer	28789	R365-3	NSC	06/22/2006	Not Printed
correctional institutions					
Corrections, Administration	29054	R251-704	5YR	09/19/2006	2006-20/83
corrections					
Corrections, Administration	28576	R251-104	5YR	03/28/2006	2006-8/72
	29052	R251-106	5YR	09/19/2006	2006-20/81
	29053	R251-107	5YR	09/19/2006	2006-20/82
	29049	R251-108	5YR	09/19/2006	2006-20/83
	28705	R251-702	5YR	05/03/2006	2006-11/93
	29055	R251-705	5YR	09/19/2006	2006-20/84
	29057	R251-706	5YR	09/19/2006	2006-20/84
	28706	R251-708	5YR	05/03/2006	2006-11/94
	28707	R251-711	5YR	05/03/2006	2006-11/94
	28577	R251-712	5YR	03/28/2006	2006-8/72
cost sharing					
Health, Health Care Financing, Coverage and Reimbursement Policy	28879	R414-200-3	EMR	07/13/2006	2006-15/25
cougar					
Natural Resources, Wildlife Resources	28940	R657-10	5YR	08/21/2006	2006-18/63
counselors					
Commerce, Occupational and Professional Licensing	28603	R156-60c-502	AMD	06/01/2006	2006-9/17
county jails					
Corrections, Administration	28982	R251-113	5YR	08/30/2006	2006-18/52
court					
Health, Center for Health Data, Vital Records and Statistics	28966	R436-5	5YR	08/28/2006	2006-18/61
court reporting					
Commerce, Occupational and Professional Licensing	28428	R156-74	AMD	02/16/2006	2006-2/24

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coverage groups					
Health, Health Care Financing, Coverage and Reimbursement Policy	28698	R414-303-7	AMD	07/01/2006	2006-10/23
crime victims					
Crime Victim Reparations, Administration	28867	R270-1	5YR	07/03/2006	2006-15/27
	28868	R270-2	5YR	07/03/2006	2006-15/27
criminal background checks					
Education, Rehabilitation	28521	R280-204	NEW	04/03/2006	2006-5/16
criminal records					
Corrections, Administration	28714	R251-111	AMD	08/01/2006	2006-11/34
	28713	R251-111	5YR	05/04/2006	2006-11/93
cultural resources					
Community and Economic Development, Community Development, History	28403	R212-7	NSC	01/01/2006	Not Printed
curricula					
Education, Administration	28467	R277-705	AMD	03/06/2006	2006-3/18
	28809	R277-705-3	AMD	08/08/2006	2006-13/17
dam safety					
Natural Resources, Water Rights	28710	R655-10	5YR	05/03/2006	2006-11/96
	28712	R655-12	5YR	05/03/2006	2006-11/97
damages					
Natural Resources, Wildlife Resources	28796	R657-24	AMD	08/08/2006	2006-13/29
	28455	R657-24	AMD	03/06/2006	2006-3/24
dams					
Natural Resources, Water Rights	28710	R655-10	5YR	05/03/2006	2006-11/96
	28711	R655-11	5YR	05/03/2006	2006-11/97
	28712	R655-12	5YR	05/03/2006	2006-11/97
data processing					
Administrative Services, Information Technology Services	28794	R29-2	NSC	06/22/2006	Not Printed
DCFS					
Human Services, Child Protection Ombudsman (Office of)	28401	R515-1	NEW	02/01/2006	2006-1/26
de minimis					
Environmental Quality, Air Quality	28546	R307-413	REP	06/16/2006	2006-7/9
debt					
Human Services, Recovery Services	28739	R527-936	5YR	05/16/2006	2006-12/87
decommissioning					
Environmental Quality, Radiation Control	29104	R313-22	5YR	10/05/2006	Not Printed
deferred payment					
Public Service Commission, Administration	28765	R746-200	AMD	07/25/2006	2006-12/36

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definitions					
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	28279	R27-1	NSC	01/30/2006	Not Printed
	28368	R27-1-2	NSC	01/01/2006	Not Printed
Environmental Quality, Air Quality	28815	R307-101	5YR	06/16/2006	2006-14/40
	28545	R307-101-2	AMD	06/16/2006	2006-7/5
Environmental Quality, Radiation Control	28869	R313-12	5YR	07/10/2006	2006-15/29
Human Resource Management, Administration	28692	R477-1	AMD	07/01/2006	2006-10/32
delinquent balance					
Public Service Commission, Administration	28765	R746-200	AMD	07/25/2006	2006-12/36
dental					
Environmental Quality, Radiation Control	29106	R313-28	5YR	10/05/2006	Not Printed
dental hygienists					
Commerce, Occupational and Professional Licensing	28829	R156-69	AMD	08/22/2006	2006-14/5
	28823	R156-69	5YR	06/19/2006	2006-14/38
dentists					
Commerce, Occupational and Professional Licensing	28823	R156-69	5YR	06/19/2006	2006-14/38
	28829	R156-69	AMD	08/22/2006	2006-14/5
depository					
Money Management Council, Administration	28606	R628-10	5YR	04/11/2006	2006-9/42
	28723	R628-10	NSC	05/30/2006	Not Printed
development					
School and Institutional Trust Lands, Administration	29015	R850-140	5YR	09/14/2006	2006-19/130
developmentally disabled					
Agriculture and Food, Administration	28553	R51-4	5YR	03/16/2006	2006-8/69
	28804	R861-1A-20	AMD	08/07/2006	2006-13/50
	28430	R861-1A-37	AMD	03/06/2006	2006-2/29
	28883	R861-1A-40	AMD	09/15/2006	2006-15/14
direct-entry midwife					
Commerce, Occupational and Professional Licensing	28294	R156-77	NEW	09/14/2006	2005-22/14
	28294	R156-77	CPR	09/14/2006	2006-7/21
	28294	R156-77	CPR	09/14/2006	2006-15/19
disabilities					
Human Services, Services for People with Disabilities	28845	R539-1-8	AMD	08/22/2006	2006-14/17
	28716	R539-1-8	EMR	05/05/2006	2006-11/88
	28715	R539-9	EMR	05/05/2006	2006-11/90
	28844	R539-9	NEW	08/22/2006	2006-14/19
disciplinary actions					
Education, Administration	28810	R277-609	AMD	08/08/2006	2006-13/15

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discipline of employees					
Human Resource Management, Administration	28683	R477-11	AMD	07/01/2006	2006-10/59
	28686	R477-14	AMD	07/01/2006	2006-10/63
disclosure requirements					
Tax Commission, Administration	28804	R861-1A-20	AMD	08/07/2006	2006-13/50
	28430	R861-1A-37	AMD	03/06/2006	2006-2/29
	28883	R861-1A-40	AMD	09/15/2006	2006-15/14
discrimination					
Agriculture and Food, Administration	28553	R51-4	5YR	03/16/2006	2006-8/69
disease control					
Agriculture and Food, Animal Industry	28926	R58-4	5YR	08/15/2006	2006-17/65
	28972	R58-4-1	NSC	09/22/2006	Not Printed
dismissal of employees					
Human Resource Management, Administration	28683	R477-11	AMD	07/01/2006	2006-10/59
displaced homemakers					
Workforce Services, Employment Development	28762	R986-800-803	AMD	08/01/2006	2006-12/76
diversion programs					
Commerce, Occupational and Professional Licensing	28621	R156-1	AMD	06/19/2006	2006-10/8
do not resuscitate					
Health, Health Systems Improvement, Emergency Medical Services	28813	R426-100	AMD	09/06/2006	2006-13/22
domestic violence					
Human Services, Child and Family Services	28920	R512-300-4	NSC	08/29/2006	Not Printed
	28614	R512-300-4	AMD	06/01/2006	2006-9/26
drinking water					
Environmental Quality, Drinking Water	28416	R309-105-9	AMD	03/08/2006	2006-1/11
	28417	R309-150-6	AMD	03/08/2006	2006-1/12
	28418	R309-405-4	AMD	03/08/2006	2006-1/14
	28419	R309-510-9	AMD	03/08/2006	2006-1/16
	28420	R309-540-6	AMD	03/08/2006	2006-1/18
	28421	R309-545-7	AMD	03/08/2006	2006-1/19
	28422	R309-550-5	AMD	03/08/2006	2006-1/20
	28392	R309-600	NSC	01/01/2006	Not Printed
	28380	R309-605	NSC	01/01/2006	Not Printed
driver address record					
Public Safety, Driver License	28784	R708-42	NEW	08/08/2006	2006-13/44
driver education					
Public Safety, Driver License	28565	R708-18	5YR	03/20/2006	2006-8/75
	28783	R708-27	AMD	08/08/2006	2006-13/41

