

UTAH STATE BULLETIN

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

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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/>

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Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Commerce Administration

Public Hearing on Proposed Fee Schedule for Services Provided and Costs Incurred by the Department of Commerce During Fiscal Year 2008

The Department of Commerce will hold a hearing on Thursday, December 7, 2006, at 9:00 a.m. at the Heber M. Wells Building, 160 East 300 South, Room 474, Salt Lake City, Utah.

The purpose of the hearing is to obtain public comment on proposed fees which could be assessed for services provided and costs which would be incurred by the Department during Fiscal Year 2008. Subsection 63-38-3.2(5)(a) of the Budgetary Procedures Act provides an agency shall conduct a public hearing on any proposed regulatory fee.

Background: Various divisions of the Department assess fees for licensure, registration, or certification of individuals and businesses to engage in certain occupations and professions. Many existing fees are unchanged in the proposed fee schedule which has been prepared for consideration by the Legislature during its 2007 General Session. Copies of the schedule will be distributed at the December 7, 2006, hearing.

For further information, please contact Peter Anjewierden at (801) 530-6293.

End of the Special Notices Section

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 November 2, 2006, 12:00 a.m., and November 15, 2006, 11:59 p.m. are included in this, the December 1, 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 January 2, 2007. 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 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 March 31, 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 seven calendar days after the close of the public comment period 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 Section 63-46a-4; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Commerce, Real Estate
R162-9
Continuing Education

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 29224
 FILED: 11/14/2006, 15:58

RULE ANALYSIS.

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reasons for the changes are: 1) the providers of continuing education courses maintain that it is very difficult to submit an application for approval of a course 60 days in advance of the date that a course will be offered because sometimes the course outline has not yet been finalized that far in advance of the course offering. The Division of Real Estate has determined that it does not need 60 days to process applications for certification of continuing education courses and instructors, and that 30 days would be sufficient, and so is willing to change the deadline to accommodate the interests of the course providers; 2) outdated language that is no longer needed is deleted. Specific fee amounts are also deleted since fees are set in the Division's fee schedules and since fees tend to change over time; and 3) there will be an additional means of proving continuing education credit. In addition to issuing to the student a paper course completion certificate, the course provider will upload course completion data electronically to the Division of Real Estate database.

SUMMARY OF THE RULE OR CHANGE: The amendment changes "60 days" to "30 days" in Subsections R162-9-4(9.4) and R162-9-5(9.5). Language concerning an effective date that has long since passed is also deleted from Subsections R162-9-5(9.5.1) and R162-9-6(9.6.5). Specific fee amounts are also deleted from Subsection R162-9-5(9.5.1). Continuing education providers will be required to upload course completion data to the Division of Real Estate database, provided the student gives the course provider the information that is necessary for the course provider to accomplish the upload of information for that student. Section R162-9-8 on continuing education banking is added.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2-5.5(1)(a)(iv)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** With respect to the change in the deadline for submission of continuing education courses, the Division does not anticipate any cost or savings. The Division of Real Estate has determined that it will be able to evaluate and act on applications for continuing education certification within 30 days without hiring additional staff. Therefore, no cost to the State budget is anticipated. Because only the turn-around time is being changed, not the process that the Division goes through to evaluate applications, no savings are anticipated either. With respect to the continuing education data upload by course providers, it is anticipated that this will save the Division money in two ways: 1) on most license

renewals, the licensing personnel will no longer have to assemble and examine the paper course completion certificates that are currently submitted with a renewal form. The information will be available electronically in the Division database; and 2) it will be easier for the Division to conduct spot-checks of licensee continuing education, and therefore, the Division will save investigative costs. However, the amount of any savings cannot be accurately estimated.

❖ **LOCAL GOVERNMENTS:** Local governments generally do not act as providers of continuing education for real estate agents and do not apply to the Division of Real Estate for certification of real estate continuing education courses or instructors. The Division does not anticipate any cost or savings to any local government entities who do apply to the Division of Real Estate for certification of courses as a result of the liberalization of the deadline for submission of continuing education courses. With respect to the rule change requiring upload of continuing education data by course providers, if any local government entities act as providers of certified real estate continuing education, the Division believes that the cost to them of uploading course data will be minimal.

❖ **OTHER PERSONS:** The only other persons who are impacted by the turn-around time for certification of real estate continuing education courses and instructors are the providers of the education courses. Changing the deadline for applying for certification by allowing the providers to submit applications closer to the time the courses will be given should not cost the providers any money. It is possible that the liberalization of the deadline may save the course providers money somehow, but the Division cannot anticipate whether there would be any savings or estimate how much that savings might be. With respect to the rule change requiring upload of continuing education data, the only other persons affected by this rule change are the providers of continuing education courses. The Division does not anticipate that the provisions requiring upload of continuing education data will save the course providers any money. There may be some cost to course providers in uploading the information to the Division, but the Division believes this cost will be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Changing the deadline for applying for certification of continuing education courses and instructors by allowing course providers to submit applications closer to the time the courses will be given should not cost the providers any money. There may be some cost to uploading course completion data to the Division of Real Estate database, but the Division believes this cost would be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing makes technical amendments, provides continuing education course providers more flexibility in submitting their course certification applications to the Division for approval, and requires providers to upload course completion data electronically to the Division. The shorter time frame for submitting course certification applications could balance any costs for uploading course completion data. No further fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/10/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-9. Continuing Education.

R162-9-4. Instructor Certification Criteria.

9.4 Instructors for continuing education purposes will be evaluated and approved separately from the continuing education courses. All instructors must apply for certification from the Division not less than ~~60~~30 days prior to the anticipated date of the first class that they intend to teach.

9.4.1 The instructor applicant must meet the same requirements as a certified preclicensing instructor as defined in R162-8.4.1; and

9.4.2 The instructor applicant must demonstrate knowledge of the subject matter by submission of proof of the following:

9.4.2.1 At least five years experience in a profession, trade or technical occupation in a field directly related to the course which the applicant intends to instruct; or

9.4.2.2 A bachelors or postgraduate degree in the field of real estate, business, law, finance, or other academic area directly related to the course which applicant intends to instruct; or

9.4.2.3 Any combination of at least five years of full-time experience and college-level education in a field directly related to the course which the applicant intends to instruct, or

9.4.3 The instructor applicant must demonstrate evidence of the ability to communicate the subject matter by the submission of proof of the following:

9.4.3.1 A state teaching certificate or showing successful completion of appropriate college courses in the field of education; or

9.4.3.2 A professional teaching designation from the National Association of Realtors or the Real Estate Educators Association; or

9.4.3.3 Evidence, such as instructor evaluation forms or letters of reference, of the ability to teach in schools, seminars, or in an equivalent setting.

9.4.4 An original continuing education instructor certification shall expire twenty-four months after issuance. Instructor certifications may be renewed by submitting a properly completed application for renewal prior to the expiration of the instructor's current certification, using the form required by the Division. The term of a renewed instructor certification is twenty-four months.

9.4.4.1 If the instructor does not submit a properly completed renewal prior to the expiration date of the instructor's current certification, the certification shall expire. For a period of thirty days after the expiration of an instructor certification, the instructor may apply for reinstatement of the certification by complying with all of the requirements for a timely renewal and, in addition, paying a non-refundable late fee.

9.4.4.2 After this thirty day period, and until three months after the expiration date, an instructor certification may be reinstated upon payment of a non-refundable late fee and completion of 6 classroom hours of education related to real estate or teaching techniques in addition to complying with all of the requirements for a timely renewal.

9.4.4.3 After the certification has been expired for three months, an instructor may not reinstate an expired certification and must apply for a new certification following the same procedure as an original applicant for certification.

R162-9-5. Submission of Course for Certification.

9.5 An applicant shall apply for consideration of certification of a course to the Division of Real Estate not less than ~~60~~30 days prior to the anticipated date of the first class.

9.5.1 ~~Until January 1, 2005, the application shall include a non-refundable filing fee of \$35.00 and an instructor certification fee of \$15.00 per course per instructor. Beginning January 1, 2005, the application shall include [a]the non-refundable course certification fee [of \$70.00]and [a]the non-refundable instructor certification fee [of \$30.00]per course per instructor. Both fees shall be made payable to the Division of Real Estate.~~

9.5.2 The application shall be made on the form approved by the Division which shall include the following information:

9.5.2.1 Name, phone number and address of the sponsor of the course, including owners and the coordinator or director responsible for the offering;

9.5.2.2 The title of the course offering including a description of the type of training; for example, seminar, conference, correspondence course, or similar offering;

9.5.2.3 A copy of the course curriculum including a course outline of the comprehensive subject matter. Except for courses approved for specific distance education delivery, the course outline shall include the length of time to be spent on each subject area broken into segments of no more than 15 minutes each, the instructor for each segment, and the teaching technique used in each segment;

9.5.2.4 Three to five learning objectives for every three hours or its equivalency of the course and the means to be used in assessing whether the learning objectives have been reached;

9.5.2.5 A complete description of all materials to be distributed to the participants;

9.5.2.6 The date, time and locations of each course;

9.5.2.7 The procedure for pre-registration, the tuition or registration fee and a copy of the cancellation and refund policy;

9.5.2.8 Except for courses approved for specific distance education delivery, the procedure for taking and maintaining control of attendance during class time, which procedure shall be more extensive than having the student sign a class roll;

9.5.2.9 The difficulty level of the course categorized by beginning, intermediate or advanced;

9.5.2.10 A sample of the proposed advertising to be used, if any;

9.5.2.11 An instructor application on a form approved by the Division including the information as defined in R162-9.4;

9.5.2.12 A signed statement agreeing to allow the course to be randomly audited on an unannounced basis by the Division or its representative;

9.5.2.13 A statement defining how the course will meet the objectives of continuing education by providing education of a current nature and how it will improve the licensee's ability to provide greater protection of and service to the public;

9.5.2.14 A signed statement agreeing not to market personal sales product.

9.5.2.15 A sample of the completion certificate, or the completion certificate required by the division, if any, that will be issued which shall bear the following information:

(a) Space for the licensee's name, type of license and license number, date of course

(b) The name of the course provider, course title, hours of credit, certification number, and certification expiration date;

(c) Space for signature of the course sponsor and a space for the licensee's signature.

9.5.2.16 Signature of the course coordinator or director.

9.5.3 Continuing education courses in which the instruction does not take place in a traditional classroom setting, but rather through other media where teacher and student are separated by distance and sometimes by time, may be certified by the Division provided the delivery method of the course has been certified by either the Commission or the Association of Real Estate Licensing Law Officials (ARELLO).

9.5.3.1 If a course is certified by ARELLO, only the delivery method will be certified by ARELLO. The subject matter of the course will be certified by the Division.

9.5.3.2. Education providers making application for Distance Education Certification based on ARELLO certification shall provide appropriate documentation that the ARELLO certification is in effect and that the course meets the content requirements of R162-9.3.2 along with other applicable requirements of this rule.

9.5.3.2.1. Approval under this paragraph will cease immediately should ARELLO certification be discontinued for any reason.

9.5.3.3. Courses approved for distance education delivery shall justify the classroom hour equivalency as is required by ARELLO standards.

9.5.4. The Real Estate Commission reserves the right to consider alternative certification methods and/or procedures for non-ARELLO certified Distance Education Courses.

R162-9-6. Conditions to Certification.

9.6.1 Upon completion of the educational program the course sponsor shall provide a certificate of completion in the form required by the Division.

9.6.1.1 Certificates of completion will be given only to those students who attend a minimum of 90% of the required class time of a live lecture. Within 10 days of the end of the course, the sponsor shall provide to the Division a roster of students and their license numbers for whom certificates were issued.

9.6.2 A course sponsor shall maintain for three years a record of registration of each person completing an offering and any other prescribed information regarding the offering, including exam results, if any.

9.6.2.1 Students registered for a distance education course shall complete the course within one year of the registration date.

9.6.3 Whenever there is a material change in a certified course, for example, curriculum, course length, instructor, refund policy, the sponsor shall promptly notify the Division in writing.

9.6.4 Until January 1, 2005, all course certifications shall be valid for one year after date of approval by the Division. Beginning January 1, 2005, all original course certifications and all renewed course certifications shall be issued with an expiration date of twenty-four months after approval by the Division.

9.6.4.1 If a course is not renewed within three months after its expiration date, the course provider will be required to apply for a new certification for the course.

9.6.4.2 After a course has been renewed for three times, the course provider will be required to make application as for a new certification.

9.6.5 ~~Until January 1, 2005, instructor certifications shall expire December 31 of each year. Until January 1, 2005, instructors who certify for the first time by September 30 shall renew December 31 of that same year. Until January 1, 2005, instructors who certify for the first time after October 1 shall renew December 31 of the following year. Beginning January 1, 2005, r]~~Renewed instructor certifications shall be issued for a term of twenty-four months.

9.6.5.1 To renew instructor certification an instructor must teach, during the year prior to renewal, a minimum of one class in each course for which certification is sought.

9.6.5.2 If the instructor has not taught during the year and wishes to renew certification, written explanation shall be submitted outlining the reason for not instructing the course, including documentation satisfactory to the Division as to the present level of expertise in the subject matter of the course.

R162-9-8. Continuing Education Banking.

9.8 For the purposes of this rule, "continuing education banking" is defined as the upload by a course provider of such information as specified by the Division to the Division's data base concerning the students who have successfully completed a continuing education course, including the name of the course, the certificate number assigned to the course by the Division, the date the course was taught, and the names and license numbers of all students who successfully completed the course.

9.8.1 Except as provided in Subsection 9.8.2, all course providers shall bank continuing education for all students who successfully completed a course within ten days after the course was taught.

9.8.2 If a course provider is unable to bank a student's continuing education credit because the student has either failed to furnish the name registered with the Division and/or the student's license number, or has furnished an incorrect license number or incorrect name to the course provider, the course provider shall not be disciplined by the Division for failure to bank the student's continuing education due to the reasons specified above.

9.8.3 A student who fails to provide an accurate license number and the name registered with the Division to a course provider within 7 days of course attendance shall not receive continuing education credit for the course attended.

KEY: continuing education

Date of Enactment or Last Substantive Amendment: ~~October 19, 2006~~2007

Notice of Continuation: June 26, 2002

Authorizing, and Implemented or Interpreted Law: 61-2-5.5

◆ ————— ◆

**Crime Victim Reparations,
Administration
R270-1-26
Victim Services**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 29220
FILED: 11/14/2006, 09:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule defines the procedures used by the Crime Victim Reparation (CVR) Board to provide funds for other victim services as authorized by Subsection 63-25a-406(1)(j). The amendment is necessary to define the term "sufficient reserve" and to provide additional guidelines regarding the submission of proposals for funding under this provision.

SUMMARY OF THE RULE OR CHANGE: The amendment defines "sufficient reserve" as used in the state statute which authorizes the CVR Board to provide funds to other victim services. The amended rule requires the CVR Board to annually determine whether a sufficient reserve exists prior to deciding whether to authorize other victim services grants. The rule established procedures for victim services grants.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63-25a-406(1)(c) and (j)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** If the CVR Board at some point determines that a sufficient reserve does not exist, no grants will be authorized, meaning that the CVR Fund will not be further depleted. Also, the CVR Board's ability to help manage the reserve is enhanced because the Board will now establish an amount for grants on an annual basis, rather than responding to requests for funding as they appear throughout the year. The authority to grant money for victim services has previously existed, so the decision to authorize grants will not be a change.
- ❖ **LOCAL GOVERNMENTS:** Local governments who receive grant awards will have additional funds. However, this has been the case previously.
- ❖ **OTHER PERSONS:** Other organizations that provide services to victims of crime will be eligible to apply. Again, this has been the case previously.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance will not be mandated for any person or group. Application for grant funds is completely voluntary. For those who do choose to apply, costs would be limited to staff time necessary to prepare the application and the cost of materials submitted to the CVR Board, which would be negligible.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule will potentially affect only non-profit organizations that provide services to victims of

crime. It will not have a fiscal impact on those entities except to the extent that they are permitted to apply for grants funds.

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

CRIME VICTIM REPARATIONS
ADMINISTRATION
Room 200
350 E 500 S
SALT LAKE CITY UT 84111-3347, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Connie Wettlaufer at the above address, by phone at 801-238-2371, by FAX at 801-533-4127, or by Internet E-mail at cwettlaufer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/09/2007

AUTHORIZED BY: Ronald B Gordon, Director

**R270. Crime Victim Reparations, Administration.
R270-1. Award and Reparation Standards.
R270-1-26. Victim Services.**

~~[Pursuant to Subsection 63-25a-406(1)(j), the CVR Board may approve victim service requests following receipt of an application or request for proposal. Applications or requests for proposals shall be submitted on a form approved by the CVR Board. Application requests for one time funding will be submitted to the CVR Board for their review and decision. Requests for ongoing funding may be approved by the CVR Board and then forwarded to the CVR grants program for administration and monitoring purposes. All requests for ongoing funding shall be reviewed annually to determine if additional funding is warranted. This process may be implemented in conjunction with the annual Victims of Crime Act (VOCA) request for proposal program. Each request shall comply with all CVR grant program guidelines, certifications and assurances as determined by the director. There is no commitment by the CVR office that once a grant has been funded that there will be any subsequent funding. Continuation of funding for new and existing projects is contingent on the availability of funds and a determination that a sufficient reserve has been established for reparation claims. Awards may be denied or limited as determined appropriate by the Board. Decisions by the CVR Board are final and may not be appealed. The CVR office shall review expenditures by award recipients to insure compliance with the provisions of the request. Recipients shall be required to provide the CVR office with all documentation and receipts requested.]A. Pursuant to Subsection 63-25a-406(1)(j), there is established a Victim Services Grant Program.~~

B. For purposes of Subsection 63-25a-406(1)(j), "sufficient reserve" means enough funds to sustain the operation of the Office of Crime Victim Reparations, including administrative costs and reparations payments, for one year.

C. The CVR Board shall annually determine whether a sufficient reserve exists in the Crime Victim Reparation Fund. If a sufficient reserve does not exist, the CVR Board shall not authorize the Victim Services Grant Program for that year. If a sufficient reserve does exist, the CVR Board may authorize the Victim Services Grant Program for that year.

D. When the Victim Services Grant Program is authorized, the CVR Board:

1. shall determine the amount available for the Victim Services Grant Program for that year;

2. shall announce the availability of grant funds through a request for proposals or other similar competitive process approved by the Board; and

3. may establish funding priorities and shall include any priorities in the announcement of grant funds.

E. Requests for funding shall be submitted on a form approved by the CVR Board.

F. The CVR Board shall establish a process to review requests for funding and shall make final decisions regarding the approval, modification, or denial of requests for funding. The CVR Board may award less than the amount determined in Subsection (D)(1). The decisions of the CVR Board may not be appealed.

G. All awards shall be for a period of not more than one year. An award by the CVR Board shall not constitute a commitment for funding in future years. The CVR Board may limit funding for ongoing projects.