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driver license verification					
Public Safety, Driver License	28785	R708-43	NEW	08/08/2006	2006-13/45
driver licenses					
Public Safety, Driver License	28569	R708-6	5YR	03/23/2006	2006-8/74
	28786	R708-44	NEW	08/08/2006	2006-13/46
drug abuse					
Human Resource Management, Administration	28686	R477-14	AMD	07/01/2006	2006-10/63
drug stamps					
Tax Commission, Collections	28539	R867-2B	5YR	03/07/2006	2006-7/35
drug/alcohol education					
Human Resource Management, Administration	28686	R477-14	AMD	07/01/2006	2006-10/63
dual employment					
Human Resource Management, Administration	28682	R477-8	AMD	07/01/2006	2006-10/52
earthquakes					
Natural Resources, Water Rights	28711	R655-11	5YR	05/03/2006	2006-11/97
education					
Education, Administration	28591	R277-709	AMD	05/16/2006	2006-8/12
educational expenditures					
Education, Administration	28864	R277-478	5YR	07/03/2006	2006-15/28
	28865	R277-479	5YR	07/03/2006	2006-15/28
educational program evaluations					
Education, Administration	28465	R277-501	AMD	03/06/2006	2006-3/10
	28737	R277-506	AMD	07/11/2006	2006-11/35
educational tuition					
Human Resource Management, Administration	28684	R477-10	AMD	07/01/2006	2006-10/56
educator					
Education, Administration	28592	R277-510	NSC	04/12/2006	Not Printed
	28466	R277-510	NEW	03/06/2006	2006-3/15
educator license renewal					
Education, Administration	28465	R277-501	AMD	03/06/2006	2006-3/10
elderly					
Human Services, Aging and Adult Services	28190	R510-401	AMD	02/23/2006	2005-18/37
	28190	R510-401	CPR	02/23/2006	2005-22/46
electric assisted bicycle headgear					
Public Safety, Driver License	28560	R708-33	5YR	03/17/2006	2006-8/76
electricians					
Commerce, Occupational and Professional Licensing	28611	R156-55b	AMD	06/01/2006	2006-9/15
	28772	R156-55b	NSC	06/12/2006	Not Printed

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electronic meeting					
Commerce, Administration	28664	R151-1-2	AMD	06/15/2006	2006-10/7
electronic preliminary lien filing					
Commerce, Occupational and Professional Licensing	28848	R156-38b	AMD	08/22/2006	2006-14/2
elevators					
Labor Commission, Safety	28840	R616-3	NSC	06/30/2006	Not Printed
	28256	R616-3-3	AMD	02/08/2006	2005-20/44
emergency medical services					
Health, Health Systems Improvement, Emergency Medical Services	28725	R426-5-8	AMD	08/30/2006	2006-11/52
	28470	R426-7	5YR	01/24/2006	2006-4/37
	28472	R426-8	5YR	01/24/2006	2006-4/38
	28813	R426-100	AMD	09/06/2006	2006-13/22
emission controls					
Environmental Quality, Air Quality	28544	R307-325	AMD	06/16/2006	2006-7/8
emission fee					
Environmental Quality, Air Quality	28814	R307-415-4	AMD	09/07/2006	2006-13/19
	28549	R307-415-7d	NSC	03/28/2006	Not Printed
employee benefit plans					
Human Resource Management, Administration	28688	R477-6	AMD	07/01/2006	2006-10/43
employee performance evaluations					
Human Resource Management, Administration	28684	R477-10	AMD	07/01/2006	2006-10/56
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Human Resource Management, Administration	28684	R477-10	AMD	07/01/2006	2006-10/56
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Human Resource Management, Administration	28685	R477-12	AMD	07/01/2006	2006-10/61
employer liability					
Workforce Services, Unemployment Insurance	28721	R994-302	5YR	05/09/2006	2006-11/98
employment					
Human Resource Management, Administration	28691	R477-4	AMD	07/01/2006	2006-10/40
	28780	R477-4-9	NSC	07/01/2006	Not Printed
	28681	R477-5	AMD	07/01/2006	2006-10/42
Human Services, Services for People with Disabilities	28715	R539-9	EMR	05/05/2006	2006-11/90
employment support procedures					
Workforce Services, Employment Development	28756	R986-100	AMD	08/01/2006	2006-12/51
energy assistance					
Community and Economic Development, Community Development, Community Services	28385	R202-202	NSC	01/01/2006	Not Printed

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	28387	R202-204	NSC	01/01/2006	Not Printed
	28388	R202-205	NSC	01/01/2006	Not Printed
	28389	R202-206	NSC	01/01/2006	Not Printed
	28390	R202-207	NSC	01/01/2006	Not Printed
	28391	R202-208	NSC	01/01/2006	Not Printed
energy industries					
Community and Economic Development, Community Development, Community Services	28391	R202-208	NSC	01/01/2006	Not Printed
energy loans					
Community and Economic Development, Community Development, Energy Services	28433	R203-4	NSC	01/01/2006	Not Printed
	28434	R203-5	NSC	01/01/2006	Not Printed
enforcement					
Agriculture and Food, Animal Industry	28971	R58-14	5YR	08/29/2006	2006-18/46
Environmental Quality, Radiation Control	28870	R313-14	5YR	07/10/2006	2006-15/30
Human Services, Recovery Services	28752	R527-800	5YR	05/24/2006	2006-12/86
engineering					
Education, Administration	28523	R277-717	AMD	04/03/2006	2006-5/13
	28866	R277-717	5YR	07/03/2006	2006-15/29
engineers					
Administrative Services, Facilities Construction and Management	28607	R23-2	AMD	06/01/2006	2006-9/12
Commerce, Occupational and Professional Licensing	28444	R156-22	AMD	04/03/2006	2006-2/17
	28444	R156-22	CPR	04/03/2006	2006-5/45
	28807	R156-22-302c	AMD	08/15/2006	2006-13/6
	28773	R156-22-302d	AMD	07/25/2006	2006-12/7
environmental health					
Environmental Quality, Drinking Water	28392	R309-600	NSC	01/01/2006	Not Printed
	28380	R309-605	NSC	01/01/2006	Not Printed
environmental protection					
Environmental Quality, Air Quality	28814	R307-415-4	AMD	09/07/2006	2006-13/19
	28549	R307-415-7d	NSC	03/28/2006	Not Printed
Environmental Quality, Drinking Water	28417	R309-150-6	AMD	03/08/2006	2006-1/12
	28418	R309-405-4	AMD	03/08/2006	2006-1/14
equipment leasing					
Commerce, Corporations and Commercial Code	28860	R154-2	5YR	06/29/2006	2006-14/37
executions					
Corrections, Administration	29053	R251-107	5YR	09/19/2006	2006-20/82
exemptions					
Environmental Quality, Air Quality	28546	R307-413	REP	06/16/2006	2006-7/9
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	28802	R313-19-34	AMD	08/11/2006	2006-13/20
Natural Resources, Oil, Gas and Mining; Coal	28742	R645-106	5YR	05/17/2006	2006-12/87
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Natural Resources, Forestry, Fire and State Lands	28770	R652-123	NEW	08/28/2006	2006-12/34
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Agriculture and Food, Marketing and Development	28558	R65-8	5YR	03/16/2006	2006-8/70
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Public Safety, Fire Marshal	28882	R710-1-10	AMD	09/07/2006	2006-15/10
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Health, Health Care Financing, Coverage and Reimbursement Policy	28583	R414-53	AMD	07/01/2006	2006-8/32
facility					
Human Services, Substance Abuse and Mental Health, State Hospital	28738	R525-8	5YR	05/16/2006	2006-12/86
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Human Resource Management, Administration	28689	R477-2	AMD	07/01/2006	2006-10/38
	28691	R477-4	AMD	07/01/2006	2006-10/40
	28780	R477-4-9	NSC	07/01/2006	Not Printed
fairs					
Fair Corporation (Utah State), Administration	28832	R325-1	5YR	06/22/2006	2006-14/53
	28833	R325-2	5YR	06/22/2006	2006-14/54
	28834	R325-3	5YR	06/22/2006	2006-14/54
	28835	R325-4	5YR	06/22/2006	2006-14/55
	28836	R325-5	5YR	06/22/2006	2006-14/55
family employment program					
Workforce Services, Employment Development	28755	R986-200	AMD	08/01/2006	2006-12/58
	28537	R986-200	AMD	05/01/2006	2006-6/19
fees					
Environmental Quality, Radiation Control	29108	R313-70	5YR	10/05/2006	Not Printed
Labor Commission, Industrial Accidents	28729	R612-2-5	AMD	07/11/2006	2006-11/74
	28730	R612-2-22	AMD	07/11/2006	2006-11/75
Natural Resources, Parks and Recreation	28513	R651-611	5YR	02/13/2006	2006-5/50
	28169	R651-611	AMD	01/01/2006	2005-18/46
Public Safety, Driver License	28565	R708-18	5YR	03/20/2006	2006-8/75
filing deadlines					
Workforce Services, Unemployment Insurance	28861	R994-403-202	AMD	08/22/2006	2006-14/31
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	28579	R710-4	AMD	05/16/2006	2006-8/45
	28884	R710-7-8	AMD	09/07/2006	2006-15/13
	28461	R710-9	AMD	03/06/2006	2006-3/27
	28292	R710-9	AMD	01/10/2006	2005-21/38
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	28557	R70-380	5YR	03/16/2006	2006-8/72
	28471	R70-410	5YR	01/24/2006	2006-4/35
	28485	R70-410-1	AMD	03/20/2006	2006-4/4
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Health, Epidemiology and Laboratory Services, Environmental Services	28741	R392-101	AMD	07/25/2006	2006-12/16
	28825	R392-110	NEW	09/18/2006	2006-14/13
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	28663	R512-306	AMD	06/19/2006	2006-10/67
	28750	R512-308	NEW	08/02/2006	2006-12/23
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	28801	R657-6-21	AMD	08/08/2006	2006-13/28
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	28454	R657-19	AMD	03/06/2006	2006-3/22
	28377	R657-23	AMD	01/18/2006	2005-24/19
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	28447	R33-3	AMD	02/21/2006	2006-2/5
	28438	R33-4	NSC	02/22/2006	Not Printed
	28448	R33-5	NSC	02/22/2006	Not Printed
	28439	R33-7	NSC	02/22/2006	Not Printed
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Attorney General, Administration	29097	R105-1	5YR	10/02/2006	2006-20/80
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Corrections, Administration	28714	R251-111	AMD	08/01/2006	2006-11/34
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	28430	R861-1A-37	AMD	03/06/2006	2006-2/29
	28883	R861-1A-40	AMD	09/15/2006	2006-15/14
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	28683	R477-11	AMD	07/01/2006	2006-10/59
	28685	R477-12	AMD	07/01/2006	2006-10/61
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Human Services, Child and Family Services	28750	R512-308	NEW	08/02/2006	2006-12/23
habitat designation					
Natural Resources, Wildlife Resources	28797	R657-48	AMD	08/08/2006	2006-13/37
	28751	R657-48	5YR	05/24/2006	2006-12/88
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	28449	R432-106	5YR	01/06/2006	2006-3/38
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Labor Commission, Adjudication	28547	R602-2-1	AMD	05/05/2006	2006-7/14
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	28531	R926-8-3	AMD	06/22/2006	2006-6/16
	28538	R926-9	NEW	04/20/2006	2006-6/17
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	28408	R212-8	NSC	01/01/2006	Not Printed
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Community and Economic Development, Community Development, History	28405	R212-6	NSC	01/01/2006	Not Printed
Community and Culture, History	28906	R212-6	5YR	08/01/2006	2006-16/35
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Community and Economic Development, Community Development, History	28410	R212-11	NSC	01/01/2006	Not Printed
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Community and Culture, Olene Walker Housing Trust Fund	28492	R235-1	NSC	03/01/2006	Not Printed
	28402	R235-1	NEW	03/01/2006	2006-1/9
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Natural Resources, Wildlife Resources	28371	R657-38	AMD	01/18/2006	2005-24/22
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Natural Resources, Wildlife Resources	28382	R657-17	AMD	01/18/2006	2005-24/17
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	28680	R414-304-11	AMD	07/01/2006	2006-10/24
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	28479	R230-1	5YR	01/31/2006	2006-4/37
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	28788	R29-1	5YR	06/08/2006	2006-13/61
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injury Health, Epidemiology and Laboratory Services, Epidemiology	28874	R386-703	5YR	07/10/2006	2006-15/32
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	28974	R70-930	5YR	08/29/2006	2006-18/47
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	28588	R590-177	NSC	04/12/2006	Not Printed
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	28117	R590-85	CPR	01/31/2006	2005-24/44
	28267	R590-98	CPR	01/31/2006	2005-24/46
	28267	R590-98	AMD	01/31/2006	2005-20/39
	28528	R590-99	NSC	03/06/2006	Not Printed
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	28846	R590-136	5YR	06/27/2006	2006-14/56
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	28696	R590-178	CPR	09/19/2006	2006-15/21
	28696	R590-178	AMD	09/19/2006	2006-10/69
	28914	R590-178	5YR	08/07/2006	2006-17/67
	28589	R590-200	5YR	03/31/2006	2006-8/73
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Public Safety, Highway Patrol	28342	R714-500	AMD	01/05/2006	2005-23/59
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Human Services, Child Protection Ombudsman (Office of)	28401	R515-1	NEW	02/01/2006	2006-1/26
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IT standards council					
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	28795	R365-101	NSC	06/22/2006	Not Printed
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	28461	R710-9	AMD	03/06/2006	2006-3/27
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Public Safety, Driver License	28782	R708-26	AMD	08/08/2006	2006-13/40
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	28690	R477-7	AMD	07/01/2006	2006-10/47
	28571	R477-7	EMR	04/01/2006	2006-8/64
	28570	R477-7	AMD	07/01/2006	2006-8/36
legitimation					
Health, Center for Health Data, Vital Records and Statistics	28966	R436-5	5YR	08/28/2006	2006-18/61
libraries					
Community and Economic Development, Community Development, Library	28344	R223-2	NSC	01/01/2006	Not Printed
license					
Environmental Quality, Radiation Control	29102	R313-19	5YR	10/05/2006	Not Printed
	28802	R313-19-34	AMD	08/11/2006	2006-13/20
license plates					
Tax Commission, Motor Vehicle	28806	R873-22M-34	AMD	08/07/2006	2006-13/51
licensing					
Commerce, Occupational and Professional Licensing	28621	R156-1	AMD	06/19/2006	2006-10/8
	28429	R156-3a	CPR	04/03/2006	2006-5/44
	28604	R156-3a	5YR	04/10/2006	2006-9/39
	28429	R156-3a	AMD	04/03/2006	2006-2/15
	28671	R156-3a-501	NSC	05/10/2006	Not Printed
	28830	R156-9a	5YR	06/22/2006	2006-14/37

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	28530	R156-17b	AMD	04/17/2006	2006-6/2
	28365	R156-31b	AMD	01/23/2006	2005-24/3
	28310	R156-37	AMD	02/16/2006	2005-22/8
	28310	R156-37	CPR	02/16/2006	2006-2/35
	28674	R156-40	AMD	06/22/2006	2006-10/11
	28831	R156-40	NSC	07/11/2006	Not Printed
	29059	R156-40	5YR	09/19/2006	2006-20/81
	28876	R156-40-302c	AMD	09/14/2006	2006-15/4
	28352	R156-44a	AMD	01/05/2006	2005-23/4
	28732	R156-46a	AMD	07/11/2006	2006-11/32
	28748	R156-47b	AMD	07/31/2006	2006-12/9
	28478	R156-47b	5YR	01/31/2006	2006-4/35
	28550	R156-50	5YR	03/13/2006	2006-7/33
	28781	R156-53-501	AMD	08/15/2006	2006-13/9
	28749	R156-54	AMD	07/31/2006	2006-12/11
	28611	R156-55b	AMD	06/01/2006	2006-9/15
	28772	R156-55b	NSC	06/12/2006	Not Printed
	28286	R156-56	AMD	01/01/2006	2005-21/6
	28285	R156-56-707	AMD	01/01/2006	2005-21/25
	28805	R156-56-707	NSC	06/29/2006	Not Printed
	28427	R156-56-711	NSC	02/23/2006	Not Printed
	28672	R156-60b	AMD	06/19/2006	2006-10/13
	28603	R156-60c-502	AMD	06/01/2006	2006-9/17
	28605	R156-60d	5YR	04/10/2006	2006-9/39
	28345	R156-63-503	AMD	01/10/2006	2005-23/5
	28779	R156-63-503	AMD	08/15/2006	2006-13/10
	28837	R156-67	5YR	06/26/2006	2006-14/38
	28823	R156-69	5YR	06/19/2006	2006-14/38
	28829	R156-69	AMD	08/22/2006	2006-14/5
	28824	R156-73	5YR	06/19/2006	2006-14/39
	28428	R156-74	AMD	02/16/2006	2006-2/24
	28294	R156-77	NEW	09/14/2006	2005-22/14
	28294	R156-77	CPR	09/14/2006	2006-15/19
	28294	R156-77	CPR	09/14/2006	2006-7/21
Commerce, Real Estate	28665	R162-102-3	AMD	06/28/2006	2006-10/19
Environmental Quality, Radiation Control	28873	R313-18	5YR	07/10/2006	2006-15/31
	28936	R313-18-1	NSC	09/22/2006	Not Printed
	29107	R313-36	5YR	10/05/2006	Not Printed
Governor, Planning and Budget, Chief Information Officer	28789	R365-3	NSC	06/22/2006	Not Printed
Public Safety, Driver License	28565	R708-18	5YR	03/20/2006	2006-8/75
life insurance					
Insurance, Administration	28527	R590-93-6	NSC	03/06/2006	Not Printed

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life insurance filings					
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	28488	R590-226	AMD	09/07/2006	2006-4/5
limitation on judgments					
Administrative Services, Risk Management	28667	R37-4	R&R	07/01/2006	2006-10/5
liquefied petroleum gas					
Public Safety, Fire Marshal	28584	R710-6	5YR	03/30/2006	2006-8/77
	28888	R710-6-6	AMD	09/07/2006	2006-15/12
litigation					
Attorney General, Administration	29097	R105-1	5YR	10/02/2006	2006-20/80
livestock					
Agriculture and Food, Marketing and Development	28558	R65-8	5YR	03/16/2006	2006-8/70
Natural Resources, Wildlife Resources	28796	R657-24	AMD	08/08/2006	2006-13/29
	28455	R657-24	AMD	03/06/2006	2006-3/24
local governments					
Transportation, Program Development	28531	R926-8-3	AMD	06/22/2006	2006-6/16
machines					
Environmental Quality, Radiation Control	28871	R313-16	5YR	07/10/2006	2006-15/30
mammography					
Environmental Quality, Radiation Control	29106	R313-28	5YR	10/05/2006	Not Printed
management					
Community and Economic Development, Community Development, History	28403	R212-7	NSC	01/01/2006	Not Printed
Natural Resources, Forestry, Fire and State Lands	28853	R652-41	5YR	06/28/2006	2006-14/58
marriage and family therapist					
Commerce, Occupational and Professional Licensing	28672	R156-60b	AMD	06/19/2006	2006-10/13
massage therapy					
Commerce, Occupational and Professional Licensing	28748	R156-47b	AMD	07/31/2006	2006-12/9
	28478	R156-47b	5YR	01/31/2006	2006-4/35
material permits					
School and Institutional Trust Lands, Administration	28484	R850-24-300	AMD	03/20/2006	2006-4/16
mathematics					
Education, Administration	28866	R277-717	5YR	07/03/2006	2006-15/29
	28523	R277-717	AMD	04/03/2006	2006-5/13
Medicaid					
Health, Health Care Financing, Coverage and Reimbursement Policy	28575	R414-1-5	AMD	05/16/2006	2006-8/29
	28258	R414-2A	R&R	03/03/2006	2005-20/11
	28258	R414-2A	CPR	03/03/2006	2006-2/36