H. Award recipients shall submit quarterly reports to the Office of Crime Victim Reparations on forms established by the Director. The CVR staff shall monitor all victim services grants and provide regular reports to the CVR Board.

KEY: victim compensation, victims of crimes
Date of Enactment or Last Substantive Amendment: [~~October 23, 2006~~2007]
Notice of Continuation: July 3, 2006
Authorizing, and Implemented or Interpreted Law: 63-25a-401 et seq.

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Environmental Quality, Air Quality **R307-110-36** Section XXII, Interstate Transport

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 29227
 FILED: 11/15/2006, 11:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add a new Subsection XXII to the State Implementation Plan (SIP) that is incorporated by reference by Rule R307-110.

SUMMARY OF THE RULE OR CHANGE: This amendment adds a new Section R307-110-36 that incorporates by reference a new Section XXII, Interstate Transport, of the SIP. When a new National Ambient Air Quality Standard (NAAQS) is

promulgated, the Clean Air Act requires states to submit a SIP under section 110(a)(2)(D)(i) to address interstate transport of emissions that would affect nonattainment and maintenance areas in neighboring states, as well as prevention of significant deterioration (PSD) and visibility programs. Proposed SIP XXII relies on computer modeling conducted by the Environmental Protection Agency (EPA) in developing its Clean Air Interstate Rule; the modeling indicates that emissions from seven western states including Utah do not affect nonattainment and maintenance areas for PM2.5 and ozone in other states. EPA's guidance indicates that states such as Utah with EPA-approved PSD programs do not interfere with similar programs in other states. Finally, EPA's guidance states that visibility effects are still being analyzed as part of SIPs to address regional haze that are due in December 2007, and states may indicate now that they do not know their impact on visibility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan Section XXII, Interstate Transport

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no change in costs for state government, because the new SIP does not add any control measures.
- ❖ LOCAL GOVERNMENTS: There is no change in costs for local governments, because the new SIP does not add any control measures.
- ❖ OTHER PERSONS: There is no change in costs for other persons, because the new SIP does not add any control measures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no change in costs for affected persons, because the new SIP does not add any control measures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no change in costs for state government, because the new SIP does not add any control measures. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
 AIR QUALITY
 150 N 1950 W
 SALT LAKE CITY UT 84116-3085, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@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 01/02/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/21/2006 at 1:30 PM, Division of Air Quality, 150 N 1950 W, Main Conference Room, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan.

R307-110-36. Section XXII, Interstate Transport.

The Utah State Implementation Plan, Section XXII, Interstate Transport, as most recently adopted by the Utah Air Quality Board on February 7, 2007, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: ~~December 6, 2006~~ 2007

Notice of Continuation: June 16, 2006

Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(e)

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Environmental Quality, Air Quality

R307-210

Stationary Sources

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29228

FILED: 11/15/2006, 11:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R307-210 incorporates by reference most of 40 CFR Part 60, federal requirements for stationary sources. The purpose of this amendment is to update Utah's rule to incorporate the latest federal requirements, and to exclude from incorporation the recent Subpart HHHH which regulates mercury emissions from electric generating units (see filings on Rules R307-220, R307-224, and R307-424). (DAR NOTE: The proposed amendment for Rule R307-220 is under DAR No. 29229, the proposed new Rule R307-224 is under DAR No. 29230, and the proposed new Rule R307-424 is under DAR No. 29231 in this issue, December 1, 2006, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment adds to Rule R307-210 the incorporation of federal amendments to Part 60 that became effective between July 2005, and June 30, 2006. Affected sources are already subject to the regulations; incorporating them allows Utah to enforce these regulations as they affect sources in Utah. The alternative would be federal enforcement on Utah sources. The changes added this year are the following: 1) May 18, 2005, 70 FR 28606; 70 FR 62213, October 28, 2005; and June 9, 2006, 71

FR 33388. Electric Utility Steam Generating Units. Amend Subparts A, B, Da, HHHH, and Appendix B. (NOTE: Subpart HHHH is specifically excluded from incorporation by reference into Rule R307-210; see separate filing in this issue for Rule R307-224, where parts of Subpart HHHH are incorporated.) In these actions, the Environmental Protection Agency (EPA) finalized the Clean Air Mercury Rule (CAMR) and established standards of performance for mercury (Hg) for new and existing coal-fired electric utility steam generating units (Utility Units), as defined in Clean Air Act (CAA) section 111. The amendments to CAA section 111 rules establish a mechanism by which Hg emissions from new and existing coal-fired Utility Units are capped at specified, nation-wide levels. Allowances are readily transferable among all regulated facilities. The EPA also amended the definition of "designated pollutant" to conform to EPA's interpretation of the provisions of CAA section 111(d)(1)(A). The final rule was effective on June 9, 2006; 2) September 22, 2005, 70 FR 55568. Amend the definitions in Subpart CCCC, Commercial and Industrial Solid Waste Incinerators. (NOTE: There are no existing sources in Utah subject to this rule.) With this action, EPA promulgated revised definitions for the terms "solid waste", "commercial or industrial waste", and "commercial and industrial solid waste incineration unit". The final rule was effective September 22, 2005; 3) December 16, 2005, 70 FR 74869. Amendments to Subpart A, and add new Subparts EEEE and FFFF, Other Solid Waste Incineration Units. (NOTE: There are no existing sources in Utah subject to this rule.) EPA promulgated new source performance standards (NSPS) and emission guidelines for new and existing "other" solid waste incineration units (OSWI). The final rules address only the incineration of nonhazardous solid wastes. The rules were effective on February 14, 2006, and June 16, 2006; 4) December 16, 2005, 70 FR 74679. Correct the definition of "Annual capacity factor" in Subpart Dc, 40 CFR 60.41c, Electric Generating Units; 5) February 24, 2006, 71 FR 9453. Amend Subpart GG, Stationary Gas Turbines. Revise certain portions of the standards of performance for stationary gas turbines to clarify that EPA is not imposing new requirements for turbines constructed after 1977. Owners and operators of existing and new turbines may use monitoring that meets the pre-existing monitoring requirements. In addition, EPA described a number of acceptable compliance monitoring options that owners and operators may elect to use for these units. The rule was effective on April 25, 2006; 6) February 27, 2006, 71 FR 9865. Amendments to Subparts Da, Db, and Dc, Electric Utility Steam Generating Units. This action amends standards for performance for nitrogen oxides (NOX), sulfur dioxide (SO2), and particulate matter (PM) contained in the new source performance standards (NSPS) for electric utility steam generating units and industrial-commercial-institutional steam generating units. The rule was effective on February 27, 2006; 7) May 10, 2006, 71 FR 27324. Amend Subpart E, Large Municipal Waste Combustors. (NOTE: There are no Utah sources subject to this rule.) As part of amendments to the air emission standards for existing and new large municipal waste combustor (MWC) units, EPA revised Subpart E, applicability and designation of affected facility. The amendments to Subpart E became effective May 10, 2006; and 8) June 1, 2006, 71 FR 31100. This action

corrects a minor wording error in the monitoring requirements in Subpart A. This correction is effective June 1, 2006.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(q)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 60, effective July 1, 2006, except for Subparts Cb, Cc, Cd, Ce, BBBB, DDDD, and HHHH

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no costs to the state budget because all costs to the state are offset by the fees paid by the sources under the Operating Permits program, Rule R307-415.

❖ LOCAL GOVERNMENTS: There is no additional cost to local governments, as the cost of enforcing the regulations is covered by the fees paid by the affected sources for their permits under Rule R307-415, Operating Permits.

❖ OTHER PERSONS: All of these rules are in effect federally and sources already are subject to any of the costs that may result. (Note: The following numbered items correspond to the numbers under the "summary of the rule change" above.)

1) There are no appreciable costs for this rulemaking action because the costs are associated with the addition of 40 CFR part 60 Subpart HHHH, which is not being incorporated into Rule R307-210. (See separate filing in this issue on Rule R307-224, where parts of HHHH are being incorporated.) 2) No Utah sources are subject to this rule, and thus there are no costs or benefits. 3) No Utah sources are subject to this rule, and thus there are no costs or benefits. 4) This is a minor correction with no cost or benefits expected. 5) There are no additional costs to sources affected by the rule, as the rule change simply clarified options available to the sources. 6) There are no costs to affected sources as the control equipment required to meet the new standards is the same as that required to meet the old standards. Benefits to the public in lower emissions are small. 7) No Utah sources are subject to this rule, and thus there are no costs or benefits. 8) The change is a minor correction that has no effect on costs or benefits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All of these rules are in effect federally and sources already are subject to any of the costs that may result. (Note: The following numbered items correspond to the numbers under the "summary of the rule change" above.) 1) There are no appreciable costs for this rulemaking action because the costs are associated with the addition of 40 CFR part 60 Subpart HHHH, which is not being incorporated into Rule R307-210. (See separate filing in this issue on Rule R307-224, where parts of HHHH are being incorporated.) 2) No Utah sources are subject to this rule, and thus there are no costs or benefits. 3) No Utah sources are subject to this rule, and thus there are no costs or benefits. 4) This is a minor correction with no cost or benefits expected. 5) There are no additional costs to sources affected by the rule, as the rule change simply clarified options available to the sources. 6) There are no costs to affected sources as the control equipment required to meet the new standards is the same as that required to meet the old

standards. Benefits to the public in lower emissions are small.

7) No Utah sources are subject to this rule, and thus there are no costs or benefits. 8) The change is a minor correction that has no effect on costs or benefits.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no appreciable costs for business in incorporating these federal rules into Utah's rules, because the affected businesses already are subject to the federal requirement. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@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 01/02/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/12/2006 at 1:30 PM, DEQ Building, 169 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-210. Stationary Sources.

R307-210-1. Standards of Performance for New Stationary Sources (NSPS).

The provisions of 40 Code of Federal Regulations (CFR) Part 60, effective on July 1, [~~2005~~2006], except for Subparts Cb, Cc, Cd, Ce, BBBB, [~~and~~]DDDD, and HHHH, are incorporated by reference into these rules with the exception that references in 40 CFR to "Administrator" shall mean "executive secretary" unless by federal law the authority referenced is specific to the Administrator and cannot be delegated.

KEY: air pollution, stationary sources, new source review

Date of Enactment or Last Substantive Amendment: [June 15, 2006]2007

Notice of Continuation: June 16, 2006

Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(q); 19-2-108

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Environmental Quality, Air Quality

R307-214-2

Part 63 Sources

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29194

FILED: 11/03/2006, 15:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the amendment is to update the incorporation date of 40 CFR Part 63 from July 1, 2005, to July 1, 2006. By updating this rule, the State will ensure the enforcement of the most current versions of the maximum achievable control technology (MACT), and will maintain primacy over administration of these standards on Utah sources. This will be consistent with the historical approach taken by the Department of Environmental Quality, and will simplify procedures required of sources.

SUMMARY OF THE RULE OR CHANGE: This amendment updates the incorporation of all changes to delegated MACT standards through the July 1, 2006, of the current Code of Federal Regulations. State operation of the MACT program is a federally required component of the Operating Permits program under Title V of the Clean Air Act. By updating this rule, the State will ensure the enforcement of the most current versions of the MACT, and will maintain primacy over administration of these standards on Utah sources. This will be consistent with the historical approach taken by the Department of Environmental Quality, and will simplify procedures required of sources.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 63, July 1, 2006 ed.

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There are no costs to the state budget for implementing these MACTs, as all sources are required to hold Operating Permits, and their costs are built into the fees paid by sources of Hazardous Air Pollutants under the Operating Permit Program.
- ❖ **LOCAL GOVERNMENTS:** No adverse economic impact is expected to occur as a result of the update of this rule, because these provisions are already federally enforceable.
- ❖ **OTHER PERSONS:** No adverse economic impact is expected to occur as a result of the update of this rule, because these provisions are already federally enforceable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No adverse economic impact is expected to occur as a result of the update of this rule, because these provisions are already federally enforceable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No adverse economic impact is expected to occur as a result of the update of this rule, because these provisions are already federally enforceable.
Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY

AIR QUALITY

150 N 1950 W

SALT LAKE CITY UT 84116-3085, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/08/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-214. National Emission Standards for Hazardous Air Pollutants.

R307-214-2. Part 63 Sources.

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, [2005]2006, [~~or later for those whose subsequent publication citation is included below.~~] are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the executive secretary, unless by federal law the authority is specific to the Administrator and cannot be delegated.

- (1) 40 CFR Part 63, Subpart A, General Provisions.
- (2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).
- (3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
- (4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- (5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
- (6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
- (7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.
- (8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.

- (9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- (10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
- (11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.
- (12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
- (13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
- (14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.
- (15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
- (16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.
- (17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.
- (18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.
- (19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
- (20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.
- (21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.
- (22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.
- (23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.
- (24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.
- (25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfit, and Stand-Alone Semicemical Pulp Mills.
- (26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.
- (27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.
- (28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.
- (29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.
- (30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).
- (31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).
- (32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).
- (33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.
- (34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).
- (35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
- (36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.
- (37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- (38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
- (39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
- (40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.
- (41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.
- (42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
- (43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.
- (44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.
- (45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- (46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
- (47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).
- (48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.
- (49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.
- (50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
- (51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
- (52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
- (53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
- (54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.
- (55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.
- (56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products[-, published on July 30, 2004 at 69 FR 45943].
- (57) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline).
- (58) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.

(59) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.

(60) 40 CFR Part 63, Subpart HHHH - National Emission Standards for Wet-Formed Fiberglass Mat Production.

(61) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks.

(62) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.

(63) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans.

(64) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

(65) 40 CFR Part 63, Subpart NNNN - National Emission Standards for Large Appliances Surface Coating Operations.

(66) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.

(67) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.

(68) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.

(69) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.

(70) 40 CFR Part 63, Subpart SSSS - National Emission Standards for Metal Coil Surface Coating Operations.

(71) 40 CFR Part 63, Subpart TTTT - National Emission Standards for Leather Tanning and Finishing Operations.

(72) 40 CFR Part 63, Subpart UUUU - National Emission Standards for Cellulose Product Manufacturing.

(73) 40 CFR Part 63, Subpart VVVV - National Emission Standards for Boat Manufacturing.

(74) 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.

(75) 40 CFR Part 63, Subpart XXXX - National Emission Standards for Tire Manufacturing.

(76) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

(77) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

(78) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.

(79) 40 CFR Part 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

(80) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters[~~published on September 13, 2004 at 69 FR 55217~~].

(82) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(83) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing.

(84) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation.

(85) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing.

(86) 40 CFR Part 63, Subpart IIIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants.

(87) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(88) 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(89) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing.

(90) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

(91) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production.

(92) 40 CFR Part 63, Subpart PTTTT, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

(93) 40 CFR Part 63, Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

(94) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing.

(95) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

(96) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

KEY: air pollution, hazardous air pollutant, MACT

Date of Enactment or Last Substantive Amendment: [~~November 3, 2005~~2007]

Notice of Continuation: February 9, 2004

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

◆ ————— ◆

Environmental Quality, Air Quality
R307-220
Emission Standards: Plan for
Designated Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29229

FILED: 11/15/2006, 11:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add a new Section R307-220-5 to incorporate by reference the new Plan for Mercury Emissions at Coal-Fired Electric Generating Units, and to delete specific definitions from Section R307-220-1.

SUMMARY OF THE RULE OR CHANGE: A new Section R307-220-5 is added to incorporate by reference the new Plan for Mercury Emissions at Coal-Fired Electric Generating Units. The Plan is available at: <http://www.airquality.utah.gov/Public-Interest/Current-Issues/mercury/index-mercury.htm>. The Plan, which is required by 40 CFR Part 60, sets forth Utah's program to comply with the federal Clean Air Mercury Rule (CAMR). The Utah Plan is to participate in the federal cap and trade program for mercury emissions from coal-fired electric generating units (EGUs). The CAMR sets Utah's allowances at 0.506 tons per year in 2010 and 0.200 tons per year in 2018 and later. The Environmental Protection Agency (EPA) estimates that EGUs in Utah emitted 0.142 tons of mercury in 1999. Utah's plan, in conjunction with new rule R307-424 (see separate filing in this issue), which sets emission limits for existing and new EGUs, ensures that emissions of mercury from EGUs will not rise above the 1999 levels, even as power production expands in the future. This amendment deletes definitions from Section R307-220-1 because new definitions have been added in 40 CFR Part 60, which is incorporated by reference by Rule R307-210 (see separate filing in this issue). (DAR NOTE: The proposed amendment for Rule R307-210 is under DAR No. 29228, and the proposed new Rule R307-424 is under DAR No. 29231 in this issue, December 1, 2006, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Designated Facilities Plan, Section 4, Plan for Mercury Emissions at Coal-Fired Electric Generating Units

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no costs to the state budget by adopting this plan; costs for all regulated sources are covered by the fees they pay under Rule R307-415, the operating permits program.

❖ LOCAL GOVERNMENTS: There are no costs to local governments, because any regulated sources owned by local governments pay their fees from the revenue generated by selling electric power.

❖ OTHER PERSONS: The regulated sources will receive allowances for all their current emissions of mercury. There is nothing in the Plan incorporated by this rule that requires regulated sources to add control measures. However, affected sources are required to install continuous emissions monitoring equipment; the cost is unknown because the

equipment does not yet exist (see separate filing on R307-424 in this issue).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The regulated sources will receive allowances for all their current emissions of mercury. There is nothing in the Plan incorporated by this rule that requires regulated sources to add control measures. However, affected sources are required to install continuous emissions monitoring equipment; the cost is unknown because the equipment does not yet exist (see separate filing on R307-424 in this issue).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no costs for business associated with this rule and the Plan it incorporates by reference. However, there will be unknown expenses to install continuous emissions monitoring equipment. Reductions in mercury emissions will be achieved by adoption of Rule R307-424. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY

AIR QUALITY

150 N 1950 W

SALT LAKE CITY UT 84116-3085, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@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 01/02/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/12/2006 at 1:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.**R307-220. Emission Standards: Plan for Designated Facilities.****R307-220-1. Incorporation by Reference.**

[(+)]Pursuant to 42 U.S.C. 7411(d), the Federal Clean Air Act Section 111(d), the following sections hereby incorporate by reference the Utah plan for designated facilities. Copies of the plan are available at the Division of Air Quality and the Division of Administrative Rules. [

~~(2) Definitions. The following additional definitions apply to R307-220:~~

~~"Designated Facility" means any existing source which emits a designated pollutant and which would be subject to a standard of performance for a new source if construction of the designated~~

facility had begun after the effective date of the standard of performance issued under 40 CFR Part 60.

"Designated Pollutant" means any air contaminant, the emission of which:

(a) is subject to a standard of performance for a new source; and

(b) is not subject to a National Ambient Air Quality Standard; and

(c) is not a hazardous air pollutant as defined in R307-101-2.]

R307-220-5. Section IV, Coal-Fired Electric Generating Units.