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	28535	R414-3A-6	CPR	07/25/2006	2006-12/84
	28734	R414-11	R&R	07/14/2006	2006-11/45
	28582	R414-52	AMD	07/01/2006	2006-8/31
	28583	R414-53	AMD	07/01/2006	2006-8/32
	28357	R414-60	R&R	01/04/2006	2005-23/42
	28356	R414-63	REP	01/04/2006	2005-23/44
	28879	R414-200-3	EMR	07/13/2006	2006-15/25
	28754	R414-305	AMD	07/25/2006	2006-12/17
	28595	R414-305	EMR	04/01/2006	2006-8/58
	28699	R414-504	AMD	07/01/2006	2006-10/25
Human Services, Recovery Services	28752	R527-800	5YR	05/24/2006	2006-12/86
	28739	R527-936	5YR	05/16/2006	2006-12/87
medical practitioner					
Labor Commission, Industrial Accidents	28729	R612-2-5	AMD	07/11/2006	2006-11/74
	28730	R612-2-22	AMD	07/11/2006	2006-11/75
medically underserved					
Health, Health Systems Improvement, Primary Care and Rural Health	28644	R434-30	5YR	04/18/2006	2006-10/88
mental health					
Commerce, Occupational and Professional Licensing	28603	R156-60c-502	AMD	06/01/2006	2006-9/17
Human Services, Substance Abuse and Mental Health, State Hospital	28738	R525-8	5YR	05/16/2006	2006-12/86
methadone programs					
Human Services, Substance Abuse and Mental Health	28599	R523-21	5YR	04/06/2006	2006-9/41
midwife					
Commerce, Occupational and Professional Licensing	28294	R156-77	NEW	09/14/2006	2005-22/14
	28294	R156-77	CPR	09/14/2006	2006-7/21
	28294	R156-77	CPR	09/14/2006	2006-15/19
midwifery					
Commerce, Occupational and Professional Licensing	28352	R156-44a	AMD	01/05/2006	2005-23/4
migratory birds					
Natural Resources, Wildlife Resources	28938	R657-9	5YR	08/21/2006	2006-18/62
mineral leases					
School and Institutional Trust Lands, Administration	28484	R850-24-300	AMD	03/20/2006	2006-4/16
mineral resources					
School and Institutional Trust Lands, Administration	28484	R850-24-300	AMD	03/20/2006	2006-4/16
minerals reclamation					
Natural Resources, Oil, Gas and Mining; Non-Coal	28337	R647-1-106	AMD	02/23/2006	2005-23/46
	28338	R647-2	AMD	02/23/2006	2005-23/48

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	28340	R647-4	AMD	02/23/2006	2005-23/55
	28341	R647-5-101	AMD	02/23/2006	2005-23/58
minimum sizing					
Environmental Quality, Drinking Water	28419	R309-510-9	AMD	03/08/2006	2006-1/16
minimum standards					
Natural Resources, Forestry, Fire and State Lands	28525	R652-122	NSC	03/07/2006	Not Printed
mining					
Labor Commission, Safety	28838	R616-1	NSC	06/30/2006	Not Printed
minority education					
Education, Administration	28523	R277-717	AMD	04/03/2006	2006-5/13
	28866	R277-717	5YR	07/03/2006	2006-15/29
modeling					
Environmental Quality, Air Quality	28323	R307-410	CPR	06/16/2006	2006-7/30
	28323	R307-410	AMD	06/16/2006	2005-23/31
monitoring					
Environmental Quality, Air Quality	28226	R307-170	AMD	01/05/2006	2005-19/6
motor vehicle record					
Public Safety, Driver License	28786	R708-44	NEW	08/08/2006	2006-13/46
motor vehicle safety					
Transportation, Motor Carrier, Ports of Entry	28695	R912-8	NSC	04/28/2006	Not Printed
motor vehicles					
Commerce, Administration	28542	R151-14	AMD	05/02/2006	2006-7/2
	28995	R151-14	5YR	09/06/2006	2006-19/129
Public Safety, Driver License	28567	R708-20	5YR	03/21/2006	2006-8/76
Tax Commission, Motor Vehicle	28806	R873-22M-34	AMD	08/07/2006	2006-13/51
Tax Commission, Motor Vehicle Enforcement	28885	R877-23V-5	AMD	09/15/2006	2006-15/16
Transportation Commission, Administration	28675	R940-1	NEW	06/22/2006	2006-10/80
motorboat noise					
Natural Resources, Parks and Recreation	28511	R651-222	5YR	02/13/2006	2006-5/49
motorcycles					
Commerce, Administration	28543	R151-35	AMD	05/02/2006	2006-7/3
municipal waste incinerator					
Environmental Quality, Air Quality	28821	R307-223	5YR	06/16/2006	2006-14/41
national register					
Community and Economic Development, Community Development, History	28405	R212-6	NSC	01/01/2006	Not Printed
Community and Culture, History	28906	R212-6	5YR	08/01/2006	2006-16/35
Native American remains					
Community and Economic Development, Indian Affairs	28441	R230-1	NSC	01/01/2006	Not Printed

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	28479	R230-1	5YR	01/31/2006	2006-4/37
natural resources					
Governor, Planning and Budget	28295	R361-1	REP	01/03/2006	2005-22/36
Natural Resources, Forestry, Fire and State Lands	28853	R652-41	5YR	06/28/2006	2006-14/58
new source review					
Environmental Quality, Air Quality	28820	R307-210	5YR	06/16/2006	2006-14/41
	28601	R307-210-1	AMD	06/15/2006	2006-9/19
non-traditional					
Health, Health Care Financing, Coverage and Reimbursement Policy	28879	R414-200-3	EMR	07/13/2006	2006-15/25
nonpublic schools					
Education, Administration	28463	R277-410	AMD	03/06/2006	2006-3/7
	28808	R277-410-4	AMD	08/08/2006	2006-13/11
notice of commencement					
Commerce, Occupational and Professional Licensing	28848	R156-38b	AMD	08/22/2006	2006-14/2
notice of completion					
Commerce, Occupational and Professional Licensing	28848	R156-38b	AMD	08/22/2006	2006-14/2
nuclear medicine					
Environmental Quality, Radiation Control	28541	R313-32	AMD	05/10/2006	2006-7/13
	29103	R313-32	5YR	10/05/2006	Not Printed
nurses					
Commerce, Occupational and Professional Licensing	28365	R156-31b	AMD	01/23/2006	2005-24/3
occupational licensing					
Commerce, Occupational and Professional Licensing	28621	R156-1	AMD	06/19/2006	2006-10/8
	28673	R156-46b	5YR	04/25/2006	2006-10/86
	28611	R156-55b	AMD	06/01/2006	2006-9/15
	28772	R156-55b	NSC	06/12/2006	Not Printed
Environmental Quality, Water Quality	28855	R317-11	5YR	06/29/2006	2006-14/52
off road vehicles					
Commerce, Administration	28543	R151-35	AMD	05/02/2006	2006-7/3
off-highway vehicles					
Natural Resources, Parks and Recreation	28642	R651-401	5YR	04/18/2006	2006-10/98
	28641	R651-405	5YR	04/18/2006	2006-10/98
	28658	R651-405	NSC	05/10/2006	Not Printed
	28659	R651-406	NSC	05/10/2006	Not Printed
	28669	R651-406	AMD	08/18/2006	2006-10/74
	28643	R651-406	5YR	04/18/2006	2006-10/99
	28827	R651-601-12	AMD	08/22/2006	2006-14/25
off-premise					
Human Services, Substance Abuse and Mental Health	28842	R523-24	NEW	08/22/2006	2006-14/15

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oil and gas law Natural Resources, Oil, Gas and Mining; Oil and Gas	28724	R649-10	5YR	05/11/2006	2006-11/96
oil gas and hydrocarbons School and Institutional Trust Lands, Administration	28482	R850-21-900	AMD	03/20/2006	2006-4/14
oil shale School and Institutional Trust Lands, Administration	28483	R850-22-900	AMD	03/20/2006	2006-4/15
Older Americans Act Human Services, Aging and Adult Services	28778	R510-1	5YR	06/02/2006	2006-13/61
Olene Walker Housing Loan Fund Community and Culture, Olene Walker Housing Trust Fund	28492	R235-1	NSC	03/01/2006	Not Printed
	28402	R235-1	NEW	03/01/2006	2006-1/9
ombudsman Human Services, Child Protection Ombudsman (Office of)	28401	R515-1	NEW	02/01/2006	2006-1/26
onsite wastewater systems Environmental Quality, Water Quality	28596	R317-4	AMD	05/19/2006	2006-8/14
opening and closing dates Community and Economic Development, Community Development, Community Services	28385	R202-202	NSC	01/01/2006	Not Printed
operating permit Environmental Quality, Air Quality	28814	R307-415-4	AMD	09/07/2006	2006-13/19
	28549	R307-415-7d	NSC	03/28/2006	Not Printed
operations School and Institutional Trust Lands, Administration	28482	R850-21-900	AMD	03/20/2006	2006-4/14
operator certification Public Safety, Highway Patrol	28342	R714-500	AMD	01/05/2006	2005-23/59
optometry Health, Health Care Financing, Coverage and Reimbursement Policy	28582	R414-52	AMD	07/01/2006	2006-8/31
orders Environmental Quality, Radiation Control	28872	R313-17	5YR	07/10/2006	2006-15/31
overflow and drains Environmental Quality, Drinking Water	28421	R309-545-7	AMD	03/08/2006	2006-1/19
overpayments Workforce Services, Unemployment Insurance	28764	R994-406	AMD	07/26/2006	2006-12/80
	28480	R994-406-302	NSC	02/22/2006	Not Printed
	28877	R994-406-401	NSC	07/27/2006	Not Printed