Section IV, Coal-Fired Electric Generating Units, as most recently adopted by the Air Quality Board on February 7, 2007, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, landfills, [~~environmental protection,~~ incinerators, electric generating units

Date of Enactment or Last Substantive Amendment: [~~October 3, 2002~~]2007

Notice of Continuation: March 26, 2002

Authorizing, Implemented, or Interpreted Law: 19-2-104(3)(g)



Environmental Quality, Air Quality
R307-224
Mercury Emission Standards: Coal-Fired Electric Generating Units

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 29230

FILED: 11/15/2006, 11:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R307-224 incorporates by reference parts of 40 CFR Part 60, Subpart HHHH, which requires nationwide reductions in mercury emissions from coal-fired electric generating units (see separate filings in this issue on Rules R307-210, R307-220, and R307-424). (DAR NOTE: The proposed amendment for Rule R307-210 is under DAR No. 29228, the proposed amendment for Rule R307-220 is under DAR No. 29229, and the proposed new Rule R307-424 is under DAR No. 29231 in this issue, December 1, 2006, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The Air Quality Board proposes to incorporate by reference most of 40 CFR Part 60, Subpart HHHH, which establishes a national cap and trade program for mercury emissions from coal fired power plants and institutes a two-phase reduction program. In 1999, mercury emissions from coal-fired electric generating units were estimated at 48 tons nationally; by 2010, emissions will be limited to 38 tons, and in 2018, to 15 tons. Any new electric generating unit beginning construction after January 30, 2004, must meet emission limits in Subpart Da; for units already in existence, each state must write a Designated Facilities Plan demonstrating that emissions will not exceed

the amounts budgeted for that state. See separate filing on Rule R307-220, which incorporates Utah's Designated Facilities Plan, and Rule R307-424.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(g)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 60, Subpart HHHH, effective July 1, 2006

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no additional cost to state government, as the cost of enforcing the regulations is covered by the fees paid by the affected sources for their permits under Rule R307-415, Operating Permits.

❖ LOCAL GOVERNMENTS: There are no costs to local governments, because any regulated sources owned by local governments pay their fees from the revenue generated by selling electric power.

❖ OTHER PERSONS: The regulated sources will receive allowances for all their current emissions of mercury. There is nothing in this rule that requires regulated sources to add additional control measures, and thus, there is no cost. However, the Plan requires that affected sources install continuous emissions monitoring equipment; the cost is unknown because the equipment does not yet exist.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The regulated sources will receive allowances for all their current emissions of mercury. There is nothing in this rule that requires regulated sources to add additional control measures, and thus there is no cost. However, the Plan requires that affected sources install continuous emissions monitoring equipment; the cost is unknown because the equipment does not yet exist.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Utah's allowance under the national program is adequate to allow electric generating units to continue to operate without changing their mercury emissions. However, there will be unknown expenses to install continuous emissions monitoring equipment. Reductions will be achieved by adoption of Rule R307-424 (see separate filing in this issue). Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@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 01/02/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/12/2007 at 1:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-224. Mercury Emission Standards: Coal-Fired Electric Generating Units.

R307-224-1. Purpose and Applicability.

(1) Nationwide reductions of mercury (Hg) emissions from certain coal-fired electric generating units are required by 40 CFR Part 60, subparts B and HHHH, in effect on June 9, 2006, and by the Designated Facilities Plan for coal-fired electric generating units, incorporated by reference at R307-220-5.

(2) R307-224 regulates mercury emissions from any coal-fired electric generating unit as defined in 40 CFR 60.24.

R307-224-2. Emission Guidelines and Compliance Times for Coal-Fired Electric Generating Units.

(1) The following sections of 40 CFR Part 60, subpart HHHH effective on June 9, 2006, are adopted and incorporated by reference into these rules:

(a) Sections 60.4101 through 60.4124;

(b) Sections 60.4142 paragraph (c)(2) through paragraph (c)(4);

(c) Sections 60.4150 through 60.4176.

KEY: air pollution, electric generating unit, mercury

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, Implemented, or Interpreted Law: 19-2-104(3)(g); 40 CFR Part 60, Subparts Da and HHHH

◆ ————— ◆
Environmental Quality, Air Quality

R307-424

**Permits: Mercury Requirements for
Electric Generating Units**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 29231

FILED: 11/15/2006, 11:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of Rule R307-424 is to reduce present and future emissions of mercury from coal-fired electric generating units (see separate filings for Rules R307-210, R307-220, and R307-224 in this issue). (DAR NOTE: The proposed

amendment for Rule R307-210 is under DAR No. 29228, the proposed amendment for Rule R307-220 is under DAR No. 29229, and the proposed new Rule R307-224 is under DAR No. 29230 in this issue, December 1, 2006, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Rule R307-424 requires that existing coal-fired electric generating units with an input heat capacity in excess of 1,500 MMBtu per hour shall demonstrate compliance with at least one of the following: 1) a maximum emission rate of 6.50 X 10⁻⁷ pounds mercury per million btu heat input; or 2) a minimum of 90% control of total mercury emissions. Any electric generating unit, new or expanding, in addition to being subject to the requirements of 40 CFR Part 60, Subpart HHHH, which is incorporated by reference in Rule R307-224, is required to obtain offsets at a ratio of 1:1.1 from other electric generating units within Utah when seeking a permit to increase emissions of mercury. The Air Quality Board specifically seeks comment as to whether emission credit may be sought for use in Utah from the Deseret Generation and Transmission plant in the Uintah Basin, as this proposal allows; the plant is on tribal lands and thus its emissions are regulated by the federal government, not the state (see separate filings on Rules R307-220 and R307-224 in this issue).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-2-104(1)(a) and 19-2-104(3)(e)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no additional cost to state government, as the cost of enforcing the regulations is covered by the fees paid by the affected sources for their permits under Rule R307-415, Operating Permits.

❖ LOCAL GOVERNMENTS: There is no cost to local governments, as no sources owned by local governments are affected by this rule.

❖ OTHER PERSONS: Four of the affected electric generating units in Utah can meet the emission limits of this rule; there are 3 other units that will need to retrofit and the cost will be approximately \$50 million per unit, for a total of \$150,000,000.

Retrofitting will allow the operators of these sources to sell mercury emissions allowances on the national market to other electric generating units where the cost of retrofitting is higher, thus offsetting part of the cost. The value of the offsets is unknown until the national program begins operation (see separate filings in this issue on Rules R307-220 and R307-224).

COMPLIANCE COSTS FOR AFFECTED PERSONS: Four of the affected electric generating units in Utah can meet the emission limits of this rule; there are 3 other units that will need to retrofit and the cost will be approximately \$50,000,000 per unit. Retrofitting will allow the operators of these sources to sell mercury emissions allowances on the national market to other electric generating units where the cost of retrofitting is higher, thus offsetting part of the cost. The value of the offsets is unknown until the national program begins operation (see separate filings in this issue on Rules R307-220 and R307-224).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Implementing this mercury reduction program will bring significant costs for some utilities. The health benefits of the rule are likely to be significant, because it will put mercury emissions from electric generating units on a downward trend, while allowing production of electric power to expand. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@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 01/02/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/12/2006 at 1:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-424. Permits: Mercury Requirements for Electric Generating Units.

R307-424-1. Purpose and Applicability.

The purpose of R307-424 is to regulate mercury emissions from any coal-fired electric generating unit (EGU). R307-424 applies to any coal-fired electric generating unit as defined in 40 CFR 60.24.

R307-424-2. Part 70 Permit.

Sources meeting the applicability requirements of R307-424-1 above, and also meeting the applicability requirements of R307-415-4, are required to obtain a mercury (Hg) budget permit in accordance with R307-224-2(1)(a).

R307-424-3. Offset Requirement: Mercury.

Sources meeting the applicability requirements of R307-424-1 above and making application for an approval order under R307-401 shall, in addition to any other requirement for obtaining such approval order, obtain an enforceable offset for any potential increase in mercury emissions in accordance with the following:

(1) The permitted increase in mercury emissions, considering the application of any control method or device, shall be offset by mercury emission credits at a ratio of 1 to 1.1 respectively.

(2) The averaging period for such determinations shall be a 12-month period.

(3) Mercury emission credits must be obtained from an EGU located within the State of Utah, including any EGU located on Indian lands within the State.

(4) To preserve reductions in mercury emissions as credits for use in offsetting potential increases, the executive secretary must identify such credits in an order issued pursuant to R307-401 and shall provide a registry to identify the person, private entity or governmental authority that has the right to use or allocate the banked emission reduction credits, and to record any transfers of, or liens on, these rights.

(5) Any emission offsets shall be enforceable by the time a new or modified source commences construction, and, by the time a new or modified source commences operation, any emission offsets shall be in effect and enforceable.

(6) The quantity of mercury emission reductions to be used for credit will be determined in accordance with 40 CFR part 75, or will be based on the best available data reported to the executive secretary. To the extent that the EGU has been subject to the requirements of part 75, mercury emissions data shall be the average of the 3 highest annual amounts over the most recent 5-year period.

(7) R307-424-3 shall not apply to any EGU for which a valid approval order was issued prior to November 17, 2006.

R307-424-4. Emission Rates.

(1) By no later than December 31, 2012, the owner or operator of any EGU with an input heat capacity in excess of 1,500 MMBtu per hour and having commenced operations prior to November 17, 2006, shall demonstrate compliance with at least one of the following:

(a) A maximum emission rate of 6.50×10^{-7} pounds mercury per million btu heat input; or

(b) A minimum of 90% control of total mercury emissions.

(2) Compliance with (1) above shall be based on an annual averaging period beginning January 1 and ending December 31.

(a) Beginning January 1, 2013, compliance shall be determined using the monitoring and recordkeeping requirements incorporated under R307-224-2. Upon completion of each year's fourth quarterly report, an assessment shall be made for the entire calendar year and reported to the executive secretary within 30 days.

(b) Where it is necessary to determine the mercury content of the coal or coals burned, the owner or operator shall use the appropriate ASTM method, and shall measure at least one representative sample each month. Records of such testing shall be kept for a period of at least five years, and shall be made available to the executive secretary upon request.

(3) Should an EGU be found in noncompliance with (1) above, despite properly operating the unit in conjunction with a baghouse as well as wet or dry flue gas de-sulfurization, the owner or operator may petition the executive secretary for a modification to the limits therein in accordance with R307-401.

KEY: air pollution, electric generating unit, mercury

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, Implemented, or Interpreted Law: 19-2-101; 19-2-104(1)(a); 19-2-104(3)(e); 40 CFR 60.24

◆ ————— ◆

**Environmental Quality, Solid and
Hazardous Waste
R315-301
Solid Waste Authority, Definitions, and
General Requirements**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29202

FILED: 11/09/2006, 15:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify the definitions of several terms; bring the definitions of several terms into alignment with the Solid and Hazardous Waste Act; add two new definitions; specify actions to be taken in the event of illegal disposal of solid waste; and to allow waste from a single family farm or ranch to be disposed on site by burial without obtaining a permit.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to: clarify the definitions of the terms "Composting" and "Putrescible waste"; add definitions for the terms "Treated wood" and "Unit"; specify that, in the case of illegal disposal of solid waste, the property owner and/or the generator may be subject to enforcement action and will be required to remove the waste from the site and, if necessary, remediate the site; and to allow waste from a single family farm or ranch to be disposed on site by burial without obtaining a permit.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-108, and 19-6-109; and 40 CFR 258

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Since the requirements of the rule are clarified and not changed in all but one case, it is anticipated that there will be no cost or savings impact on the state budget beyond that required by current statute or rule. The one case where the rule is changed to add the options available for cases of illegal disposal is putting into rule the legitimate options that are available to any party in an enforcement action and will not change the cost to the state in an enforcement action.

❖ **LOCAL GOVERNMENTS:** Since the requirements of the rule are clarified and not changed in all but one case, it is anticipated that there will be no cost or savings impact on local government budgets beyond that required by current statute or rule. The one case where the rule is changed to add the options available for cases of illegal disposal is putting into rule the logical options that were available to any party in an enforcement action and will not change the cost for these actions.

❖ **OTHER PERSONS:** Since the requirements of the rule are clarified and not changed in all but one case, it is anticipated that there will be no cost or savings impact on the budgets of affected persons beyond that required by current statute or rule. The one case where the rule is changed to add the

options available for cases of illegal disposal is putting into rule the logical options that were available to any party in an enforcement action and will not change the cost for these actions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will be no effect to the compliance costs for affected persons beyond that required by current statute or rule as a result of the proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is anticipated that there will be no fiscal impact to businesses beyond that required by current statute or rule as a result of the 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-301. Solid Waste Authority, Definitions, and General Requirements.**

R315-301-2. Definitions.

Terms used in Rules R315-301 through R315-320 are defined in Sections 19-1-103, ~~and~~ 19-6-102, and 19-6-803. In addition, for the purpose of Rules R315-301 through 320, the following definitions apply.

(1) "Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being conducted.

(2) "Airport" means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(3) "Aquifer" means a geological formation, group of formations, or portion of a formation that contains sufficiently saturated permeable material to yield useable quantities of ground water to wells or springs.

(4) "Areas susceptible to mass movement" means those areas of influence, characterized as having an active or substantial possibility of mass movement, where the movement of earth material at, beneath, or adjacent to the landfill unit, because of natural or human-induced events, results in the downslope transport of soil and rock material by

means of gravitational influence. Areas of mass movement include landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock falls.

(5) "Asbestos [~~Waste~~ waste]" means friable asbestos, which is any material containing more than 1% asbestos as determined using the method specified in Appendix A, 40 CFR Part 763.1, 2001 ed., which is adopted and incorporated by reference, that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

(6) "Background concentration" means the concentration of a contaminant in ground water upgradient or a lateral hydraulically equivalent point from a facility, practice, or activity, and which has not been affected by that facility, practice, or activity.

(7) "Class I Landfill" means a non-commercial landfill or a landfill [~~solely under contract with a local government taking municipal solid waste generated within the boundaries of the local government~~] that meets the definition found in Subsection 19-6-102(3)(a)(iii) and is permitted by the Executive Secretary

(a), to receive for disposal:

~~(i)~~ (i) municipal solid waste;

~~(ii)~~ (ii) any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit; ~~and~~ or

~~(iii)~~ (iii) in conjunction with municipal solid waste or other nonhazardous solid waste, waste from a conditionally exempt small quantity generator of hazardous waste, as defined by Section R315-2-5; ~~and~~

(b) does not meet the standards of Subsection R315-303-3(3)(e)(v).

(8) "Class II Landfill" means a non-commercial landfill or a landfill [~~solely under contract with a local government taking municipal solid waste generated within the boundaries of the local government~~] that is permitted by the Executive Secretary

(a), to receive for disposal:

~~(i)~~ (i) municipal solid waste;

~~(ii)~~ (ii) any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit; ~~and~~ or

~~(iii)~~ (iii) in conjunction with municipal solid waste or other nonhazardous solid waste, waste from a conditionally exempt small quantity generator of hazardous waste, as defined by Section R315-2-5.

~~(b)~~ (b) [A Class II Landfill receives, on a yearly average, 20 tons, or less, of solid waste per day] meets the standards of Subsection R315-303-3(3)(e)(v).

(9) "Class III Landfill" means a non-commercial landfill that is permitted by the Executive Secretary to receive for disposal only industrial solid waste.

(10) "Class IV Landfill" means a non-commercial landfill that is permitted by the Executive Secretary to receive for disposal only:

(a) construction/demolition waste;

(b) yard waste;

(c) inert waste;

(d) dead animals, as approved by the Executive Secretary and upon meeting the requirements of Section R315-315-6;

(e) waste tires and materials derived from waste tires, upon meeting the requirements of Section 19-6-804 and Section R315-320-3; and

(f) petroleum[—]-contaminated soils, upon meeting the requirements of Subsection R315-315-8(3).

(11) "Class V Landfill" means a commercial nonhazardous solid waste disposal facility, as defined by Subsection 19-6-102(3), that is permitted by the Executive Secretary to receive for disposal:

(a) municipal solid waste;

(b) any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit; and

(c) in conjunction with municipal solid waste or other nonhazardous solid waste, waste from a conditionally exempt small quantity generator of hazardous waste, as defined by Section R315-2-5.

(12) "Class VI Landfill" means a commercial nonhazardous solid waste landfill that is permitted by the Executive Secretary to receive for disposal only:

(a) construction/demolition waste, excluding waste from a conditionally exempt small quantity generator of hazardous waste, as defined by Section R315-2-5;

(b) yard waste;

(c) inert waste;

(d) dead animals, as approved by the Executive Secretary and upon meeting the requirements of Section R315-315-6;

(e) waste tires and materials derived from waste tires, upon meeting the requirements of Section 19-6-804 and Subsection R315-320-3(1) or (2); and

(f) petroleum[—]-contaminated soils, upon meeting the requirements of Subsection R315-315-8(3).

(g) A Class VI Landfill may not receive for disposal:

(i) hazardous waste;

(ii) construction/demolition waste containing PCBs, except as allowed by Section R315-315-7;

(iii) garbage;

(iv) municipal solid waste; or

(v) industrial solid waste.

(h) The wastes received at a Class VI Landfill may be further limited by a solid waste permit.

(i) A Class VI Landfill may not change to a Class V Landfill except by meeting all requirements for a Class V Landfill including obtaining a new Class V Landfill permit and completing the requirements specified in Subsection R315-310-3(2).

(13) "Closed facility" means any facility that no longer receives solid waste and has completed an approved closure plan, and any landfill on which an approved final cover has been installed.

(14) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household waste and industrial wastes.

(15) "Composite liner" means a liner system consisting of two components: the upper component consisting of a synthetic flexible membrane liner, and the lower component consisting of a layer of compacted soil. The composite liner must have the synthetic flexible membrane liner installed in direct and uniform contact with the compacted soil component and be constructed of specified materials and compaction to meet specified permeabilities.

(16) "Composting" means a method of solid waste management whereby the organic component of the waste stream is biologically decomposed under controlled aerobic conditions, at a temperature of 140 degrees Fahrenheit (60 degrees Celsius), or higher, for at least some part of each day of a consecutive seven day period, to a state in which the end product or compost can be [~~safely~~] handled, stored, or applied to the land without adversely affecting human health or the environment.

(17) "Construction/demolition waste" means solid waste from building materials, packaging, and rubble resulting from construction, remodeling, repair, abatement, rehabilitation, renovation, and demolition operations on pavements, houses, commercial buildings, and other structures, including waste from a conditionally exempt small

quantity generator of hazardous waste, as defined by Section R315-2-5, that may be generated by these operations.

(a) Such waste may include:

- (i) concrete, bricks, and other masonry materials;
- (ii) soil and rock;
- (iii) waste asphalt;
- (iv) rebar contained in concrete; and
- (v) untreated wood, and tree stumps.