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overtime					
Human Resource Management, Administration	28682	R477-8	AMD	07/01/2006	2006-10/52
ozone					
Environmental Quality, Air Quality	28822	R307-110	5YR	06/16/2006	2006-14/40
	28320	R307-110-9	AMD	06/16/2006	2005-23/12
	28320	R307-110-9	CPR	06/16/2006	2006-7/24
	28544	R307-325	AMD	06/16/2006	2006-7/8
parks					
Natural Resources, Parks and Recreation	28827	R651-601-12	AMD	08/22/2006	2006-14/25
	28857	R651-606-10	AMD	08/21/2006	2006-14/26
	28513	R651-611	5YR	02/13/2006	2006-5/50
	28169	R651-611	AMD	01/01/2006	2005-18/46
	28856	R651-633-2	AMD	08/21/2006	2006-14/27
partnering					
Transportation, Program Development	28531	R926-8-3	AMD	06/22/2006	2006-6/16
patient safety					
Health, Administration	29116	R380-200	5YR	10/10/2006	Not Printed
	29117	R380-210	5YR	10/10/2006	Not Printed
payment determination					
Community and Economic Development, Community Development, Community Services	28386	R202-203	NSC	01/01/2006	Not Printed
penalties					
Environmental Quality, Drinking Water	28418	R309-405-4	AMD	03/08/2006	2006-1/14
Environmental Quality, Radiation Control	28870	R313-14	5YR	07/10/2006	2006-15/30
people with disabilities					
Human Services, Services for People with Disabilities	28719	R539-2-4	AMD	07/11/2006	2006-11/72
per diem allowance					
Administrative Services, Finance	28384	R25-5	AMD	01/25/2006	2005-24/2
per diem allowances					
Administrative Services, Finance	28702	R25-7	AMD	07/01/2006	2006-10/2
performing arts					
Community and Economic Development, Community Development, Fine Arts	28361	R207-1	NSC	01/01/2006	Not Printed
permits					
Environmental Quality, Air Quality	28325	R307-401	R&R	06/16/2006	2005-23/14
	28325	R307-401	CPR	06/16/2006	2006-7/25
	28819	R307-401	5YR	06/16/2006	2006-14/42
	28546	R307-413	REP	06/16/2006	2006-7/9
Natural Resources, Wildlife Resources	28376	R657-42	AMD	01/18/2006	2005-24/27
Transportation, Motor Carrier, Ports of Entry	28703	R912-8	NEW	06/22/2006	2006-10/78
	28415	R912-11	AMD	02/08/2006	2006-1/28

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Transportation, Motor Carrier, Ports of Entry	28616	R912-9	AMD	06/01/2006	2006-9/31
personal property					
Tax Commission, Property Tax	28432	R884-24P-19	AMD	03/06/2006	2006-2/31
	28908	R884-24P-33	AMD	09/21/2006	2006-16/16
personnel management					
Human Resource Management, Administration	28692	R477-1	AMD	07/01/2006	2006-10/32
	28681	R477-5	AMD	07/01/2006	2006-10/42
	28688	R477-6	AMD	07/01/2006	2006-10/43
	28687	R477-9	AMD	07/01/2006	2006-10/55
	28686	R477-14	AMD	07/01/2006	2006-10/63
petroleum					
Environmental Quality, Environmental Response and Remediation	28516	R311-200	AMD	05/15/2006	2006-5/26
	28517	R311-205-2	AMD	05/15/2006	2006-5/28
	28880	R311-206	AMD	09/15/2006	2006-15/5
	28518	R311-207-5	AMD	05/15/2006	2006-5/31
	28519	R311-211	AMD	05/15/2006	2006-5/32
pharmacies					
Commerce, Occupational and Professional Licensing	28620	R156-17b	NSC	05/15/2006	Not Printed
	28530	R156-17b	AMD	04/17/2006	2006-6/2
pharmacists					
Commerce, Occupational and Professional Licensing	28620	R156-17b	NSC	05/15/2006	Not Printed
	28530	R156-17b	AMD	04/17/2006	2006-6/2
physicians					
Commerce, Occupational and Professional Licensing	28837	R156-67	5YR	06/26/2006	2006-14/38
Health, Health Systems Improvement, Primary Care and Rural Health	28331	R434-100-6	NSC	01/01/2006	Not Printed
pilot/escort vehicles					
Transportation, Motor Carrier, Ports of Entry	28616	R912-9	AMD	06/01/2006	2006-9/31
pipelines					
Public Service Commission, Administration	28893	R746-409-5	NSC	07/25/2006	Not Printed
plant disease					
Agriculture and Food, Plant Industry	28505	R68-18	5YR	02/10/2006	2006-5/48
plots					
Community and Economic Development, Community Development, History	28411	R212-12	NSC	01/01/2006	Not Printed
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Environmental Quality, Air Quality	28822	R307-110	5YR	06/16/2006	2006-14/40
	28320	R307-110-9	AMD	06/16/2006	2005-23/12
	28320	R307-110-9	CPR	06/16/2006	2006-7/24

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	28320	R307-110-9	CPR	06/16/2006	2006-7/24
powersport vehicles					
Commerce, Administration	28543	R151-35	AMD	05/02/2006	2006-7/3
preliminary notice					
Commerce, Occupational and Professional Licensing	28848	R156-38b	AMD	08/22/2006	2006-14/2
prescription drug plans					
Insurance, Administration	28585	R590-235	NEW	06/07/2006	2006-8/40
prescriptions					
Health, Health Care Financing, Coverage and Reimbursement Policy	28356	R414-63	REP	01/04/2006	2005-23/44
preservation					
Community and Economic Development, Community Development, History	28410	R212-11	NSC	01/01/2006	Not Printed
press					
Corrections, Administration	29052	R251-106	5YR	09/19/2006	2006-20/81
primary health care					
Health, Health Systems Improvement, Primary Care and Rural Health	28644	R434-30	5YR	04/18/2006	2006-10/88
primary term					
Natural Resources, Forestry, Fire and State Lands	28536	R652-20-1000	AMD	07/13/2006	2006-6/14
prisons					
Corrections, Administration	29052	R251-106	5YR	09/19/2006	2006-20/81
	29053	R251-107	5YR	09/19/2006	2006-20/82
	28705	R251-702	5YR	05/03/2006	2006-11/93
	29050	R251-703	5YR	09/19/2006	2006-20/83
	29055	R251-705	5YR	09/19/2006	2006-20/84
	29057	R251-706	5YR	09/19/2006	2006-20/84
	28706	R251-708	5YR	05/03/2006	2006-11/94
	28707	R251-711	5YR	05/03/2006	2006-11/94
	28577	R251-712	5YR	03/28/2006	2006-8/72
privacy					
Governor, Planning and Budget, Chief Information Officer	28791	R365-5	NSC	06/22/2006	Not Printed
private probation provider					
Commerce, Occupational and Professional Licensing	28550	R156-50	5YR	03/13/2006	2006-7/33
private security officers					
Commerce, Occupational and Professional Licensing	28345	R156-63-503	AMD	01/10/2006	2005-23/5
	28779	R156-63-503	AMD	08/15/2006	2006-13/10

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procurement					
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	28609	R23-1	AMD	06/01/2006	2006-9/3
	28607	R23-2	AMD	06/01/2006	2006-9/12
Capitol Preservation Board (State), Administration	28727	R131-4	5YR	05/12/2006	2006-11/92
professional competency					
Education, Administration	28737	R277-506	AMD	07/11/2006	2006-11/35
	28700	R277-513	5YR	05/01/2006	2006-10/87
	28606	R628-10	5YR	04/11/2006	2006-9/42
	28723	R628-10	NSC	05/30/2006	Not Printed
professional counselors					
Commerce, Occupational and Professional Licensing	28603	R156-60c-502	AMD	06/01/2006	2006-9/17
professional engineers					
Commerce, Occupational and Professional Licensing	28444	R156-22	AMD	04/03/2006	2006-2/17
	28444	R156-22	CPR	04/03/2006	2006-5/45
	28807	R156-22-302c	AMD	08/15/2006	2006-13/6
	28773	R156-22-302d	AMD	07/25/2006	2006-12/7
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	28444	R156-22	CPR	04/03/2006	2006-5/45
	28807	R156-22-302c	AMD	08/15/2006	2006-13/6
	28773	R156-22-302d	AMD	07/25/2006	2006-12/7
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	28908	R884-24P-33	AMD	09/21/2006	2006-16/16
provider conduct					
Human Services, Administration	28941	R495-876	5YR	08/22/2006	2006-18/61
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Environmental Quality, Air Quality	28816	R307-405	5YR	06/16/2006	2006-14/45
	28322	R307-405	CPR	06/16/2006	2006-7/28
	28322	R307-405	R&R	06/16/2006	2005-23/22
	28818	R307-410	5YR	06/16/2006	2006-14/51
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Workforce Services, Employment Development	28761	R986-900	AMD	08/01/2006	2006-12/77