(b) Construction/demolition waste does not include:

- (i) friable asbestos;
- (ii) ~~treated wood [treated with creosote or related compounds, Arsenic, Chromium, Copper, or other chemicals or materials to minimize attack or degradation by insects or microorganisms]; or [and]~~
- (iii) contaminated soils or tanks resulting from remediation or clean-up at any release or spill.

(18) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water or soil ~~[which]that~~ is a result of human activity.

(19) "Displaced" or "displacement" means the relative movement of any two sides of a fault measured in any direction.

(20) "Drop box facility" means a facility used for the placement of a large detachable container or drop box for the collection of solid waste for transport to a solid waste disposal facility. The facility includes the area adjacent to the containers for necessary entrance, exit, unloading, and turn-around areas. Drop box facilities normally serve the general public with uncompacted loads and receive waste from off-site. Drop box facilities do not include residential or commercial waste containers on the site of waste generation.

(21) "Energy recovery" means the recovery of energy in a useable form from incineration, burning, or any other means of using the heat of combustion of solid waste that involves high temperature (above 1200 degrees Fahrenheit) processing.

(22) "Existing facility" means any facility that has:

(a) a current valid solid waste permit or other valid approval issued under Rules R315-301 through 320 by the Executive Secretary; and

(b) received final approval to accept waste as required by Subsection R315-301-5(1).

(23) "Expansion of a solid waste disposal facility" means any lateral expansion beyond the property boundaries outlined in the permit application for the current permit under which the facility is operating.

(24) "Facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, e.g., one or more incinerators, landfills, container storage areas, or combinations of these.

(25) "Floodplain" means the land ~~[which]that~~ has been or may be hereafter covered by flood water which has a 1% chance of occurring any given year. The flood is also referred to as the base flood or 100-year flood.

(26) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure or as determined by EPA test method 9095 (Paint Filter Liquids Test) as provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste" as revised December (1996) which is adopted and incorporated by reference.

(27) "Garbage" means discarded animal and vegetable wastes ~~[and animal and vegetable wastes]~~ resulting from the handling, preparation, cooking and consumption of food, and of such a character and proportion as to be capable of attracting or providing food for vectors. Garbage does not include sewage and sewage sludge.

(28) "Ground water" means subsurface water ~~[which]that~~ is in the zone of saturation including perched ground water.

(29) "Ground water quality standard" means a standard for maximum allowable contamination in ground water as set by Section R315-308-4.

(30) "Hazardous waste" means hazardous waste as defined by Subsection 19-6-102(9) and Section R315-2-3.

(31) "Holocene fault" means a fracture or zone of fractures along which rocks on one side of the fracture have been displaced with respect to those on the other side, which has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene, approximately 11,000 years ago, to the present.

(32) "Household size" means a container for a material or product that is normally and reasonably associated with households or household activities. The containers are of a size and design to hold materials or products generally for immediate use and not for storage, five gallons or less in size.

(33) "Household waste" means any solid waste, including garbage, trash, and sanitary waste in septic tanks, derived from households including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(34) "Incineration" means a controlled thermal process by which solid wastes are physically or chemically altered to gas, liquid, or solid residues ~~[which]that~~ are also regulated solid wastes. ~~Incineration [and]~~ includes the thermal destruction of solid waste for energy recovery. Incineration does not include smelting operations where metals are reprocessed or the refining, processing, or ~~[the]~~burning of used oil for energy recovery as described in Rule R315-15.

(35) "Industrial solid waste" means any solid waste generated at a manufacturing or other industrial facility that is not a hazardous waste or that is a hazardous waste from a conditionally exempt small quantity generator of hazardous waste, as defined by Section R315-2-5, generated by an industrial facility. Industrial solid waste includes waste from the following industries or resulting from the following manufacturing processes and associated activities: electric power generation; fertilizer or agricultural chemical[s] industries; food and related products or by-products industries; inorganic chemical[s] industries; iron and steel manufacturing; leather and leather product[s] industries; nonferrous metals manufacturing or [foundries]foundry industries; organic chemical[s] industries; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic product[s] industries; stone, glass, clay, and concrete product[s] industries; textile manufacturing; transportation equipment manufacturing; and water treatment industries. This term does not include mining waste; oil and gas waste; or other waste excluded by Subsection 19-6-102(17)(b).

(36) "Industrial solid waste facility" means a facility ~~[which]that~~ receives only industrial solid waste from on-site or off-site sources for disposal.

(37) "Inert waste" means noncombustible, nonhazardous solid wastes that retain their physical and chemical structure under expected conditions of disposal, including wastes that exhibit resistance to biological or chemical ~~[attack]change~~.

(38) "Landfill" means a disposal facility where solid waste is or has been placed in or on the land and ~~[which]that~~ is not a land treatment facility or surface impoundment.

(39) "Land treatment, landfarming, or landspreading facility" means a facility or ~~[part]unit within [of]~~ a facility where solid waste is applied onto or incorporated into the soil surface for the purpose of biodegradation.

(40) "Lateral expansion of the solid waste disposal area" means:

(a) any horizontal expansion of the waste boundaries of an existing landfill cell, module, or unit;

(b) the construction of a new cell, module, or unit within the boundaries outlined in the permit application of the current permit under which the facility is operating; or

(c) any horizontal expansion not consistent with past normal operating practices.

(41) "Lateral hydraulically equivalent point" means a point located hydraulically equal to a facility and in the same ground water with similar geochemistry such that the ground water, at that point, has not been affected by the facility.

(42) "Leachate" means a liquid that has passed through or emerged from solid waste and that may contain soluble, suspended, miscible, or immiscible materials removed from such waste.

(43) "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include human-made materials, such as fill, concrete and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

(44) "Lower explosive limit" means the lowest percentage by volume of a mixture of explosive gases ~~which~~that will propagate a flame in air at 25 degrees Celsius (77 degrees Fahrenheit) and atmospheric pressure.

(45) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on site specific seismic risk assessment.

(46) "Municipal solid waste landfill" means a permitted nonhazardous solid waste landfill that may receive municipal solid waste for disposal.

(47) "Municipal solid waste" means household waste, nonhazardous commercial solid waste, and non-hazardous sludge.

(48) "New facility" means any facility that:

(a) has applied for a permit or other valid approval issued under Rules R315-301 through 320 by the Executive Secretary;

(b) did not have a permit or other valid approval issued under Rules R315-301 through 320 at the time of the application; and

(c) has not received final approval to accept waste as required by Subsection R315-301-5(1).

(49) "Off[-]_site" means any site which is not on[-]_site.

(50) "On[-]_site" means the same or geographically contiguous property ~~which~~that may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along the right-of-way. Property separated by a private right-of-way, which the site owner or operator controls, and to which the public does not have access, is also considered on-site property.

(51) "Operator" means the person, as defined by Subsection 19-1-103(4), responsible for the overall operation of a facility.

(52) "Owner" means the person, as defined by Subsection 19-1-103(4), who has an ownership interest in~~owns~~ a facility or part of a facility.

(53) "PCB" or "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of materials which contain such substances.

(54) "Permeability" means the ease with which a porous material allows water and the solutes contained therein to flow through it. This is usually expressed in units of centimeters per second (cm/sec) and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of 1×10^{-7} cm/sec or less may be considered impermeable.

(55) "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.

(56) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

(57) "Poor foundation conditions" means those areas where features exist which indicate that a natural or human-induced event may result in inadequate foundation support for the structural components of a landfill unit.

(58) ~~["Putrescible" means organic material subject to decomposition by microorganisms.]~~ "Putrescible waste" means solid waste which contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to be capable of attracting or providing food for vectors including birds and mammals.

(59) "Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certification, or completion of accredited university programs that enable that individual to make sound professional judgements regarding ground water monitoring, contaminant fate and transport, and corrective action.

(60) "Recycling" means extracting valuable materials from the waste stream and transforming or remanufacturing them into usable materials that have a demonstrated or potential market.

(a) Recycling does not include processes that generate such volumes of material that no market exists for the material.

(b) Any part of the waste stream entering a recycling facility and subsequently ~~returned~~returning to a waste stream or being otherwise disposed has the same regulatory designation as the original waste.

(c) Recycling includes the substitution of nonhazardous solid waste fuels for conventional fuels (such as coal, natural gas, and petroleum products) for the purpose of generating the heat necessary to manufacture a product.

(61) "Recyclable materials" means those solid wastes that can be recovered from or otherwise diverted from the waste stream for the purpose of recycling, such as metals, paper, glass, and plastics.

(62) "Run-off" means any rainwater, leachate, or other liquid that has contacted solid waste and drains over land from any part of a facility.

(63) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto the active area of a facility.

(64) "Scavenging" means the unauthorized removal of solid waste from a facility.

(65) "Seismic impact zone" means an area with a 10% or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in 250 years.

(66) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from septic tank systems.

(67) "Sharps" means any discarded or contaminated article or instrument from a health facility that may cause puncture or cuts. Such

waste may include needles, syringes, blades, needles with attached tubing, pipettes, pasteurs, broken glass, and blood vials.

(68) "Sludge" means any solid, semisolid, or liquid waste, including grit and screenings generated from a:

- (a) municipal, commercial, or industrial waste water treatment plant;
- (b) water supply treatment plant;
- (c) car wash facility;
- (d) air pollution control facility; or
- (e) any other such waste having similar characteristics.

(69) "Solid waste disposal facility" means a ~~facility or part of a facility at which solid waste is received from on-site or off-site sources and intentionally placed into or on land and at which waste, if allowed by permit, may remain after closure. Solid waste disposal facilities include~~ landfill[s], incinerator[s], ~~and~~ or land treatment area[s].

(70) "Solid waste incinerator facility" means a facility at which solid waste is received from on-site or off-site sources and is subjected to the incineration process. An incinerator facility that incinerates solid waste for any reason, including energy recovery, volume reduction, or to render it non-infectious, is a solid waste incinerator facility and is subject to Rules R315-301 through 320.

(71) "Special waste" means discarded solid waste that may require special handling or other solid waste that may pose a threat to public safety, human health, or the environment.

~~(a)~~ Special waste may include:

- ~~(i)~~ ash;
- ~~(ii)~~ automobile bodies;
- ~~(iii)~~ furniture and appliances;
- ~~(iv)~~ infectious waste;
- ~~(v)~~ waste tires;
- ~~(vi)~~ dead animals;
- ~~(vii)~~ asbestos;
- ~~(viii)~~ waste exempt from the hazardous waste regulations under Section R315-2-4;
- ~~(ix)~~ conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5;
- ~~(x)~~ waste containing PCBs;
- ~~(xi)~~ petroleum contaminated soils;
- ~~(xii)~~ waste asphalt; and
- ~~(xiii)~~ sludge.

(b) Special waste must be handled and disposed according to the requirements of Rule R315-315.

(72) "State" means the State of Utah.

(73) "Structural components" means liners, leachate collection systems, final covers, run-on or run-off systems, and any other component used in the construction and operation of a landfill that is necessary for the protection of human health and the environment.

(74) "Surface impoundment or impoundment" means a facility or part of a facility which is a natural topographic depression, human-made excavation, or diked area formed primarily of earthen materials, although it may be lined with synthetic materials, which is designed to hold an accumulation of liquid waste or waste containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(75) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is staffed by a minimum of one employee of the owner or operator during hours of operation and is used by persons and route collection vehicles to deposit collected solid waste from off-site into a ~~larger~~ transfer vehicle for transport to a solid waste handling or disposal facility.

(76) "Transport vehicle" means a vehicle capable of hauling ~~large amounts of~~ solid waste such as a truck, packer, or trailer that may be used by refuse haulers to transport solid waste from the point of generation to a transfer station or a disposal facility.

(77) "Treated wood" means any wood item that has been treated with the following or compounds containing the following:

- (a) creosote or related compounds;
- (b) Arsenic;
- (c) Chromium; or
- (d) Copper.

~~(77)~~(78) "Twenty-five year storm" means a 24-hour storm of such intensity that it has a 4% probability of being equaled or exceeded any given year. The storm could result in what is referred to as a 25-year flood.

(79) "Unit" or "Solid Waste Management Unit" means a distinct operational storage, treatment, or disposal area at a solid waste management facility that contains all features to render it capable of performing its intended function and of being closed as a separate entity.

~~(78)~~(80) "Unit boundary" means a vertical surface located at the hydraulically downgradient limit of a landfill unit or other solid waste disposal facility unit which is required to monitor ground water. This vertical surface extends down into the ground water.

~~(79)~~(81) "Unstable area" means a location that is susceptible to natural or human induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a facility. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

~~(80)~~(82) "Vadose zone" means the zone of aeration including soil and capillary water. The zone is bound above by the land surface and below by the water table.

~~(81)~~(83) "Vector" means a living animal including insect or other arthropod which is capable of transmitting an infectious disease from one organism to another.

~~(82)~~(84) "Washout" means the carrying away of solid waste by waters of a base or 100-year flood.

~~(83)~~(85) "Waste tire storage facility" or "waste tire pile" means any site where more than 1,000 waste tires or 1,000 passenger tire equivalents are stored on the ground.

- (a) A waste tire storage facility includes:
 - (i) whole waste tires used as a fence;
 - (ii) whole waste tires used as a windbreak; and
 - (iii) waste tire generators where more than 1,000 waste tires are held.

(b) A waste tire storage facility does not include:

- (i) a site where waste tires are stored exclusively in buildings or in trailers;

- (ii) if whole waste tires are stored for five or fewer days, the site of a registered tire recycler or a processor for a registered tire recycler;
- (iii) a permitted solid waste disposal facility that stores whole tires in piles for not longer than one year;

(iv) a staging area where tires are temporarily placed on the ground, not stored, to accommodate activities such as sorting, assembling, or loading or unloading of trucks; or

(v) a site where waste tires or material derived from waste tires are stored for five or fewer days and are used for ballast to maintain covers on agricultural materials or to maintain covers at a construction site or are to be recycled or applied to a beneficial use.

(c) Tires attached to a vehicle are not considered waste tires until they are removed from the vehicle.

~~[(84)]~~(86) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

~~[(85)]~~(87) "Yard waste" means vegetative matter resulting from landscaping, land maintenance, and land clearing operations including grass clippings, prunings, and other discarded material generated from yards, gardens, parks, and similar types of facilities. Yard waste does not include garbage, paper, plastic, processed wood, sludge, septage, or manure.

R315-301-4. Prohibition of Illegal Disposal or Incineration of Solid Waste.

(1) No person shall incinerate, burn, or otherwise dispose of any solid waste in any place except at a facility which is in compliance with the requirements of Rules R315-301 through 320 and other applicable rules.

(2) When any solid waste is disposed in a manner not in compliance with the requirements of Rules R315-301 through 320, or other applicable rules, the property owner of the disposal site or the person responsible for the illegal disposal or both:

(a) shall remove the solid waste from the illegal disposal site to a permitted solid waste disposal facility and, if necessary, shall remediate the site; or

(b) shall apply for a permit form the Executive Secretary and shall meet all of the following:

(i) submit the required permit application in the time frame specified by the Executive Secretary and respond promptly to all requests for information from the Executive Secretary related to the permit application;

(ii) shall immediately meet all of the operational monitoring and waste handling criteria of Rules R315-301 through 320; and

(iii) shall follow the requirements of Rule R315-301-4(2)(a) if a permit is not granted.

(3) Any person disposing of solid waste in a manner not in compliance with the requirements of Rules R315-301 through 320, or other applicable rules, may be subject to enforcement action in addition to meeting the requirements of Rule R315-301-4(2).

~~[(2)]~~(4) When deposition or disposal of the following materials does not cause a hazard to human health or the environment or cause a public nuisance, the requirements of Rules R315-301 through 320 do not apply to:

- (a) inert waste used as fill material;
- (b) the disposal of mine tailings and overburden;
- (c) the disposal of vegetative material generated as a result of land clearing; or
- (d) the disposal of vegetative agricultural waste.

R315-301-5. Permit Required.

(1) No solid waste disposal facility shall be established, operated, maintained, or expanded until the owner or operator of such facility has obtained a permit from the Executive Secretary and has received a letter of approval to accept waste from the Executive Secretary.

(2) The owner or operator of a solid waste disposal facility shall operate the facility in accordance with the conditions of the permit and otherwise follow the permit.

(3) In areas where no public or duly licensed disposal service is available, the on-site disposal by burial of on-site generated nonhazardous solid waste from a single family farm or a single family ranch does not require a permit.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: [~~October 15, 2003~~]**2007**

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258



Environmental Quality, Solid and Hazardous Waste

R315-302

Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29203

FILED: 11/09/2006, 15:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify several items.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify the position that certain location standards apply to new and existing facilities seeking expansion and to incinerators; to clarify the required separation of a solid waste facility from a stream, lake, or reservoir; to clarify that alternative facility designs may be used to meet the ground water requirements; to clarify that transfer stations operation plans need only meet the applicable parts of the rule; to clarify that all solid waste facilities that require a permit must meet the applicable facility closure requirements and provide financial assurance; and include the submittal of the historical and archaeological survey as required by changes in the historical preservation statute passed in the 2006 legislative general session (H.B. 139). (DAR NOTE: H.B. 139 (2006) is found at Chapter 292, Laws of Utah 2006, and was effective 05/01/2006.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, 19-6-108, and 19-6-109; Subsection 9-8-404(1); and 40 CFR 258

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The rule changes do not affect state agencies and the enforcement and oversight of the requirements of the rule will not change. Some minor increase in staff time to forward documents may be incurred. The staff time used to forward documents is so small that

there is no anticipated cost or savings impact to the state budget.

❖ LOCAL GOVERNMENTS: Since portions of the rule are clarified and the information that is currently part of the submittal for permit or operation plan approval is not changed, no new costs or savings will be incurred. The requirement to submit an archaeological survey is not an increased cost because the survey was required to meet other sections of the rule, however submittal of the survey was not previously required, only that a letter from the state historical preservation officer concurring with the survey be submitted. The statutory change made in the 2006 legislative general session requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application.

❖ OTHER PERSONS: Since portions of the rule are clarified and the information that is currently part of the submittal for permit or operation plan approval is not changed no new costs or savings will be incurred. The requirement to submit an archaeological survey is not an increased cost because the survey was required to meet other sections of the rule, however submittal of the survey was not previously required, only that a letter from the state historical preservation officer concurring with the survey be submitted. The statutory change made in the 2006 legislative general session requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For requirements of the rule that are clarified and not changed, it is expected that compliance costs for affected persons will not change beyond that required by current statute or rule. The requirement to submit an archaeological survey is not an increased cost because the survey was required to meet other sections of the rule, however submittal of the survey was not previously required, only that a letter from the state historical preservation officer concurring with the survey be submitted. The statutory change made in the 2006 legislative general session requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: For portions of the rule that are clarified and the actual requirements of the rule are not changed there should be no fiscal impact on businesses beyond that required by current statute or rule as a result of the proposed rule change. The requirement to submit an archaeological survey is not an increased cost because the survey was required to meet other sections of the rule, however submittal of the survey was not previously required, only that a letter from the state historical preservation officer concurring with the survey be submitted. The statutory change made in the 2006 legislative general session requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements.
R315-302-1. Location Standards for Disposal Facilities.

(1) Applicability.

(a) These standards apply to each new solid waste disposal facility and any existing solid waste disposal facility seeking facility expansion, including:

- (i) Class I, II, and V Landfills;
- (ii) Class III Landfills as specified in Rule R315-304;
- (iii) Class IV and VI Landfills as specified in Rule R315-305; [~~and~~

(iv) ~~[each new disposal facility and any existing disposal facility seeking facility expansion, including landfills, land treatment disposal sites, and] piles that are to be closed as landfills[-]; and~~

(v) Incinerators as specified in Rule R315-306.

(b) These standards, accept for Subsection R315-302-1(2)(f) or unless otherwise noted, do not apply to:

- (i) an existing facility;
- (ii) a transfer station[s] [and] or a drop box [facilities] facility;
- (iii) a pile[s] used for storage;
- (iv) composting or utilization of sludge or other solid waste on land; or
- (v) a hazardous waste disposal sites regulated by Rules R315-1 through R315-50 and Rule R315-101.

(2) Location Standards. Each applicable solid waste facility shall be subject to the following location standards.

(a) Land Use Compatibility. No new facility shall be located within:

(i) one thousand feet of a;

(A) national, state, [or] county, or city park, monument, or recreation area;

(B) designated wilderness or wilderness study area;[-or]

(C) wild and scenic river area; or

(D) stream, lake, or reservoir;

(ii) ecologically and scientifically significant natural areas, including wildlife management areas and habitat for threatened or endangered species as designated pursuant to the Endangered Species Act of 1982;

(iii) farmland classified or evaluated as "prime," "unique," or of "statewide importance" by the U.S. Department of Agriculture Soil Conservation Service under the Prime Farmland Protection Act;

(iv) one-fourth mile of:

(A) existing permanent dwellings, residential areas, and other incompatible structures such as schools or churches unless otherwise allowed by local zoning or ordinance; and

(B) historic structures or properties listed or eligible to be listed in the State or National Register of Historic Places;

(v) ten thousand feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used by only piston-type aircraft unless the owner or operator demonstrates that the facility design and operation will not increase the likelihood of bird/aircraft collisions. Every new and existing disposal facility is subject to this requirement. If a new landfill or a lateral expansion of an existing landfill is located within ~~five~~^{six} miles of an airport runway end, the owner or operator must notify the affected airport and the Federal Aviation Administration; or

(vi) areas with respect to archeological sites that would violate Section 9-8-404.

(b) Geology.

~~(i)~~ (ii) No new facility or lateral expansion of an existing facility shall be located in a subsidence area, a dam failure flood area, above an underground mine, above a salt dome, above a salt bed, or on or adjacent to geologic features which could compromise the structural integrity of the facility.

~~(i)~~ (ii) Holocene Fault Areas. A new facility or a lateral expansion of an existing facility shall not be located within 200 feet of a Holocene fault unless the owner or operator demonstrates to the Executive Secretary that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

~~(i)~~ (iii) Seismic Impact Zones. A new facility or a lateral expansion of an existing facility shall not be located in seismic impact zones unless the owner or operator demonstrates to the satisfaction of the Executive Secretary that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

~~(i)~~ (iv) Unstable Areas. The owner or operator of an existing facility, a lateral expansion of an existing facility, or a new facility located in an unstable area must demonstrate to the satisfaction of the Executive Secretary that engineering measures have been incorporated into the facility design to ensure that the integrity of the structural components of the facility will not be disrupted. The owner or operator must consider the following factors when determining whether an area is unstable:

(A) on-site or local soil conditions that may result in significant differential settling;

(B) on-site or local geologic or geomorphologic features; and

(C) on-site or local human-made features or events, both surface and subsurface.

(c) Surface Water.

(i) No new facility or lateral expansion of an existing facility shall be located on any public land that is being used by a public water system for water shed control for municipal drinking water purposes[-

~~or in a location that could cause contamination to a lake, reservoir, or pond].~~

(ii) Floodplains. No new or existing facility shall be located in a floodplain unless the owner or operator demonstrates to the Executive Secretary that the unit will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in a washout of solid waste so as to pose a hazard to human health or the environment.

(d) Wetlands. No new facility or lateral expansion of an existing facility shall be located in wetlands unless the owner or operator demonstrates to the Executive Secretary that:

(i) where applicable under section 404 of the Clean Water Act or applicable State wetlands laws, the presumption that a practicable alternative to the proposed landfill is available which does not involve wetlands is clearly rebutted;

(ii) the unit will not violate any applicable state water quality standard or section 307 of the Clean Water Act;

(iii) the unit will not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of a critical habitat protected under the Endangered Species Act of 1973;

(iv) the unit will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the unit and its ability to protect ecological resources by addressing the following factors:

(A) erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the unit;

(B) erosion, stability, and migration potential of dredged and fill materials used to support the unit;

(C) the volume and chemical nature of the waste managed in the unit;

(D) impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(E) the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

(F) any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

(v) to the extent required under section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands, as defined by acreage and function, by first avoiding impacts to wetlands to the maximum extent practicable as required by Subsection R315-302-1(2)(d)(i), then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

(vi) sufficient information is available to make a reasonable determination with respect to these demonstrations.

(e) Ground Water.

(i) No new facility or lateral expansion of an existing facility shall be located at a site:

(A) where the bottom of the lowest liner is less than five feet above the historical high level of ground water; or

(B) for a landfill that is not required to install a liner, the lowest level of waste must be at least ten feet above the historical high level of ground water.

(C) If the aquifer beneath a landfill contains ground water which has a Total Dissolved Solids (TDS) of 10,000 mg/l or greater and the landfill is constructed with a composite liner, the bottom of the lowest

liner may be less than five feet above the historical high level of the ground water.

(ii) No new facility shall be located over a sole source aquifer as designated in 40 CFR 149.

(iii) No new facility shall be located over groundwater classed as IB under Section R317-6-3.3.

(iv) Unless all units of the proposed facility are constructed with a composite liner or other equivalent design approved by the Executive Secretary:

(A) a new facility located above any aquifer containing ground water which has a TDS content below 1,000 mg/l which does not exceed applicable ground water quality standards for any contaminant is permitted only where the depth to ground water is greater than 100 feet; or

(B) a new facility located above any aquifer containing ground water which has a TDS content between 1,000 and 3,000 mg/l and does not exceed applicable ground water quality standards for any contaminant is permitted only where the depth to ground water is 50 feet or greater.

(C) The applicant for the proposed facility will make the demonstration of ground water quality necessary to determine the appropriate aquifer classification.

(v) No new facility shall be located in designated drinking water source protection areas or, if no source protection area is designated, within a distance to existing drinking water wells or springs for public water supplies of 250 days ground water travel time. This requirement does not include on-site operation wells. The applicant for the proposed facility will make the demonstration, acceptable to the Executive Secretary, of hydraulic conductivity and other information necessary to determine the 250 days ground water travel distance.

(vi) Ground Water ~~[Exception]~~ Alternative.

(A) Subject to the ground water performance standard stated in Subsection R315-303-~~3~~2(1), if a solid waste disposal facility is to be located over an area where the ground water has a TDS of 10,000 mg/l or greater, or where there is an extreme depth to ground water, or where there is a natural impermeable barrier above the ground water, or where there is no ground water, the Executive Secretary may ~~[exempt the disposal site]~~ approve, on a site specific basis, ~~[from some design criteria]~~ an alternative ground water monitoring system at the facility ~~[and] or may waive the ground water monitoring requirement. ~~[Exemption of]~~ If ground water monitoring is waived ~~[may require]~~ the owner or operator ~~[to]~~ shall make the demonstration stated in Subsection R315-308-1(3).~~

(B) A facility that has a ground water monitoring alternative approved under Subsection R315-302-1(2)(e)(vi) is subject to the ground water quality standards specified in Subsection R315-303-2(1) and the approved alternative shall be revoked by the Executive Secretary if the operation of the facility impacts ground water.

(f) Historic preservation survey requirement.

(i) Each new facility or expansion of an existing facility shall:

(A) have a notice of concurrence issued by the state historic preservation officer as provided for in Subsection 9-8-404(3)(a)(i); or

(B) show that the state historic preservation officer did not respond within 30 days to the submittal, to the officer, of an evaluation; or

(C) have received a joint analysis conducted as required by Subsection 9-8-404(2).

(ii) Each existing facility shall, for all areas of the site that have not been disturbed:

(A) have a notice of concurrence issued by the state historic preservation officer as provided for in Subsection 9-8-404(3)(a)(i); or

(B) show that the state historic preservation officer did not respond within 30 days to the submittal, to the officer, of an evaluation; or

(C) have received a joint analysis conducted as required by Subsection 9-8-404(2).

(3) Exemptions. Exemptions from the location standards with respect to airports, floodplains, wetlands, fault areas, seismic impact zones, and unstable areas cannot be granted. Exemptions from other location standards of ~~[this section]~~ Section R315-302-2 may be granted by the Executive Secretary on a site specific basis if it is determined that the exemption will cause no adverse impacts to ~~[public]~~ human health or the environment.

(a) No exemption may be granted without application to the Executive Secretary.

(b) If an exemption is granted, a facility may be required to have a more stringent design, construction, monitoring program, or operational practice to protect human health or the environment.

(c) All applications for exemptions shall meet the conditions of Section R315-311-3 pertaining to public notice and comment period.

R315-302-2. General Facility Requirements.

(1) Applicability.

(a) Each new and existing solid waste facility for which a permit is required by Section R315-310-1, shall meet the applicable requirements of Section R315-302-2 or portions of Section R315-302-2 as required by Rules R315-304, R315-305, R315-306, R315-307, R315-312, R315-313, or R315-314.

(b) Any facility which stores waste in piles that is subject to the requirements of Rule R315-314 shall meet the applicable requirements of Section R315-302-2.

(c) Any recycling facility or composting facility subject to the standards of Rule R315-312 shall submit a plan of operation, to the Executive Secretary, that demonstrates compliance with the applicable standards of Section R315-302-2 and Rule R315-312.

(i) The submitted plan of operation shall be reviewed to determine compliance with the applicable standards of Section R315-302-2 and Rule R315-312.

(ii) Prior to the acceptance of waste or recyclable material or beginning operations at the facility, the owner or operator of a recycling or composting facility must receive notice from the Executive Secretary that the plan of operation meets the applicable standards of Section R315-302-2 and Rule R315-312.

(d) Any transfer station subject to the standards of Rule R315-313 shall submit a plan of operation to the Executive Secretary that demonstrates compliance with the applicable standards of Section R315-302-2 and Rule R315-313.

(i) The submitted plan of operation shall be reviewed to determine compliance with the applicable standards of Section R315-302-2 and Rule R315-313.

(ii) Prior to the acceptance of waste or beginning operations at the facility, the owner or operator of a transfer station facility must receive notice from the Executive Secretary that the plan of operation meets the applicable standards of Section R315-302-2 and Rule R315-313.

~~[(+)]~~ (e) The requirements of Section R315-302-2 apply to industrial solid waste facilities as specified in Rule R315-304.

(f) A solid waste incinerator facility that meets the quantity limitation of Subsection R315-306-3(1)(b) shall meet the reporting requirements of Subsection R315-302-2(4).

(2) Plan of Operation. Each owner or operator shall develop, keep on file, and abide by a plan of operation approved by the Executive Secretary. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the Executive Secretary or his authorized representative. The facility must be operated in accordance with the plan ~~or the plan must be so modified with the approval of the Executive Secretary, to allow the facility to operate in accordance with an approved plan~~. Each plan of operation shall include:

(a) an intended schedule of construction. Facility ~~plan approvals~~ permits will be reviewed by the Executive Secretary no later than 18 months after the permit is issued and periodically thereafter, to determine if the schedule of construction is reasonably being followed. Failure to comply with the schedule of construction may result in revocation of the ~~plan approval~~ permit;

(b) a description of on-site solid waste handling procedures during the active life of the facility;

(c) a schedule for conducting inspections and monitoring for the facility;

(d) contingency plans in the event of a fire or explosion;

(e) corrective action programs to be initiated if ground water is contaminated;

(f) contingency plans for other releases, e.g. release of explosive gases or failure of run-off containment system;

(g) a plan to control fugitive dust generated from roads, construction, general operations, and covering the waste;

(h) a plan to control wind-blown litter that includes equipment and methods to contain litter, including a schedule and methods to collect scattered litter in a timely manner;

(i) a description of maintenance of installed equipment including leachate and gas collection systems, and ground water monitoring systems;

(j) procedures for excluding the receipt of prohibited hazardous waste or prohibited waste containing PCBs;

(k) procedures for controlling disease vectors;

(l) a plan for an alternative waste handling or disposal system during periods when the solid waste facility is not able to dispose of solid waste, including procedures to be followed in case of equipment breakdown;

(m) closure and post-closure care plans;

(n) cost estimates and financial assurance as required by Subsection R315-309-2(3);

(o) a landfill operations training plan for site operators; and

(p) other information pertaining to the plan of operation as required by the Executive Secretary.

(3) Recordkeeping. Each owner or operator shall maintain and keep, on-site or at a location approved by the Executive Secretary, the following permanent records:

(a) a daily operating record, to be completed at the end of each day of operation, that shall contain:

(i) the weights, in tons, or volumes, in cubic yards, of solid waste received each day, number of vehicles entering, and if available, the type of wastes received each day;

(ii) deviations from the approved plan of operation;

(iii) training and notification procedures;

(iv) results of ground water and gas monitoring that may be required; and

(v) an inspection log or summary; and

(b) other records to include:

(i) documentation of any demonstration made with respect to any location standard or exemption;

(ii) any design documentation for the placement or recirculation of leachate or gas condensate into the landfill as allowed by Subsection R315-303-3(2)(b);

(iii) closure and post-closure care plans as required by Subsections R315-302-3(4) and (7);

(iv) cost estimates and financial assurance documentation as required by Subsection R315-309-2(3);

(v) any information demonstrating compliance with Class II Landfill requirements if applicable; and

(vi) other information pertaining to operation, maintenance, monitoring, or inspections as may be required by the Executive Secretary.

(4) Reporting.

(a) Each owner or operator of any facility, including a facility performing post-closure care, shall prepare an annual report and place the report in the facility's operating record. The owner or operator of the facility shall submit a copy of the annual report to the Executive Secretary by March 1 of each year for the most recent calendar year or fiscal year of facility operation.

(b) The annual report shall cover facility activities during the previous year and must include, at a minimum, the following information:

(i) name and address of the facility;

(ii) calendar year covered by the report;

(iii) annual quantity, in tons, of solid waste received;

~~[(iv) estimated in-place density in pounds per cubic yard of solid waste handled for each type of treatment, storage, or disposal facility, including applicable recycling facilities;~~

~~—(v)](iv) the annual update of the required financial assurances mechanism pursuant to Subsection R315-309-2(2);~~

~~[(vi)](v) results of ground water monitoring and gas monitoring;~~ and

~~[(vii)](vi) training programs or procedures completed.~~

(c) Since the amount of waste received must be reported in tons, the following conversion factors shall be used for waste received that is not weighted on scales.

(i) Municipal solid waste:

(A) Uncompacted - 0.15 tons per cubic yard; and

(B) Compacted (delivered in a compaction vehicle) - 0.30 tons per cubic yard.

(ii) Construction/demolition waste - 0.50 tons per cubic yard.

(iii) Municipal incinerator ash - 0.75 tons per cubic yard.

(iv) Other ash - 1.10 tons per cubic yard.

(v) Waste delivered by a resident in a pickup truck or a single axle trailer - 0.25 tons per vehicle.

(vi) Industrial waste - a reasonable conversion factor, based on site specific data, developed by the owner or operator of the facility.

(d) If an owner or operator of a municipal landfill or a construction/demolition landfill has documented conversion factors that are based on facility specific data, these conversion factors may be used to report the amounts of waste when approved by the Executive Secretary.

(5) Inspections.

(a) The owner or operator shall inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of wastes to the environment or to a threat to human health. The owner or operator must conduct these

inspections with sufficient frequency, no less than quarterly, to identify problems in time to correct them before they harm human health or the environment. The owner or operator shall keep an inspection log or summary including at least the date and time of inspection, the printed name and handwritten signature of the inspector, a notation of observations made, and the date and nature of any repairs or corrective action. The log or summary must be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least three years from the date of inspection. Inspection records shall be available to the Executive Secretary or his authorized representative upon request.

(b) The Executive Secretary or any duly authorized officer, employee, or representative of the Board may, at any reasonable time and upon presentation of appropriate credentials, enter any solid waste facility and inspect the property, records, monitoring systems, activities and practices, or solid waste being handled for the purpose of ascertaining compliance with Rules R315-301 through 320 and the approved plan of operation for the facility.

(i) The inspector may conduct monitoring or testing, or collect samples for testing, to verify the accuracy of information submitted by the owner or operator or to ensure that the owner or operator is in compliance. The owner or operator may request split samples and analysis parameters on any samples collected by the inspector.

(ii) The inspector may use photographic equipment, video camera, electronic recording device, or any other reasonable means to record information during any inspection.

(iii) The results of any inspection shall be furnished promptly to the owner or operator of the facility.

(6) Recording with the County Recorder.

Not later than 60 days after certification of closure, the owner or operator of a solid waste disposal facility shall:

(a) submit plats and a statement of fact concerning the location of any disposal site to the county recorder to be recorded as part of the record of title; and

(b) submit proof of record of title filing to the Executive Secretary.

R315-302-3. General Closure and Post Closure Requirements.

(1) Applicability.

(a) ~~[An existing facility, a new facility, or an existing facility seeking lateral expansion]~~ The owner or operator of any solid waste disposal facility that requires a permit shall meet the applicable standards of Section R315-302-3 and shall provide financial assurance for closure and post-closure care costs that meets the requirements of Rule R315-309.

(b) The requirements of Subsections (2), (3), and (4) of this section apply to any solid waste management facility as defined by Subsection 19-6-502(9). The requirements of Subsections (5), (6), and (7) of this section apply to:

- (i) Class I, II, IV, V, and VI Landfills;
- (ii) Class III Landfills as specified in Rule R315-304; and
- (iii) any landtreatment disposal facility.

(2) Closure Performance Standard. Each owner or operator shall close its facility or unit in a manner that:

- (a) minimizes the need for further maintenance;
- (b) minimizes or eliminates threats to human health and the environment from post-closure escape of solid waste constituents, leachate, landfill gases, contaminated run-off or waste decomposition products to the ground, ground water, surface water, or the atmosphere; and

(c) prepares the facility or unit for the post-closure period.

(3) Closure Plan and Amendment.

(a) Closure may include covering, grading, seeding, landscaping, contouring, and screening. For a transfer station or a drop box facility, closure includes waste removal and decontamination of the site, including soil analysis, ground water analysis, or other procedures as required by the Executive Secretary.