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	28609	R23-1	AMD	06/01/2006	2006-9/3
Capitol Preservation Board (State), Administration	28727	R131-4	5YR	05/12/2006	2006-11/92
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	28434	R203-5	NSC	01/01/2006	Not Printed
Public Safety, Fire Marshal	28579	R710-4	AMD	05/16/2006	2006-8/45
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Commerce, Consumer Protection	28574	R152-1	AMD	05/16/2006	2006-8/7
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Health, Epidemiology and Laboratory Services, Environmental Services	28741	R392-101	AMD	07/25/2006	2006-12/16
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Environmental Quality, Radiation Control	28872	R313-17	5YR	07/10/2006	2006-15/31
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Human Resource Management, Administration	28689	R477-2	AMD	07/01/2006	2006-10/38
	28747	R895-1	NEW	07/25/2006	2006-12/43
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Money Management Council, Administration	28606	R628-10	5YR	04/11/2006	2006-9/42
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	28600	R628-12	NSC	05/10/2006	Not Printed
	28534	R628-16	NSC	03/07/2006	Not Printed
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	28139	R746-345	AMD	02/08/2006	2005-17/31
	28139	R746-345	CPR	02/08/2006	2005-24/47
	28771	R746-360-4	AMD	08/01/2006	2006-12/42
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Agriculture and Food, Animal Industry	28925	R58-2	5YR	08/15/2006	2006-17/65
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Environmental Quality, Radiation Control	28936	R313-18-1	NSC	09/22/2006	Not Printed
	29107	R313-36	5YR	10/05/2006	Not Printed
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	28541	R313-32	AMD	05/10/2006	2006-7/13
	29103	R313-32	5YR	10/05/2006	Not Printed
	29108	R313-70	5YR	10/05/2006	Not Printed
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radiology practical technicians					
Commerce, Occupational and Professional Licensing	28749	R156-54	AMD	07/31/2006	2006-12/11
radiology technologists					
Commerce, Occupational and Professional Licensing	28749	R156-54	AMD	07/31/2006	2006-12/11
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Environmental Quality, Radiation Control	29103	R313-32	5YR	10/05/2006	Not Printed
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Transportation, Motor Carrier, Ports of Entry	28703	R912-8	NEW	06/22/2006	2006-10/78
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School and Institutional Trust Lands, Administration	29015	R850-140	5YR	09/14/2006	2006-19/130
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real estate business					
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Environmental Quality, Radiation Control	29102	R313-19	5YR	10/05/2006	Not Printed
	28802	R313-19-34	AMD	08/11/2006	2006-13/20
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Natural Resources, Oil, Gas and Mining; Coal	28742	R645-106	5YR	05/17/2006	2006-12/87
records appeal hearings					
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recreation					
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Commerce, Occupational and Professional Licensing	28831	R156-40	NSC	07/11/2006	Not Printed
	29059	R156-40	5YR	09/19/2006	2006-20/81
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Commerce, Occupational and Professional Licensing	29059	R156-40	5YR	09/19/2006	2006-20/81
	28674	R156-40	AMD	06/22/2006	2006-10/11
	28831	R156-40	NSC	07/11/2006	Not Printed
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Workforce Services, Employment Development	28757	R986-300	AMD	08/01/2006	2006-12/62
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Natural Resources, Wildlife Resources	28453	R657-39	5YR	01/09/2006	2006-3/39
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Environmental Quality, Radiation Control	29108	R313-70	5YR	10/05/2006	Not Printed
Workforce Services, Unemployment Insurance	28861	R994-403-202	AMD	08/22/2006	2006-14/31
rehabilitation					
Community and Economic Development, Community Development, History	28410	R212-11	NSC	01/01/2006	Not Printed
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	28862	R865-19S-113	AMD	09/15/2006	2006-14/29
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Health, Health Systems Improvement, Emergency Medical Services	28725	R426-5-8	AMD	08/30/2006	2006-11/52
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	28795	R365-101	NSC	06/22/2006	Not Printed
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	28712	R655-12	5YR	05/03/2006	2006-11/97
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Community and Economic Development, Community Development, Community Services	28385	R202-202	NSC	01/01/2006	Not Printed
residential mortgage loan origination					
Commerce, Real Estate	28499	R162-202-10	AMD	04/05/2006	2006-5/7
	28450	R162-203	AMD	03/09/2006	2006-3/4
	28497	R162-204	AMD	04/05/2006	2006-5/8
	28498	R162-205	AMD	04/05/2006	2006-5/9
	28451	R162-207-3	AMD	03/09/2006	2006-3/5
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Human Services, Aging and Adult Services	28190	R510-401	AMD	02/23/2006	2005-18/37
	28190	R510-401	CPR	02/23/2006	2005-22/46
retirement					
Human Resource Management, Administration	28685	R477-12	AMD	07/01/2006	2006-10/61
right of petition					
Corrections, Administration	28576	R251-104	5YR	03/28/2006	2006-8/72
Natural Resources, Forestry, Fire and State Lands	28850	R652-9	5YR	06/28/2006	2006-14/58
risk management					
Administrative Services, Risk Management	28413	R37-1	AMD	03/31/2006	2006-1/4
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roads					
Transportation, Administration	28358	R907-68	NEW	01/04/2006	2005-23/61
	28532	R907-68	AMD	06/01/2006	2006-6/15
	28617	R907-68	AMD	06/01/2006	2006-9/30
ropeways					
Transportation, Operations, Traffic and Safety	28905	R920-50	AMD	09/21/2006	2006-16/23
	28524	R920-50-1	AMD	04/04/2006	2006-5/40
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Natural Resources, Forestry, Fire and State Lands	28536	R652-20-1000	AMD	07/13/2006	2006-6/14
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Fair Corporation (Utah State), Administration	28832	R325-1	5YR	06/22/2006	2006-14/53
	28833	R325-2	5YR	06/22/2006	2006-14/54
	28834	R325-3	5YR	06/22/2006	2006-14/54
	28835	R325-4	5YR	06/22/2006	2006-14/55
	28836	R325-5	5YR	06/22/2006	2006-14/55
Health, Epidemiology and Laboratory Services, Epidemiology	28874	R386-703	5YR	07/10/2006	2006-15/32
Human Resource Management, Administration	28692	R477-1	AMD	07/01/2006	2006-10/32
Natural Resources, Forestry, Fire and State Lands	28851	R652-2	5YR	06/28/2006	2006-14/57
Public Service Commission, Administration	28892	R746-110	NSC	07/25/2006	Not Printed
	28139	R746-345	AMD	02/08/2006	2005-17/31
	28139	R746-345	CPR	02/08/2006	2005-24/47
	28803	R746-345	AMD	08/29/2006	2006-13/48
	28893	R746-409-5	NSC	07/25/2006	Not Printed
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Labor Commission, Occupational Safety and Health	28548	R614-1-4	AMD	05/02/2006	2006-7/18