(b) Each owner or operator shall develop, keep on file and abide by a plan of closure required by Subsection R315-302-2(2) ~~[(4)]~~ [(m)] which, when approved by the Executive Secretary, will become part of the permit.

(c) The closure plan shall project time intervals at which sequential partial closure, if applicable, is to be implemented and identify closure cost estimates and projected fund withdrawal intervals for the associated closure costs from the approved financial assurance instrument required by Rule R315-309.

(d) The closure plan may be amended if conditions and circumstances justify such amendment. If it is determined that amendment of a facility closure plan is required, the Executive Secretary may direct facility closure activities, in part or whole, to cease until the closure plan amendment has been reviewed and approved by the Executive Secretary.

(e) Each owner and operator shall close the facility or unit in accordance with the approved closure plan and all approved amendments.

(4) Closure Procedures.

(a) Each owner and operator shall notify the Executive Secretary of the intent to implement the closure plan in whole or part, 60 days prior to the projected final receipt of waste at the unit or facility unless otherwise specified in the approved closure plan.

(b) The owner or operator shall commence implementation of the closure plan, in part or whole, within 30 days after receipt of the final volume of waste, or for landfills, when the final elevation is attained in part or all of the facility cell or unit as identified in the approved facility closure plan unless otherwise specified in the approved closure plan. Closure activities shall be completed within 180 days from their starting time. Extensions of the closure period may be granted by the Executive Secretary if justification for the extension is documented by the owner or operator.

(c) ~~When an owner or operator completes closure of a solid waste management unit or facility closure is completed, he[each owner or operator]~~ When an owner or operator completes closure of a solid waste management unit or facility closure is completed, he[each owner or operator] shall, within 90 days or as required by the Executive Secretary, submit to the Executive Secretary:

(i) facility or unit closure plans, except for Class IIIb, IVb, and VI Landfills, signed by a professional engineer registered in the state of Utah, and modified as necessary to represent as-built changes to final closure construction as approved in the closure plan; and

(ii) certification by the owner or operator, and, except for Class IIIb, IVb, and VI Landfills, a professional engineer registered in the state of Utah, that the site or unit has been closed in accordance with the approved closure plan.

(5) Post-Closure Performance Standard. Each owner or operator shall provide post-closure activities for continued facility maintenance and monitoring of gases, land, and water for 30 years or as long as the Executive Secretary determines is necessary for the facility or unit to become stabilized and to protect human health and the environment.

(6) Post-Closure Plan and Amendment.

(a) For any disposal facility, except an energy recovery or incinerator facility, post-closure care may include:

- (i) ground water and surface water monitoring;
- (ii) leachate collection and treatment;
- (iii) gas monitoring;

(iv) maintenance of the facility, the facility structures that remain after closure, and monitoring systems for their intended use as required by the approved permit;

(v) a description of the planned use of the property; and

(vi) any other activity required by the Executive Secretary to protect human health and the environment for a period of 30 years or a period established by the Executive Secretary.

(b) Each owner or operator shall develop, keep on file, and abide by a post-closure plan as required by Subsection R315-302-2(2) [(4)(m)] and as approved by the Executive Secretary as part of the permit. The post-closure plan shall address facility or unit maintenance and monitoring activities until the site becomes stabilized (i.e., little or no settlement, gas production or leachate generation) and monitoring and maintenance activities can be safely discontinued.

(c) The post-closure plan shall project time intervals at which post-closure activities are to be implemented and identify post-closure cost estimates and projected fund withdrawal intervals from the selected financial assurance instrument, where applicable, for the associated post-closure costs.

(d) The post-closure plan may be amended if conditions and circumstances justify such amendment. If it is determined that amendment of a facility or unit post-closure plan is required, the Executive Secretary may direct facility post-closure activities, in part or whole, to cease until the post-closure plan amendment has been reviewed and approved.

(7) Post-Closure Procedures.

(a) Each owner or operator shall commence post-closure activities after closure activities have been completed. The Executive Secretary may direct that post-closure activities cease until the owner or operator receives a notice from the Executive Secretary to proceed with post-closure activities.

(b) When post-closure activities are complete, as determined by the Executive Secretary, the owner or operator shall submit a certification to the Executive Secretary, signed by the owner or operator, and, except for Class IIIb, IVb, and VI Landfills, a professional engineer registered in the state of Utah stating why post-closure activities are no longer necessary (i.e., little or no settlement, gas production, or leachate generation).

(c) If the Executive Secretary finds that post-closure monitoring has established that the facility or unit is stabilized (i.e., little or no settlement, gas production, or leachate generation) the Executive Secretary may authorize the owner or operator to discontinue any portion or all of the post-closure maintenance and monitoring activities.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: [~~October 15, 2003~~2007]

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108; 19-6-109; 40 CFR 258



Environmental Quality, Solid and
Hazardous Waste
R315-303
Landfilling Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29204

FILED: 11/09/2006, 15:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify the location and design standards for Class II Landfills; clarify inspection and maintenance requirements for landfill earthen final covers; allow operators to use several types of alternative daily cover without seeking executive secretary approval; and to clarify the documentation for the performance of an alternative landfill earthen final cover design.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify the location standards and design standards for a Class II Landfill; to clarify the inspection requirements to maintain the designed thickness of an earthen final cover at a landfill; to give landfills more flexibility in the use of alternative daily covers and to eliminate some of the approval requirements; and to clarify the use of appropriate mathematical modeling to document the expected performance of an alternative final earthen cover design at a landfill.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108; and 40 CFR 258

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The changes in the rule do not affect state agencies. The enforcement and the oversight of the requirements of the rule will not change except for the reduction in the requirements for review and approval of alternative daily covers. The cost savings for the reduction in the time needed for review of alternative daily covers will be small, amounting to no more than 16 hours per year for one full time equivalent.

❖ **LOCAL GOVERNMENTS:** Portions of the rule are clarified and the actual requirements are not changed except for the reduction in the requirement for approval of alternative daily covers. The reduction in staff time needed to prepare an alternative daily cover application is unknown but may amount to as much as eight hours of staff time for each landfill that uses an alternative daily cover. The addition of criteria for the performance of an alternative final cover is incorporated into rule. The proposed rule change is based on guidance that has been used for the review of these applications in the past. Therefore, no cost is associated with this change.

❖ **OTHER PERSONS:** Portions of the rule are clarified and the actual requirements are not changed except for the reduction in the requirement for approval of alternative daily covers. The reduction in staff time needed to prepare an alternative daily cover application is unknown but may amount to as much as eight hours of staff time for each landfill that uses an alternative daily cover. The addition of criteria for the performance of an alternative final cover is incorporated into rule. The proposed rule change is based on guidance that has been used for the review of these applications in the past. Therefore, no cost is associated with this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Portions of the rule are clarified and the actual requirements are not changed except for the reduction in the requirement for approval of alternative daily covers. The reduction in staff time needed to prepare an alternative daily cover application is unknown but may amount to as much as eight hours of staff time for each landfill that uses an alternative daily cover.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Portions of the rule are clarified and not actually changed and the portion of the rule change that has a fiscal impact will reduce costs for business. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-303. Landfilling Standards.

R315-303-1. Applicability.

~~[These]~~The standards of Rule R315-303 apply to:

- (1) Class I, II, and V Landfills;
- (2) Class III Landfills as specified in Rule R315-304; and
- (3) Class IV, and VI Landfills as specified in Rule R315-305.

R315-303-3. Standards for Design.

(1) Minimizing Liquids. An owner or operator of a landfill shall minimize liquids admitted to active areas by:

- (a) covering according to Subsection R315-303-4(4);
- (b) prohibiting the disposal of containerized liquids larger than household size, noncontainerized liquids, sludge containing free liquids, or any waste containing free liquids in containers larger than household size;
- (c) designing the landfill to prevent run-on of all surface waters resulting from a maximum flow of a 25-year storm into the active area of the landfill; and
- (d) designing the landfill to collect and treat the run-off of surface waters and other liquids resulting from a 25-year storm from the active area of the landfill.
- (e) If the owner or operator of a landfill has received a storm water permit as issued by the Utah Division of Water Quality and is

meeting the requirements of the permit, the landfill may be exempt, upon approval of the Executive Secretary, from the run-on and run-off control requirements of Subsections R315-303-3(1)(c) and (d).

(2) Leachate Collection Systems.

(a) An owner or operator of a landfill required to install liners shall:

- (i) install a leachate collection system sized according to water balance calculations or using other accepted engineering methods, either of which shall be approved by the Executive Secretary;
- (ii) install a leachate collection system so as to prevent no more than one foot depth of leachate developing at any point in the bottom of the landfill unit; and
- (iii) install a leachate treatment system or a pretreatment system, if necessary, in the case of discharge to a municipal water treatment plant.

(b) The returning of leachate to the landfill or the recirculation of leachate in the landfill may be done only in landfills that have a composite liner system or an approved equivalent liner system.

(3) Liner Designs. An owner or operator of a landfill shall use liners of one of the following designs:

(a) Standard Design. The design shall have a composite liner system consisting of two liners and the associated liner protection layers and a drainage system for leachate collection:

(i) an upper liner made of synthetic material with a thickness of a least 60 mils; and

(ii) a lower liner of at least two feet thickness of recompacted clay or other soil material with a permeability of no more than 1×10^{-7} cm/sec having the bottom liner sloped no less than 2% and the side liners sloped no more than 33%, except where construction and operational integrity can be demonstrated at steeper slopes, with the synthetic liner installed in direct and uniform contact with the compacted soil component; or

(b) ~~[Alternative]~~Equivalent Design.

(i) The Executive Secretary may approve an alternative liner design, on a site specific basis, if it can be documented that, under the conditions of location and hydrogeology, the ~~[performance standard of Subsection R315-303-2(1) can be met]~~equivalent design will minimize the migration of solid waste constituents or leachate into the ground or surface water at least as effectively as the liner design required in Subsection R315-303-3(3)(a).

(ii) When approving an ~~[alternative]~~equivalent liner design, the Executive Secretary shall consider the following factors:

- (A) the hydrogeologic characteristics of the facility and surrounding land;
- (B) the climatic factors of the area; and
- (C) the volume and physical and chemical characteristics of the leachate; or

(c) ~~[Equivalent]~~Alternative Design.

(i) The owner or operator may use, as approved by the Executive Secretary, ~~an alternative design, operating practices, and location characteristics which will minimize the migration of solid waste constituents or leachate into the ground or surface water which are at least as effective as the liners of Subsections R315-303-3(3)(a) or (b)].~~

(ii) The owner or operator must demonstrate that the ground water quality protection standard of Subsection R315-303-2(1) can be met. The demonstration must be approved by the Executive Secretary, and must be based upon:

- (A) the hydrogeologic characteristics of the facility and the surrounding land;
- (B) the climatic factors of the area;

(C) the volume and physical and chemical characteristics of the leachate;

(D) predictions of contaminate fate and transport in the subsurface that maximize contaminant migration and consider impacts on human health and the environment; ~~or~~ and

(E) predictions of leachate flow from the base of the waste to the uppermost aquifer; or

(d) Stringent Design. When conditions of location, hydrogeology, or waste stream justify, the Executive Secretary may require that the liner of a landfill be constructed to meet standards more stringent than the liner designs of Subsection R315-303-3(3)(a).

(e) Small Landfill Design.

(i) The small landfill design applies only to a Class II Landfill.

(ii) [Subject to] Each new Class II Landfill and any existing Class II Landfill seeking facility expansion shall meet the location standards of Section R315-302-1. ~~and~~

(iii) Each new and existing Class II Landfill shall meet the performance standards of Section R315-303-2. ~~a~~

(iv) A Class II Landfill, ~~may be~~ which meets the requirements of Subsection R315-303-3(3)(e)(v), is exempt from the liner, leachate collection system, and ground water monitoring requirements of Rule R315-303.

~~(iii)~~ (v) A Class II Landfill will be approved only if:

(A) there is no evidence of existing ground water contamination; ~~and~~

(B) the landfill serves a community that has no practicable waste management alternative as determined by the Executive Secretary; ~~and~~

(C) the landfill is located in an area which receives less than 25 inches of annual precipitation ~~;~~

(D) the landfill receives, on a yearly average, no more than 20 tons of waste per day, or if a tonnage cannot be determined, serves a population of no more than 8,900; and

(E) the landfill meets all the requirements in Rules R315-301 through 320 applicable to Class II landfills.

~~(iv)~~ (vi) A Class II Landfill may lose the exemptions of the small landfill design if at any time the landfill receives more than 20 tons of solid waste per day, based on an annual average, or has caused ground water contamination.

(4) Closure. At closure, an owner or operator of a Class I, II, IIIa, IVa, and V Landfill shall use one of the following designs for the final cover.

(a) Standard Design. The standard design of the final cover shall consist of two layers:

(i) a layer to minimize infiltration, consisting of at least 18 inches of compacted soil, or equivalent, with a permeability of 1×10^{-5} cm/sec or less, or equivalent, shall be placed upon the final lifts;

(A) in no case shall the cover of the final lifts be more permeable than the bottom liner system or natural subsoils present in the unit; and

(B) the grade of surface slopes shall not be less than 2%, nor the grade of side slopes more than 33%, except where construction integrity and the integrity of erosion control can be demonstrated at steeper slopes; and

(ii) a layer to minimize erosion, consisting of:

(A) at least 6 inches of soil capable of sustaining vegetative growth placed over the compacted soil cover and seeded with grass, other shallow rooted vegetation or other native vegetation; or

(B) other suitable material, approved by the Executive Secretary.

(b) Requirements for any Earthen Final Cover at a Landfill.

(i) Markers or other benchmarks shall be installed in any final earthen cover to indicate the thickness of the final cover. These

markers shall be observed during each quarterly inspection and the earthen cover shall be raised to the appropriate thickness as necessary.

(ii) Erosion channels deeper than 10% of the total cover thickness shall be repaired as soon as possible following their discovery.

~~(b)~~ (c) Alternative Final Cover Design. The Executive Secretary may approve an alternative final cover design, on a site specific basis, if it can be documented that:

(i) the alternative final cover achieves an equivalent reduction in infiltration as ~~specified as~~ achieved by the standard design in Subsection R315-303-3(4)(a)(i); and

(ii) the alternative final cover provides equivalent protection from wind and water erosion as ~~specified as~~ achieved by the standard design in Subsection R315-303-3(4) ~~(b)~~ (a) (ii).

(d) The expected performance of an alternative final cover design shall be documented by the use of an appropriate mathematical model.

(i) The input for the modeling shall include the climatic conditions at the specific landfill site and the soil types that will make up the final cover.

(ii) The model shall:

(A) be run to show the expected performance of the final cover at normal precipitation for a period of time until stability has been reached; and

(B) shall be run to show the expected performance of the final cover during the five wettest years on record at the site or the nearest weather station.

(e) The Executive Secretary shall use the following criteria as part of the basis for determining if an alternative final cover will be approved:

(i) If the landfill has a liner design that does not use a synthetic material such as HDPE, the model will compare the infiltration through the standard cover as required in Subsection R315-303-3(4)(a) and shall show that the alternative cover performs as well as the standard cover; or

(ii) If the landfill has a liner composed in part of a synthetic material such as HDPE, the model must show an infiltration rate of no greater than 3 millimeters of water per year during any year of the model run.

~~(e)~~ (f) If a landfill has been constructed using an approved alternative landfill design ~~, including a waiver, or exemption, from the liner or ground water monitoring requirements], the Executive Secretary may require, on a site- specific basis, the landfill closure design to be ~~a~~ more stringent ~~design~~~~ than the standard design specified in Subsection R315-303-3(4)(a) to protect human health or the environment.

~~(b)~~ (g) In no case shall any modification be made to the final cover, as placed and approved at closure by the Executive Secretary, unless that modification:

(i) is a necessary repair of the approved final cover;

(ii) maintains or improves the effectiveness of the final cover; and

(iii) is approved by the Executive Secretary.

(5) Gas Control.

(a) An owner or operator shall design each landfill so that explosive gases are monitored quarterly.

(b) If the concentration of these gases ever exceed the standard set in Subsection R315-303-2(2)(a), the owner or operator must:

(i) immediately take all necessary steps to ensure protection of human health and, within 24 hours or the next business day, notify the Executive Secretary;

(ii) within seven days of detection, place in the operating record the explosive gas levels detected and a description of the steps taken to protect human health; and

(iii) within 60 days of detection, implement a remediation plan, that has been approved by the Executive Secretary, for the explosive gas release, place a copy of the plan in the operating record, and notify the Executive Secretary that the plan has been implemented.

(c) Collection and handling of explosive gases shall not be required if it can be shown that the explosive gases will not support combustion.

(d) The Executive Secretary may, on a site specific basis, waive the requirement of monitoring explosive gases at a Class II Landfill. The waiver may be granted after:

(i) considering the characteristics of the landfill and the waste stream accepted;

(ii) taking into account climatic and hydrogeologic conditions of the site; and

(iii) completing a public comment period as specified by Section R315-311-3.

(iv) The Executive Secretary may revoke any waiver from the requirement of monitoring explosive gases if the lack of monitoring explosive gases at the landfill presents a threat to human health or the environment.

(v) The requirement to monitor explosive gases inside buildings at a landfill may not be waived.

(e) A landfill that accepts no municipal waste, or other waste with potential to generate methane during decomposition, is exempt from the gas monitoring requirement of Subsection R315-303-3(5)(a).

(6) Design Drawings.

(a) Design drawings and as built drawings of any engineered structure, including landfill liners, leachate collection systems, run-on/run-off control systems, final covers, ground water monitoring systems, and gas collection systems, shall be signed and sealed by a professional engineer registered in the State of Utah.

(b) As built drawings shall be submitted to the Executive Secretary on or before 90 days following the completion of the engineered structure at the landfill.

(7) Other Requirements. An owner or operator shall design each landfill to provide for:

(a) fencing at the property or unit boundary or the use of other artificial or natural barriers to impede entry by the public and large animals. A lockable gate shall be required at the entry to the landfill;

(b) monitoring ground water according to Rule R315-308 using a design approved by the Executive Secretary. The Executive Secretary may also require monitoring of:

(i) surface waters, including run-off;

(ii) leachate; and

(iii) subsurface landfill gas movement and ambient air;

(c) weighing or estimating the tonnage of all incoming waste and recording the tonnage in the facility's operation record;

(d) erecting a sign at the facility entrance that identifies at least the name of the facility, the hours during which the facility is open for public use, unacceptable materials, and an emergency telephone number. Other pertinent information may also be included;

(e) adequate fire protection to control any fires that may occur at the facility. This may be accomplished by on-site equipment or by arrangement made with the nearest fire department;

(f) preventing potential harborage in buildings, facilities, and active areas of rat and other vectors, such as insects, birds, and burrowing animals;

(g) minimizing the size of the unloading area and working face as much as possible, consistent with good traffic patterns and safe operation;

(h) approach and exit roads of all-weather construction, with traffic separation and traffic control on-site and at the site entrance; and

(i) communication, such as telephone or radio, between employees working at the landfill and management offices on-site and off-site to handle emergencies.

R315-303-4. Standards for Maintenance and Operation.

(1) Plan of Operation. An owner or operator of a landfill shall maintain and operate the facility to conform to the approved plan of operation.

(2) Operating Details. An owner or operator of a landfill shall operate the facility to:

(a) control fugitive dust generated from roads, construction, general operations, and covering the waste;

(b) allow no open burning;

(c) collect scattered litter as necessary to avoid a fire hazard or an aesthetic nuisance;

(d) prohibit scavenging;

(e) conduct ~~on-site~~ reclamation of facility property in an orderly sanitary manner and in a way that does not interfere with the disposal site operation;

(f) ensure that landfill personnel, trained in landfill operations, are on ~~the~~ site when the site is open to the public;

(i) at least one person on ~~the~~ site for landfills that receive, on an average annual basis, less than 15,000 tons per year; and

(ii) at least two persons on ~~the~~ site, with one person at the active face, for each landfill that receives, on an average annual basis, more than 15,000 tons per year.

(g) control insects, rodents, and other vectors; and

(h) ensure that reserve operational equipment will be available to maintain and meet these standards.

(3) Boundary Posts. An owner or operator of a landfill shall clearly mark the active area boundaries authorized in the permit ~~with~~ by placing permanent posts or by using an equivalent method clearly visible for inspection purposes.

(4) Daily and Intermediate Cover.

(a) An owner or operator of a landfill shall, at the close of each day of operation, completely cover the waste with at least six inches of soil or ~~other suitable material~~ an alternative daily cover ~~approved by the Executive Secretary~~ as allowed in Subsections R315-303-4(4)(b) through (e).

(b) The following are approved for use as alternative daily covers:

(i) non-hazardous contaminated soil; and

(ii) subject to the conditions contained in Subsection R315-303-4(4)(c):

(A) tarps;

(B) plastic sheets, when designed for landfill cover use;

(C) foam products, when designed for landfill cover use;

(D) products created from cement kiln dust, when designed for landfill cover use;

(E) incinerator ash;

(F) non-hazardous auto shredder residue not otherwise regulated by 40 CFR Part 761;

(G) chipped waste tires; and

(H) spray-on materials, when designed for landfill cover use.

(c) The use of an approved alternative daily cover is subject to the following conditions:

(i) the alternative daily cover may not present a threat to human health or the environment; and

(ii) the alternative daily cover may be used only on a schedule as established by the ~~Executive Secretary~~ facility owner or operator and recorded in the facility operating record.

(iii) The facility owner or operator shall establish the schedule for use of the approved alternative cover ~~shall be established~~ based on the alternative cover's performance in controlling vectors, fires, odors, blowing, and scavenging. The schedule shall the following requirements:

(A) any schedule established by the facility owner or operator must provide for the placing of six inches of soil cover at least once per week;

(B) no approved alternative daily cover may be used on the day preceding a day the landfill will be closed;

(C) No alternative daily cover may be used on an area of the landfill that will not be covered with waste or an intermediate cover, as required in Subsection R315-303-4(4)(g), within two days; and

(D) The Executive Secretary may require the use of six inches of soil cover upon finding that use of an alternative cover is not controlling vectors, fires, odors, blowing litter or scavenging.

(iv) The landfill operating record must clearly document the days when an alternative cover was used and the days when soil cover was used.

(v) The Executive Secretary may revoke the use of any alternative daily cover at any landfill facility if any condition of Subsection R315-303-4(4)(c) is not met or if the alternative daily cover is determined to present a threat to human health or the environment.

(d) Materials not listed in Subsection R315-303-4(4)(b) may be used as alternative daily cover on an infrequent basis when the material meets the requirements of Subsection R315-303-4(4)(c) and the use is documented in the facility operating record.

(e) Materials not listed in Subsection R315-303-4(4)(b) which a facility owner or operator wants to use on an ongoing basis must be approved by the Executive Secretary. Executive Secretary approval is based on the material meeting the requirements of Subsection R315-303-4(4)(c).

~~(f)~~ (f) The Executive Secretary may, on a site specific basis, waive the requirement for daily cover of the waste at a landfill that accepts no municipal waste if the owner or operator demonstrates that an alternative schedule for covering the waste does not present a threat to human health or the environment. The demonstration from the owner or operator of the landfill must include at least the following:

(i) certification that the landfill accepts no municipal waste;

(ii) a detailed list of the waste types accepted by the landfill;

(iii) the alternative schedule on which the waste will be covered; and

(iv) any other operational practices that may reduce the threat to human health or the environment if an alternative schedule for covering the waste is followed.

(v) In granting any waiver from the daily cover requirement, the Executive Secretary may place conditions on the owner or operator of the landfill as to the frequency of covering, depth of the cover, or type of material used as cover that will minimize the threat to human health or the environment.

(vi) The Executive Secretary may revoke any waiver from the daily cover requirement if any condition is not met or if the alternative

schedule for covering the waste presents a threat to human health or the environment.

~~(e)~~ (g) If an area of the working face of a landfill that accepts municipal waste will not receive waste for a period longer than 30 days, the owner or operator shall cover the area with a minimum of 12 inches of soil as an intermediate cover or an alternative intermediate cover as approved by the Executive Secretary.

(i) No alternative intermediate cover will be approved by the Executive Secretary without application from the owner or operator.

(ii) Approval for an alternative intermediate cover may be granted after:

(A) considering the design of the landfill, waste stream accepted, and waste handling practices; and

(B) taking into account climatic, hydrogeologic, and soil conditions of the site.

(iii) In granting approval for an alternative intermediate cover, the Executive Secretary may place conditions on the owner or operator of the landfill as to the depth or type of material used and maintenance of the integrity of the cover that will minimize the threat to human health or the environment.

(iv) The Executive Secretary may revoke the approval of an alternative intermediate cover if any condition is not met or if the use of the alternative intermediate cover is determined to present a threat to human health or the environment.

(5) Monitoring Systems. An owner or operator of a landfill shall maintain the monitoring systems required in Subsection R315-303-3(7)(b).

(6) Recycling Required.

(a) An owner or operator of a landfill at which the general public delivers household solid waste shall provide containers in which the general public may place recyclable materials for which a market exists ~~that are brought to the site~~. The containers shall be placed at a location convenient to the public and shall be accessible to the public during normal hours of facility operation.

~~— (i) during the normal hours of operation; and~~

~~— (ii) at a location convenient to the public, i.e., near the entrance gate.~~

(b) An owner or operator may demonstrate alternative means to providing an opportunity for the general public to recycle household solid waste.

(7) Disposal of Hazardous Waste and Waste Containing PCBs.

(a) An owner or operator of a solid waste disposal facility shall not knowingly dispose, treat, store, or otherwise handle hazardous waste or waste containing PCBs except under the following conditions:

(i) hazardous waste:

(A) the waste meets the conditions specified in Subsections R315-2-4; or

(B) the waste meets the conditions specified in 40 CFR 261.5 (1996) as incorporated by reference in Section R315-2-5; or

(ii) waste containing PCB's:

(A) the facility meets the requirements specified in Subsection R315-315-7(3)(a); or

(B) the waste meets the requirements specified in Subsections R315-315-7(2) or (3)(b).

(b) An owner or operator of a solid waste disposal facility shall include and implement, as part of the plan of operation, a plan that will inspect loads or take other steps, as approved by the Executive Secretary, that will prevent the disposal of prohibited hazardous waste and prohibited waste containing PCBs, including:

- (i) inspection frequency and inspection of loads suspected of containing prohibited hazardous waste or prohibited waste containing PCBs;
 - (ii) inspection in a designated area or at a designated point in the disposal process;
 - (iii) a training program for the facility employees in identification of prohibited hazardous waste and prohibited waste containing PCBs; and
 - (iv) maintaining written records of all inspections, signed by the inspector.
- (c) If the receipt of prohibited hazardous waste or prohibited waste containing PCBs is discovered, the owner or operator of the facility shall:
- (i) notify the Executive Secretary, the hauler, and the generator within 24 hours;
 - (ii) restrict the inspection area from public access and from facility personnel; and
 - (iii) assure proper cleanup, transport, and disposal of the waste.

KEY: solid waste management, waste disposal
Date of Enactment or Last Substantive Amendment: [October 15, 2003]2007
Notice of Continuation: March 14, 2003
Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108; 40 CFR 258

◆ ————— ◆

Environmental Quality, Solid and Hazardous Waste **R315-304** Industrial Solid Waste Landfill Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29205
FILED: 11/09/2006, 15:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to remove dates that are passed and are no longer needed; to make the location standard with respect to ground water consistent with that required for other landfills for which liners are not required; and to include submittal of information required by changes made in the historical preservation statute made in the 2006 legislative general session (H.B. 139). (DAR NOTE: H.B. 139 (2006) is found at Chapter 292, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The rule is changed to remove an effective date that is passed and is no longer necessary; to remove date-based definitions to the terms "Existing Class III Landfill" and "New Class III Landfill"; to require the lowest level of waste be at least ten feet above the historical high level of ground water as is required for other classes of non-lined landfills; and to require submittal of a historical survey.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-108; Subsection 9-8-404(1); and 40 CFR 257

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The rule change does not affect state agencies and the enforcement and oversight of the rule requirements will remain the same. Therefore, no cost or savings impact is anticipated to the state budget as a result of the proposed rule change.

❖ **LOCAL GOVERNMENTS:** As a general rule local governments would not operate Class III landfills as these facilities are for disposal of industrial waste only. If a local government were to operate this class of landfill those parts of the rule that are clarified but the requirements of the rule are not changed, would have no cost or savings impact to local governments beyond that required by current statute or rule is anticipated. The change in the allowed depth to ground water will not increase costs but may limit the area within which a landfill may be located. If a site cannot be found that meets the depth to ground water requirement, then waste will be moved off site and this can increase costs or decrease cost depending on the operational cost for the facility used. The change requiring submittal of an archaeological survey is made to implement existing requirements of the historical preservation statute passed in the 2006 legislative session; therefore, no new cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact.

❖ **OTHER PERSONS:** Since the requirements of the rule are not changed, no cost or savings impact to other persons beyond that required by current statute or rule is anticipated. The change in the allowed depth to ground water will not increase costs, but may limit the area within which a landfill may be located. If a site cannot be found that meets the depth to ground water requirement, then waste will be moved off site and this can increase costs or decrease cost depending on the operational cost for the facility used. The change requiring submittal of an archaeological survey implements existing requirements of the historical preservation statute passed in the 2006 legislative general session; therefore, no new cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Dates that are passed and no longer needed are removed from the rule and the actual requirements are not changed. The change in the allowed depth to ground water will not increase costs but may limit the area within which a landfill may be located. If a site cannot be found that meets the depth to ground water requirement then waste must be moved off site and this can increase costs or decrease cost depending on the operational cost for the facility used. The actual cost increase or decrease cannot be determined as it depends on the operational efficiency of the landfill. The change requiring submittal of an archaeological survey implements existing requirements of the historical preservation statute passed in the 2006 legislative general session; therefore, no new cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The requirements of the rule are not changed except for the depth to ground water allowed for unlined landfills. The actual cost increase or decrease associated with this change cannot be determined as it depends on the operational efficiency of the landfill. The change requiring submittal of an archaeological survey is implementing existing requirements of the historical preservation statute passed in the 2006 legislative session; therefore, no new cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-304. Industrial Solid Waste Landfill Requirements.

R315-304-1. Applicability.

(1) ~~[Except for a Class IIIB Landfill that receives waste exclusively from on site, the]~~The requirements of Rule R315-304 apply to each Class III Landfill as specified.

~~[(2) For a Class IIIB Landfill that receives waste exclusively from on site:~~

~~—(a) the requirements of Rule R315-304 become effective July 15, 1999.~~

~~—(b) The owner or operator of a landfill may;~~

~~—(i) apply to the Executive Secretary for an extension of time beyond July 15, 1999 to meet the requirements of Rule R315-304; and~~

~~—(ii) be placed on a compliance schedule by the Executive Secretary.~~

~~—(3)](2)~~ The requirements of Rule R315-304 do not apply to the following materials managed at an industrial facility:

(a) fly ash waste, bottom ash waste, slag waste, or flue gas emission control dust generated primarily from the combustion of coal or other fossil fuels;

(b) wastes from the extraction, beneficiation, and processing of ores and minerals;

(c) electric arc furnace slag, open hearth furnace slag, and other slags generated during carbon steel production; and

(d) cement kiln dust.

R315-304-3. Definitions.

Terms used in Rule R315-304 are defined in Section R315-301-2. In addition, for the purpose of Rule R315-304, the following definitions apply.

(1) "Class IIIa Landfill" means ~~[an industrial solid waste]a~~ landfill ~~[that is not open to the general public and]~~as defined by Subsection R315-301-2(9) that may accept:

(a) any nonhazardous industrial waste;

(b) waste that is exempt from hazardous waste regulations under Section R315-2-4; or

(c) conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5.

(2) "Class IIIB Landfill" means ~~[an industrial solid waste]a~~ landfill ~~[that is not open to the general public and]~~as defined by Subsection R315-301-2(9) that may accept any nonhazardous industrial solid waste except:

(a) waste that is exempt from hazardous waste regulations under Section R315-2-4, excluding Subsections R315-2-4(b)(3), (4), (5), (7), and (14), unless approved by the Executive Secretary; or

(b) conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5.

~~—(3) "Existing Class III Landfill" means:~~

~~—(a) for a Class IIIa Landfill and a Class IIIB Landfill that does not receive waste exclusively from on site, an industrial solid waste landfill that began receiving waste on or before January 1, 1998; and~~

~~—(b) for a Class IIIB Landfill that receives waste exclusively from on site, an industrial solid waste landfill that began receiving waste on or before July 15, 1999.~~

~~—(4) "New Class III Landfill" means:~~

~~—(a) for a Class IIIa Landfill and a Class IIIB Landfill that does not receive waste exclusively from on site, an industrial solid waste landfill that began receiving waste after January 1, 1998; and~~

~~—(b) for a Class IIIB Landfill that receives waste exclusively from on site, an industrial solid waste landfill that began receiving waste after July 15, 1999.~~

]

R315-304-4. Industrial Landfill Location Standards.

(1) Class IIIa Landfills.

(a) A new Class IIIa Landfill shall meet the location standards of Subsection R315-302-1(2).

(b) A new Class IIIa Landfill that is proposed on the site of generation of the industrial solid waste or a lateral expansion of an existing Class IIIa Landfill, shall meet the location standards of Subsections R315-302-1(2)(b), (c), (d), and (e) with respect to geology, surface water, wetlands, and ground water.

(c) An existing Class IIIa Landfill shall not be subject to the location standards of Subsection R315-302-1(2).

(d) An exemption from any location standard of Subsection R315-302-1(2), except the standards for floodplains and wetlands, may be granted by the Executive Secretary on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

(i) No exemption may be granted without application to the Executive Secretary.

(ii) If an exemption is granted, the landfill may be required to have more stringent design, construction, monitoring program, or operational practice to protect human health or the environment.

(2) Class IIIB Landfills.

(a) A new Class IIIB landfill or a lateral expansion of an existing Class IIIB Landfill shall be subject to the following location standards:

(i) the standards with respect to floodplains as specified in Subsection R315-302-1(2)(c)(ii);

(ii) the standards with respect to wetlands as specified in Subsection R315-302-1(2)(d); ~~and~~

(iii) ~~[the landfill shall be located so that the lowest level of waste is at least five feet above the historical high level of ground water]~~ the standards with respect to ground water as specified in Subsection R315-302-1(2)(e)(i)(B); and

(iv) the requirements of Subsection R315-302-1(2)(f).

(b) For a lateral expansion of an existing Class IIIb Landfill, an exemption from any location standard of Subsection R315-304-4(2)(a) may be granted by the Executive Secretary on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

(i) No exemption may be granted without application to the Executive Secretary.

(ii) If an exemption is granted, the landfill may be required to have more stringent design, construction, monitoring~~[program]~~, or ~~operational practice~~ operation than the minimum described in Rule R315-304 to protect human health or the environment.

(c) An existing Class IIIb Landfill shall not be subject to the location standards of Subsection R315-304-4(2)(a).

R315-304-5. Industrial Landfill Requirements.

(1) Each Class III Landfill shall meet the following applicable requirements, as determined by the Executive Secretary:

(a) the plan of operation requirements of Subsections R315-302-2(2)(a), (b), (c), (d), (g), (i), (j), (k), (l), (m), (n), and (o);

(b) the recordkeeping requirements of Subsections R315-302-2(3)(a), (b)(i), (iii), (iv), and (vi);

(c) the reporting requirements of Subsection R315-302-2(4); and

(d) the inspection requirements of Subsection R315-302-2(5).

(2) Each Class III Landfill shall meet the applicable general requirements for closure and post-closure care of Subsections R315-302-2(6); R315-302-3(2); (3); (4)(a), and (b); (5); (6)(a)(iv) through (vi), (6)(b), and (c); and (7)(a) as determined by the Executive Secretary.

(a) Each Class IIIa Landfill shall meet the closure requirements of Subsection R315-303-3(4).

(b) Each Class IIIb Landfill shall meet the closure requirements of Subsection R315-305-5(5)(b).

(c) If a Class III Landfill is already subject to the closure and post-closure requirements of another Federal or state agency which are as stringent as specified in Subsections R315-304-5(2)(a) or (b), the landfill may be exempt, upon approval of the Executive Secretary, from the closure requirements of Subsections R315-304-5(2)(a) or (b).

(3) Standards for Design.

(a) The owner or operator of a Class III Landfill shall design the landfill to minimize the acceptance of liquids and control storm water run-on/run-off as specified in Subsections R315-303-3(1)(b), (c), and (d).

(b) The owner or operator of a Class III Landfill shall design the landfill to meet the requirements of Subsections R315-303-3(7)(a), (c), (e), (f), (g), (h), and (i) as determined by the Executive Secretary.

(4) Ground Water Monitoring.

(a) The owner or operator of a Class IIIa Landfill shall monitor the ground water beneath the landfill as specified in Rule R315-308.

(b) Subject to the performance standard of Subsection R315-303-2(1), if the owner or operator of a Class IIIa Landfill is monitoring the ground water beneath the landfill and otherwise meeting the requirements of a discharge permit as issued by the Utah Division of

Water Quality, the landfill may be exempt, upon approval of the Executive Secretary, from the ground water monitoring requirements of Rule R315-308.

(c) A Class IIIb Landfill is exempt from the ground water monitoring requirements of Rule R315-308.

(5) Standards for Operation.

(a) Each Class IIIa Landfill shall meet the standards of Section R315-303-4 except:

(i) for the requirements of Subsections R315-303-4(2)(f) and R315-303-4(6); and

(ii) may be exempt from the daily cover requirements of Subsection R315-303-4(4) upon the demonstration that an alternate schedule for the covering of waste at the landfill will not present a threat to human health or the environment.