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	28564	R616-2-3	AMD	05/17/2006	2006-8/42
	28840	R616-3	NSC	06/30/2006	Not Printed
	28256	R616-3-3	AMD	02/08/2006	2005-20/44
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Transportation, Motor Carrier	29080	R909-19	5YR	09/25/2006	2006-20/85
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Human Resource Management, Administration	28688	R477-6	AMD	07/01/2006	2006-10/43
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Tax Commission, Auditing	28863	R865-19S-78	AMD	09/15/2006	2006-14/28
	28886	R865-19S-98	AMD	09/15/2006	2006-15/15
	28862	R865-19S-113	AMD	09/15/2006	2006-14/29
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Natural Resources, Forestry, Fire and State Lands	28536	R652-20-1000	AMD	07/13/2006	2006-6/14
scholarships					
Education, Administration	28446	R277-602	AMD	02/15/2006	2006-2/25
	28736	R277-602	AMD	07/11/2006	2006-11/38
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Education, Administration	28865	R277-479	5YR	07/03/2006	2006-15/28
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Education, Administration	28700	R277-513	5YR	05/01/2006	2006-10/87
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Education, Administration	28811	R277-474	AMD	08/08/2006	2006-13/13
	28464	R277-477	AMD	03/06/2006	2006-3/8
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	28817	R307-801	5YR	06/16/2006	2006-14/52
	28468	R307-801-5	NSC	02/22/2006	Not Printed
science					
Education, Administration	28523	R277-717	AMD	04/03/2006	2006-5/13
	28866	R277-717	5YR	07/03/2006	2006-15/29
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Money Management Council, Administration	28534	R628-16	NSC	03/07/2006	Not Printed
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	28706	R251-708	5YR	05/03/2006	2006-11/94
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Tax Commission, Collections	28539	R867-2B	5YR	03/07/2006	2006-7/35
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Community and Economic Development, Community Development, Community Services	28386	R202-203	NSC	01/01/2006	Not Printed
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Human Services, Substance Abuse and Mental Health	28841	R523-24	EMR	07/01/2006	2006-14/33
	28842	R523-24	NEW	08/22/2006	2006-14/15
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Health, Administration	29116	R380-200	5YR	10/10/2006	Not Printed
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Environmental Quality, Water Quality	28596	R317-4	AMD	05/19/2006	2006-8/14
server training					
Human Services, Substance Abuse and Mental Health	28928	R523-23	AMD	10/10/2006	2006-17/43
services					
Human Services, Services for People with Disabilities	28719	R539-2-4	AMD	07/11/2006	2006-11/72
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Labor Commission, Adjudication	28547	R602-2-1	AMD	05/05/2006	2006-7/14
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Education, Administration	28811	R277-474	AMD	08/08/2006	2006-13/13
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Commerce, Occupational and Professional Licensing	28428	R156-74	AMD	02/16/2006	2006-2/24
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Transportation, Preconstruction, Right-of-Way Acquisition	28490	R933-2-3	AMD	03/31/2006	2006-4/29
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Insurance, Administration	28486	R590-234	NEW	03/22/2006	2006-4/12
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	28614	R512-300-4	AMD	06/01/2006	2006-9/26
	28662	R512-305	AMD	06/19/2006	2006-10/65
solicitations					
Commerce, Consumer Protection	28573	R152-22-3	AMD	05/16/2006	2006-8/9
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Natural Resources, Forestry, Fire and State Lands	28851	R652-2	5YR	06/28/2006	2006-14/57
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Education, Administration	28446	R277-602	AMD	02/15/2006	2006-2/25
	28736	R277-602	AMD	07/11/2006	2006-11/38
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Natural Resources, Wildlife Resources	28751	R657-48	5YR	05/24/2006	2006-12/88
species of concern					
Natural Resources, Wildlife Resources	28797	R657-48	AMD	08/08/2006	2006-13/37
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Environmental Quality, Radiation Control	29104	R313-22	5YR	10/05/2006	Not Printed
speech impaired					
Public Service Commission, Administration	28894	R746-510-4	NSC	07/25/2006	Not Printed
stack height					
Environmental Quality, Air Quality	28323	R307-410	AMD	06/16/2006	2005-23/31
	28323	R307-410	CPR	06/16/2006	2006-7/30
standards					
Natural Resources, Wildlife Resources	28456	R657-40	5YR	01/10/2006	2006-3/40
state and local affairs					
Money Management Council, Administration	28533	R628-4-2	NSC	03/07/2006	Not Printed
state employees					
Administrative Services, Finance	28384	R25-5	AMD	01/25/2006	2005-24/2
	28702	R25-7	AMD	07/01/2006	2006-10/2
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Community and Economic Development, Indian Affairs	28441	R230-1	NSC	01/01/2006	Not Printed
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Community and Culture, History	28906	R212-6	5YR	08/01/2006	2006-16/35
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Administrative Services, Fleet Operations	28477	R27-3	5YR	01/30/2006	2006-4/34
	28280	R27-3	NSC	01/30/2006	Not Printed
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Environmental Quality, Air Quality	28820	R307-210	5YR	06/16/2006	2006-14/41
	28601	R307-210-1	AMD	06/15/2006	2006-9/19
stipend					
Education, Administration	28735	R277-603	NEW	07/11/2006	2006-11/42
stipends					
Education, Administration	28875	R277-603-3	NSC	07/27/2006	Not Printed
stock brokers					
Money Management Council, Administration	28534	R628-16	NSC	03/07/2006	Not Printed
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Environmental Quality, Drinking Water	28421	R309-545-7	AMD	03/08/2006	2006-1/19
student eligibility					
Workforce Services, Unemployment Insurance	28861	R994-403-202	AMD	08/22/2006	2006-14/31
student loans					
Regents (Board Of), Administration	28878	R765-608	5YR	07/13/2006	2006-15/32
	28676	R765-649	5YR	04/25/2006	2006-10/100
students					
Education, Administration	28591	R277-709	AMD	05/16/2006	2006-8/12
substance abuse					
Human Services, Substance Abuse and Mental Health	28928	R523-23	AMD	10/10/2006	2006-17/43
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Commerce, Occupational and Professional Licensing	28605	R156-60d	5YR	04/10/2006	2006-9/39
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Education, Administration	28812	R277-459	AMD	08/08/2006	2006-13/12
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Human Services, Services for People with Disabilities	28844	R539-9	NEW	08/22/2006	2006-14/19

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	28807	R156-22-302c	AMD	08/15/2006	2006-13/6
	28773	R156-22-302d	AMD	07/25/2006	2006-12/7
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Environmental Quality, Radiation Control	29107	R313-36	5YR	10/05/2006	Not Printed
suspensions					
Natural Resources, Wildlife Resources	28939	R657-26	5YR	08/21/2006	2006-18/63
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Public Safety, Fire Marshal	28884	R710-7-8	AMD	09/07/2006	2006-15/13
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Community and Economic Development, Community Development, History	28410	R212-11	NSC	01/01/2006	Not Printed
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Tax Commission, Auditing	28863	R865-19S-78	AMD	09/15/2006	2006-14/28
	28886	R865-19S-98	AMD	09/15/2006	2006-15/15
	28862	R865-19S-113	AMD	09/15/2006	2006-14/29
taxation					
Tax Commission, Administration	28804	R861-1A-20	AMD	08/07/2006	2006-13/50
	28430	R861-1A-37	AMD	03/06/2006	2006-2/29
	28731	R861-1A-39	AMD	09/01/2006	2006-11/81
	28883	R861-1A-40	AMD	09/15/2006	2006-15/14
Tax Commission, Auditing	28540	R865-21U	5YR	03/07/2006	2006-7/34
Tax Commission, Collections	28539	R867-2B	5YR	03/07/2006	2006-7/35
Tax Commission, Motor Vehicle	28806	R873-22M-34	AMD	08/07/2006	2006-13/51
Tax Commission, Motor Vehicle Enforcement	28885	R877-23V-5	AMD	09/15/2006	2006-15/16
Tax Commission, Property Tax	28432	R884-24P-19	AMD	03/06/2006	2006-2/31
	28908	R884-24P-33	AMD	09/21/2006	2006-16/16
teacher certification					
Education, Administration	28737	R277-506	AMD	07/11/2006	2006-11/35
	28700	R277-513	5YR	05/01/2006	2006-10/87
	28701	R277-517	5YR	05/01/2006	2006-10/87
Public Safety, Driver License	28783	R708-27	AMD	08/08/2006	2006-13/41
teachers					
Education, Administration	28812	R277-459	AMD	08/08/2006	2006-13/12
	28590	R277-503	AMD	05/16/2006	2006-8/10
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Governor, Planning and Budget, Chief Information Officer	28793	R365-10	NSC	06/22/2006	Not Printed
	28795	R365-101	NSC	06/22/2006	Not Printed
Technology Services, Administration	28744	R895-5	NEW	07/25/2006	2006-12/45

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Public Service Commission, Administration	28139	R746-345	AMD	02/08/2006	2005-17/31
	28803	R746-345	AMD	08/29/2006	2006-13/48
	28139	R746-345	CPR	02/08/2006	2005-24/47
	28771	R746-360-4	AMD	08/01/2006	2006-12/42
telecommuting					
Human Resource Management, Administration	28682	R477-8	AMD	07/01/2006	2006-10/52
telephone utility regulation					
Public Service Commission, Administration	28139	R746-345	AMD	02/08/2006	2005-17/31
	28139	R746-345	CPR	02/08/2006	2005-24/47
	28803	R746-345	AMD	08/29/2006	2006-13/48
terms of office					
Natural Resources, Wildlife Resources	28453	R657-39	5YR	01/09/2006	2006-3/39
therapists					
Commerce, Occupational and Professional Licensing	28672	R156-60b	AMD	06/19/2006	2006-10/13
tickets					
Administrative Services, Fleet Operations	28469	R27-7	5YR	01/20/2006	2006-4/34
title escrow charges					
Insurance, Title and Escrow Commission	28507	R592-4	CPR	07/19/2006	2006-11/86
	28507	R592-4	NEW	07/19/2006	2006-5/38
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Insurance, Title and Escrow Commission	28508	R592-3	NEW	07/19/2006	2006-5/36
	28508	R592-3	CPR	07/19/2006	2006-11/84
title insurance					
Insurance, Title and Escrow Commission	28529	R592-2-5	NSC	03/06/2006	Not Printed
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Transportation, Program Development	28538	R926-9	NEW	04/20/2006	2006-6/17
Transportation Commission, Administration	28675	R940-1	NEW	06/22/2006	2006-10/80
towing					
Transportation, Motor Carrier	29080	R909-19	5YR	09/25/2006	2006-20/85
traffic noise abatement					
Transportation, Preconstruction	28677	R930-3	AMD	06/22/2006	2006-10/80
traffic regulations					
Public Safety, Driver License	28568	R708-16	5YR	03/23/2006	2006-8/74
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Human Services, Substance Abuse and Mental Health	28841	R523-24	EMR	07/01/2006	2006-14/33

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Transportation, Operations, Traffic and Safety	28905	R920-50	AMD	09/21/2006	2006-16/23
	28524	R920-50-1	AMD	04/04/2006	2006-5/40
tramways					
Transportation, Operations, Traffic and Safety	28905	R920-50	AMD	09/21/2006	2006-16/23
	28524	R920-50-1	AMD	04/04/2006	2006-5/40
transfer					
Governor, Planning and Budget, Chief Information Officer	28789	R365-3	NSC	06/22/2006	Not Printed
transition to adult living					
Human Services, Child and Family Services	28662	R512-305	AMD	06/19/2006	2006-10/65
	28663	R512-306	AMD	06/19/2006	2006-10/67
transmission and distribution pipelines					
Environmental Quality, Drinking Water	28422	R309-550-5	AMD	03/08/2006	2006-1/20
transportation					
Administrative Services, Finance	28702	R25-7	AMD	07/01/2006	2006-10/2
Environmental Quality, Radiation Control	29102	R313-19	5YR	10/05/2006	Not Printed
	28802	R313-19-34	AMD	08/11/2006	2006-13/20
Transportation, Administration	28358	R907-68	NEW	01/04/2006	2005-23/61
	28617	R907-68	AMD	06/01/2006	2006-9/30
	28532	R907-68	AMD	06/01/2006	2006-6/15
Transportation, Motor Carrier, Ports of Entry	28703	R912-8	NEW	06/22/2006	2006-10/78
Transportation, Program Development	28775	R926-2	R&R	07/28/2006	2006-12/47
	28531	R926-8-3	AMD	06/22/2006	2006-6/16
	28538	R926-9	NEW	04/20/2006	2006-6/17
Transportation, Preconstruction	28677	R930-3	AMD	06/22/2006	2006-10/80
	28489	R930-5	R&R	04/25/2006	2006-4/18
Transportation Commission, Administration	28675	R940-1	NEW	06/22/2006	2006-10/80
transportation commission					
Transportation, Administration	28358	R907-68	NEW	01/04/2006	2005-23/61
	28532	R907-68	AMD	06/01/2006	2006-6/15
	28617	R907-68	AMD	06/01/2006	2006-9/30
transportation planning					
Transportation, Program Development	28775	R926-2	R&R	07/28/2006	2006-12/47
transportation safety					
Transportation, Operations, Traffic and Safety	28905	R920-50	AMD	09/21/2006	2006-16/23

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truancy Education, Administration	28810	R277-609	AMD	08/08/2006	2006-13/15
trucks Transportation, Motor Carrier	29080	R909-19	5YR	09/25/2006	2006-20/85
Transportation, Motor Carrier, Ports of Entry	28616	R912-9	AMD	06/01/2006	2006-9/31
	28415	R912-11	AMD	02/08/2006	2006-1/28
trust lands funds Education, Administration	28464	R277-477	AMD	03/06/2006	2006-3/8
underground injection control Environmental Quality, Water Quality	28891	R317-7	5YR	07/18/2006	2006-16/36
	28859	R317-7	AMD	08/25/2006	2006-14/9
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	28517	R311-205-2	AMD	05/15/2006	2006-5/28
	28880	R311-206	AMD	09/15/2006	2006-15/5
	28518	R311-207-5	AMD	05/15/2006	2006-5/31
	28519	R311-211	AMD	05/15/2006	2006-5/32
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unemployment compensation Workforce Services, Unemployment Insurance	28721	R994-302	5YR	05/09/2006	2006-11/98
	28722	R994-308	5YR	05/09/2006	2006-11/98
	28763	R994-401-203	AMD	07/26/2006	2006-12/79
	28861	R994-403-202	AMD	08/22/2006	2006-14/31
	28764	R994-406	AMD	07/26/2006	2006-12/80
	28480	R994-406-302	NSC	02/22/2006	Not Printed
	28877	R994-406-401	NSC	07/27/2006	Not Printed
uninsured motorist database Public Safety, Driver License	28787	R708-32-4	AMD	08/08/2006	2006-13/43
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universal service Public Service Commission, Administration	28771	R746-360-4	AMD	08/01/2006	2006-12/42
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utilities access					
Transportation, Preconstruction	28774	R930-6	AMD	07/28/2006	2006-12/50
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Transportation, Preconstruction	28360	R930-6	AMD	01/27/2006	2005-24/31
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Public Service Commission, Administration	28765	R746-200	AMD	07/25/2006	2006-12/36
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Human Resource Management, Administration	28443	R477-7	EMR	01/01/2006	2006-2/40
	28690	R477-7	AMD	07/01/2006	2006-10/47
	28571	R477-7	EMR	04/01/2006	2006-8/64
	28570	R477-7	AMD	07/01/2006	2006-8/36
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Crime Victim Reparations, Administration	28355	R270-1	AMD	01/04/2006	2005-23/6
	28867	R270-1	5YR	07/03/2006	2006-15/27
	28473	R270-1-4	NSC	02/22/2006	Not Printed
	28868	R270-2	5YR	07/03/2006	2006-15/27
victims of crime					
Crime Victim Reparations, Administration	28867	R270-1	5YR	07/03/2006	2006-15/27
	28355	R270-1	AMD	01/04/2006	2005-23/6
	28473	R270-1-4	NSC	02/22/2006	Not Printed
	28868	R270-2	5YR	07/03/2006	2006-15/27
violations					
Environmental Quality, Radiation Control	28870	R313-14	5YR	07/10/2006	2006-15/30
Natural Resources, Wildlife Resources	28939	R657-26	5YR	08/21/2006	2006-18/63
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Health, Health Systems Improvement, Primary Care and Rural Health	28331	R434-100-6	NSC	01/01/2006	Not Printed
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Environmental Quality, Air Quality	28546	R307-413	REP	06/16/2006	2006-7/9
waste to energy plant					
Environmental Quality, Air Quality	28821	R307-223	5YR	06/16/2006	2006-14/41
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Environmental Quality, Water Quality	28596	R317-4	AMD	05/19/2006	2006-8/14
	28855	R317-11	5YR	06/29/2006	2006-14/52
water conservation					
Environmental Quality, Drinking Water	28419	R309-510-9	AMD	03/08/2006	2006-1/16

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Environmental Quality, Water Quality	28891	R317-7	5YR	07/18/2006	2006-16/36
	28859	R317-7	AMD	08/25/2006	2006-14/9
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Natural Resources, Parks and Recreation	28645	R651-801	5YR	04/18/2006	2006-10/99
	28660	R651-801	NSC	05/10/2006	Not Printed
	28661	R651-802	NSC	05/10/2006	Not Printed
	28646	R651-802	5YR	04/18/2006	2006-10/100
water skiing					
Natural Resources, Parks and Recreation	28826	R651-224	AMD	08/22/2006	2006-14/24
	28512	R651-224	5YR	02/13/2006	2006-5/50
water system rating					
Environmental Quality, Drinking Water	28417	R309-150-6	AMD	03/08/2006	2006-1/12
waterfowl					
Natural Resources, Wildlife Resources	28938	R657-9	5YR	08/21/2006	2006-18/62
watershed management					
Environmental Quality, Drinking Water	28416	R309-105-9	AMD	03/08/2006	2006-1/11
website					
Governor, Planning and Budget, Chief Information Officer	28791	R365-5	NSC	06/22/2006	Not Printed
weight					
Transportation, Motor Carrier, Ports of Entry	28703	R912-8	NEW	06/22/2006	2006-10/78
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Human Services, Recovery Services	28752	R527-800	5YR	05/24/2006	2006-12/86
wildland fire					
Environmental Quality, Air Quality	28501	R307-204	AMD	04/07/2006	2006-5/18
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Natural Resources, Forestry, Fire and State Lands	28525	R652-122	NSC	03/07/2006	Not Printed
wildlife					
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	28379	R657-5	AMD	01/18/2006	2005-24/11
	28881	R657-5-37B	NSC	07/27/2006	Not Printed
	28801	R657-6-21	AMD	08/08/2006	2006-13/28
	28938	R657-9	5YR	08/21/2006	2006-18/62
	28940	R657-10	5YR	08/21/2006	2006-18/63
	28303	R657-13	AMD	01/18/2006	2005-22/41
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	28457	R657-33	AMD	03/06/2006	2006-3/25
	28371	R657-38	AMD	01/18/2006	2005-24/22
	28456	R657-40	5YR	01/10/2006	2006-3/40
	28798	R657-41	AMD	08/08/2006	2006-13/30
	28376	R657-42	AMD	01/18/2006	2005-24/27
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Natural Resources, Wildlife Resources	28371	R657-38	AMD	01/18/2006	2005-24/22
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Natural Resources, Wildlife Resources	28798	R657-41	AMD	08/08/2006	2006-13/30
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Labor Commission, Adjudication	28547	R602-2-1	AMD	05/05/2006	2006-7/14
Labor Commission, Industrial Accidents	28729	R612-2-5	AMD	07/11/2006	2006-11/74
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	28458	R612-4	5YR	01/12/2006	2006-3/39
	28298	R612-4-2	AMD	01/01/2006	2005-22/41
	28728	R612-7-3	AMD	07/11/2006	2006-11/77
Workforce Investment Act					
Workforce Services, Employment Development	28760	R986-600	AMD	08/09/2006	2006-12/65
	28400	R986-600-604	NSC	01/01/2006	Not Printed
	28890	R986-600-652	NSC	08/09/2006	Not Printed
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Workforce Services, Employment Development	28759	R986-400	AMD	08/01/2006	2006-12/64
	28693	R986-400	AMD	06/22/2006	2006-10/81
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Environmental Quality, Radiation Control	28871	R313-16	5YR	07/10/2006	2006-15/30
	29106	R313-28	5YR	10/05/2006	Not Printed
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Environmental Quality, Radiation Control	29108	R313-70	5YR	10/05/2006	Not Printed