(b) Each Class IIIb Landfill shall meet the requirements for operation in Subsections R315-305-4(7) and R315-305-5(2) through (4) as determined by the Executive Secretary.

(6) Financial Assurance.

(a) The owner or operator of each Class III Landfill shall establish financial assurance as required by Rule R315-309.

(b) If the owner or operator of a Class III Landfill has financial assurance, in effect and active, that covers the costs of closure and post-closure care of the landfill as required by another Federal or state agency which is as stringent as the requirements of Rule R315-309, the landfill may be exempt, upon approval of the Executive Secretary, from the financial assurance requirements of Rule R315-309.

(7) Permit Requirements.

~~[(a)]~~ Each Class III Landfill shall apply for and obtain a permit to operate by meeting the applicable requirements of Rule R315-310.

~~[(b) The contents of a permit application for a Class IIIa Landfill shall be the information required in Section R315-310-4.~~

~~[(c) The contents of a permit application for a Class IIIb Landfill shall be the information required in Section R315-310-5.~~

]

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~July 1, 2001~~ 2007

Notice of Continuation: April 11, 2002

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 40 CFR 257

Environmental Quality, Solid and Hazardous Waste **R315-305-4** General Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29206

FILED: 11/09/2006, 15:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to remove a date that is no longer valid and is no longer needed; to clarify land use requirements for landfills that accept dead animals; and to add a requirement for an archaeological survey required by changes made in the

historical preservation statute made in the 2006 legislative general session (H.B. 139). (DAR NOTE: H.B. 139 (2006) is found at Chapter 292, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The rule is changed to remove the date of October 15, 2003, since it is no longer valid and no longer needed; to clarify the land use requirements for Class IV landfills that may accept dead animals; and to require that an archaeological survey be submitted that demonstrates the facility meets the siting criteria.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, 19-6-108, and 19-6-109; Subsection 9-8-401(1); and 40 CFR 257

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The changes to the rule have no effect on state agencies and the enforcement and oversight of the solid waste program will not change. Therefore, it is anticipated that there will be no change to the state budget.

❖ **LOCAL GOVERNMENTS:** For the parts of the rule where the requirements of the rule are clarified and not changed, it is anticipated that there will be no cost or savings impact to local governments. The change requiring submittal of an archaeological survey is implementing existing requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139); therefore, no cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact.

❖ **OTHER PERSONS:** For the parts of the rule where the requirements of the rule are clarified and not changed, it is anticipated that there will be no cost or savings impact to local governments. The change requiring submittal of an archaeological survey is implementing existing requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139); therefore, no cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For the parts of the rule where the requirements of the rule are clarified and not changed, it is anticipated that there will be no cost or savings impact to affected persons. The change requiring submittal of an archaeological survey is implementing existing requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139); therefore, no cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: For the parts of the rule where the requirements of the rule are clarified and not changed, it is anticipated that there will be no cost or savings impact to businesses. The change requiring submittal of an archaeological survey is implementing existing requirements of the historical preservation statute passed in the 2006 legislative session (H.B. 139); therefore, no cost is anticipated. The fiscal note attached to the bill making the changes to the

historical statute showed no fiscal impact. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-305. Class IV and VI Landfill Requirements.

R315-305-4. General Requirements.

(1) Location Standards.

(a) A new Class IVa Landfill shall meet the location standards of Subsection R315-302-1(2).

(b) A new Class IVb or VI Landfill or the expansion of an existing Class IVb or VI Landfill shall be subject to the following location standards:

(i) the standards with respect to floodplains as specified in Subsection R315-302-1(2)(c)(ii);

(ii) the standards with respect to wetlands as specified in Subsection R315-302-1(2)(d);

(iii) the standards with respect to ground water as specified in Subsection R315-301-1(2)(e)(i)(B); ~~and~~

(iv) the standards with respect to geology as specified in Subsections R315-302-1(2)(b)(i) and (iv);

~~(v)~~ (iv) if the permit application for a new Class ~~IVa~~ IVb, or VI Landfill requests approval to accept dead animals for disposal, the application shall document that the landfill also meets the land use compatibility requirements of Subsections R315-302-1(2)(a)(i), (ii), (iv), and (v); and

(vi) The requirements of Subsection R315-302-1(2)(f).

~~(c)~~ (c) Exemptions from the location standards of Subsection R315-305-4(1)(b)(i), (ii), ~~(iii), (iv), and (v)~~ may be granted by the Executive Secretary for a new Class IVb or VI Landfill, on a site specific bases, if it is determined that the exemption will cause no adverse impact to human health or the environment.

~~(A)~~ (i) No exemption may be granted without application to the Executive Secretary.

~~(B)~~ (ii) If an exemption is granted, the landfill may be required to have meet more stringent design, construction, monitoring program, or operational practice operation requirements than the minimum described in Rule R315-305 to protect human health or the environment.

~~(e)~~(d) An existing Class IVa, IVb, or VI Landfill:

(i) shall not be subject to the location standards of Subsections R315-305-4(1)(a) or R315-305-4(1)(b)(i), (ii), ~~(iii), or (iv)~~; but

(ii) if the current permit of an existing Class IVa, IVb, or VI Landfill does not allow the acceptance of dead animals and the owner or operator requests approval to accept dead animals for disposal ~~after October 15, 2003~~, the request to the Executive Secretary shall document that the landfill also meets the land use compatibility requirements of Subsections R315-302-1(2)(a)(i), (ii), (iv), and (v).

(2) An owner or operator of a Class IV or VI Landfill shall obtain a permit, as set forth in Rule R315-310.

(3) An owner or operator of a Class IV or VI Landfill shall design and operate the landfill to:

(a) prevent the run-on of all surface waters resulting from a maximum flow of a 25-year storm into the active area of the landfill; and

(b) collect and treat, if necessary, the run-off of surface waters and other liquids resulting from a 25-year storm from the active area of the landfill.

(4) An owner or operator of a Class IVa Landfill shall monitor the ground water beneath the landfill as specified in Rule R315-308.

(5) An owner or operator of a Class IV or VI Landfill shall erect a sign at the facility entrance as specified in Subsection R315-303-3(7)(d).

(6) An owner or operator of a Class IV or VI Landfill shall maintain the applicable records as specified in Subsection R315-302-2(3).

(7) An owner or operator of a Class IV or VI Landfill shall meet the requirements of Subsection R315-302-2(6) and make the required recording with the county recorder.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~October 15, 2003~~ **2007**

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108; 19-6-109; 40 CFR 257



Environmental Quality, Solid and Hazardous Waste **R315-306-2** Requirements for Large Incinerators

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29207

FILED: 11/09/2006, 15:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to make incinerator siting criteria apply to only new incinerators, which is consistent with siting criteria for landfill facilities. Prior to the change, the rule could be interpreted to require an incinerator meet the siting criteria each time the permit was renewed. Wording changes are made to improve clarity.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to require only new facilities be subject to the siting criteria. This change makes it clear that the siting requirements apply only to new facilities. This makes the application of the siting requirements of this rule the same as those for landfills.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes to the rule have no effect on state agencies and the enforcement and oversight of the solid waste program will not change. Therefore, it is anticipated that there will be no change to the state budget.

❖ LOCAL GOVERNMENTS: Since the actual requirements of the rule are clarified and not changed, it is anticipated that there will be no cost or savings impact to local governments.

❖ OTHER PERSONS: Since the actual requirements of the rule are clarified and not changed, it is anticipated that there will be no cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The requirements of the rule are clarified and not changed. Therefore, it is expected that there will be no cost or savings impact for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rule are clarified and not changed, it is anticipated that there will be no fiscal impact to businesses as a result of the 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-306. Incinerator Standards.
R315-306-2. Requirements for Large Incinerators.**

(1) These standards apply to any incinerator facility designed to incinerate more than ten tons of solid waste per day.

(2) A ~~new~~ new incinerator facility shall be subject to the location standards of Section R315-302-1 with the exception of the following Subsections: R315-302-1(2)(a)(iv) and (v), R315-302-1(2)(e), and R315-302-1(3).

(3) Each owner or operator of an incinerator facility shall comply with Section R315-302-2. The submitted plan of operation shall also address alternative storage, or disposal plans for all breakdowns that would result in overfilling the storage facility.

(4) The submitted plan of operation shall also contain a written waste identification plan which shall include identification of the specific waste streams to be handled by the facility, generator waste analysis requirements and procedures, waste verification procedures at the facility, generator certification of wastes shipped as being non-hazardous, and record keeping procedures, including a detailed operating record.

(5) Each incinerator facility shall be surrounded by a fence, trees, shrubbery, or natural features so as to control access and be screened from the view of immediately adjacent neighbors, unless the tipping floor is fully enclosed by a building. Each site shall also have an adequate buffer zone of at least 50 feet from the operating area to the nearest property line in areas zoned residential to minimize noise and dust nuisances.

(6) Solid waste shall be stored temporarily in storage compartments, containers or areas specifically designed to store wastes. Storage of wastes other than in specifically designed compartments, containers or areas is prohibited. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as may be required to maintain the plant in a sanitary and clean condition.

(7) A composite sample of the ash and residues from each incinerator facility shall be taken according to a sampling plan approved by the Executive Secretary.

(a) The sample shall be analyzed by the U.S. EPA Test Method 1311 as provided in 40 CFR Part 261, Appendix II, 2000 ed., Toxic Characteristics Leaching Procedure (TCLP) to determine if it is hazardous.

(b) If the ash and residues are found to be nonhazardous, they shall be disposed at a permitted landfill or recycled.

(c) If the ash and residues are found to be hazardous, they shall be disposed in a permitted hazardous waste disposal site.

(8) Each incinerator must be located, designed, constructed and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

(9) An incinerator must collect and treat all run-off from the active areas of the site that may result from a 25-year storm event, and divert all run-on for the maximum flow of a 25-year storm around the site.

(10) All-weather roads shall be provided from the public highways or roads, to and within the disposal site and shall be designed and maintained to prevent traffic congestion hazards, dust, and noise pollution.

(11) Access to the incinerator site shall be controlled by means of a complete perimeter fence or other features and gates which shall be locked when an attendant is not at the gate to prevent unauthorized entry of persons or livestock to the facility.

(12) The plan of operation shall include a training program for new employees and annual review training for all employees to ensure safe handling of waste and proper operation of the equipment.

(13) Each owner or operator shall post signs at the facility which indicate the name, hours of operation, necessary safety precautions, types of wastes that are prohibited, and any other pertinent information.

(14) Each owner or operator of an incinerator facility shall be required to provide recycling facilities in a manner equivalent to those specified for landfills in Subsection R315-303-4(6).

(15) Each owner or operator of an incinerator facility shall implement a plan ~~that will~~ to inspect loads or take other steps, as approved by the Executive Secretary, to prevent the disposal of prohibited hazardous waste or prohibited waste containing PCB's in a manner equivalent to those specified for landfills in Subsection R315-303-4(7).

(16) Each owner or operator shall close its incinerator by removing all ash, solid waste, and other residues to a permitted facility.

(17) Each owner or operator of an incinerator facility shall provide financial assurance to cover the costs for closure of the facility that meets the requirements of Rule R315-309.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: [~~October 15, 2003~~2007]

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

◆ ————— ◆

Environmental Quality, Solid and Hazardous Waste **R315-308** Ground Water Monitoring Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29208

FILED: 11/09/2006, 15:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify that the site specific ground water monitoring plan must be approved by the Executive Secretary prior to the receipt of waste; to clarify the requirements that are applicable to a landfill that receives a waiver from the ground water monitoring requirements; incorporate a new ground water protection standard for arsenic to match the federal standard; and to add the ground water protection standard for one constituent for which the ground water must be analyzed in assessment monitoring.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify that a solid waste facility that is required to monitor ground water must have the required site specific ground water monitoring plan approved by the Executive Secretary prior to receiving waste. The rule is changed to clarify that if a landfill receives a waiver from the groundwater monitoring requirements, the landfill may not contaminate groundwater, and if groundwater is impacted by the landfill, the waiver will be revoked. The new federal maximum contamination level (MCL) for arsenic is incorporated. The ground water protection standard for 2,4,5,T is corrected. Also, a ground water protection standard is added to the rule for the

compound Anthracene for which ground water samples must be analyzed during assessment monitoring.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and 40 CFR 258

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The rule change does not affect state agencies and the enforcement and oversight of the rule requirements will not change. Therefore, there is no anticipated cost or savings impact to the state budget as a result of the rule change.

❖ LOCAL GOVERNMENTS: Except for the changes in the three ground water protection standards, the requirements of the rule are clarified and not actually changed. The change in the three ground water protection standards may change the status of any facility in the state that has impacted ground water and the impact exceeds the new standards. Any such facility may be required to assess the impact on the ground water and propose some type of corrective action. The cost of assessment could be between \$10,000 and \$50,000. The cost of corrective action is unknown. Corrective actions could range from no action, with no cost, to active removal of the compound with accompanying costs of hundreds of thousands of dollars depending on the risk to health found in the assessment.

❖ OTHER PERSONS: Except for the changes in the three ground water protection standards, the requirements of the rule are clarified and not actually changed. The change in the three ground water protection standards may change the status of any facility in the state that has impacted ground water and the impact exceeds the new standards. Any such facility may be required to assess the impact on the ground water and propose some type of corrective action. The cost of assessment could be between \$10,000 and \$50,000. The cost of corrective action is unknown. Corrective actions could range from no action, with no cost, to active removal of the compound with accompanying costs of hundreds of thousands of dollars depending on the risk to health found in the assessment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Except for the changes in the three ground water protection standards, the requirements of the rule are clarified and not actually changed. Any facility in the state that has ground water that exceeds the new standards may be required to assess the impacts on the ground water under the landfill at an estimated cost of \$10,000 to \$50,000. Depending on the outcome of the assessment and the risk to health other actions may be needed that are of unknown cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Except for the changes in the three ground water protection standards, the requirements of the rule are clarified and not actually changed. Any facility in the state that has ground water that exceeds the new standards may be required to assess the impacts on the ground water under the landfill at an estimated cost of \$10,000 to \$50,000. Depending on the outcome of the assessment and the risk to health other actions may be

needed that are of unknown cost. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-308. Ground Water Monitoring Requirements.

R315-308-1. Applicability.

(1) Each existing landfill, pile, or land treatment disposal facility that is required to perform ground water monitoring shall comply with the ground water monitoring requirements according to the compliance schedule as established by the Executive Secretary during the permitting or the permit renewal process.

(2) ~~Each~~ Prior to the acceptance of waste, each new landfill, pile, or land treatment disposal facility that is required to perform ground water monitoring shall have:

(a) a site specific ground water monitoring plan approved by the Executive Secretary; and

(b) the ground water monitoring system complete and operational ~~before waste may be accepted at the facility~~.

(3) Ground water monitoring requirements may be waived by the Executive Secretary if the owner or operator of a solid waste disposal facility can demonstrate that there is no potential for migration of hazardous constituents from the facility to the ground water during the active life of the facility and the post-closure care period. This demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary, and must be based upon:

(a) site-specific field collected measurements, sampling, and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and

(b) contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and the environment.

(4) Once a ground water monitoring system and program has been established at a disposal facility, ground water monitoring shall continue to be conducted throughout the active life, closure, and post-closure care periods as specified by the Executive Secretary.

(5) A facility that has a ground water monitoring alternative approved under Subsection R315-302-1(2)(e)(vi) is subject to the standards specified in Subsection R315-303-2(1) and the approved

alternative shall be revoked by the Executive Secretary if the operation of the facility impacts groundwater.

R315-308-2. Ground Water Monitoring Requirements.

(1) Each facility owner or operator that is required to conduct ground water monitoring shall formulate a ground water monitoring plan that addresses the requirements of Section R315-308-2.

~~____~~(1)~~(2)~~ The ground water monitoring system must consist of at least one background or upgradient well and two downgradient wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer and all hydraulically connected aquifers below the facility, cell, or unit. The downgradient wells shall be designated as the point of compliance and must be installed at the closest practicable distance hydraulically down gradient from the unit boundary not to exceed 150 meters (500 feet) and must also be on the property of the owner or operator:

(a) the upgradient well must represent the quality of background water that has not been affected by leakage from the active area; and

(b) the downgradient wells must represent the quality of ground water passing the point of compliance. Additional wells may be required by the Executive Secretary in complicated hydrogeological settings or to define the extent of contamination detected.

~~[(2)]~~(3) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water[-]-bearing strata. All monitoring wells and all other devices and equipment used in the monitoring program must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

~~[(3)]~~(4) The ground water monitoring program must include at a minimum, procedures and techniques for:

- (a) well construction and completion;
- (b) decontamination of drilling and sampling equipment;
- (c) sample collection;
- (d) sample preservation and shipment;
- (e) analytical procedures and quality assurance;
- (f) chain of custody control or sample tracking, as approved by the Executive Secretary; and

(g) procedures to ensure employee health and safety during well installation and monitoring.

~~[(4)]~~(5) Each facility shall utilize a laboratory, that is certified by the state for the test methods used, to complete tests, using methods with appropriate detection levels, on samples for the following:

(a) during the first year of facility operation after wells are installed or an alternative schedule as approved by the Executive Secretary, a minimum of eight independent samples from the upgradient and four independent samples from each downgradient well for all parameters listed in Section R315-308-4 to establish background concentrations;

(b) after background levels have been established, a minimum of one sample, semiannually, from each well, background and downgradient, for all parameters listed in Section R315-308-4 as a detection monitoring program;

(i) In the detection monitoring program, the owner or operator must determine ground water quality at each monitoring well on a semiannual basis during the life of an active area, including the closure period, and the post-closure care period.

(ii) The owner or operator must express the ground water quality at each monitoring well in a form appropriate for the determination of statistically significant changes;

(c) field[-]-measured pH, water temperature, and water conductivity must accompany each sample collected;

(d) analysis for the heavy metals and the organic constituents from Section R315-308-4 shall be completed on unfiltered samples; and

(e) the Executive Secretary may specify additional or fewer constituents depending upon the nature of the ground water or the waste on a site specific basis considering:

(i) the types, quantities, and concentrations of constituents in wastes managed at the landfill;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the landfill;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the ground water; and

(iv) the background concentration or values and coefficients of variation of monitoring parameters or constituents in the ground water.

(f) The following information shall be placed in the facility's operating record and a copy submitted to the Executive Secretary as the ground water monitoring results to be included in the annual report required by Subsection R315-302-2(4)(e):

(i) a report on the procedures, including the quality control/quality assurance, followed during the collection of the ground water samples;

(ii) the results of the field measured parameters required by Subsections R315-308-2~~[(4)]~~(5)(c) and R315-308-2~~[(6)]~~(7);

(iii) a report of the chain of custody and quality control/quality assurance procedures of the laboratory;

(iv) the results of the laboratory analysis of the constituents specified in Section R315-308-4 or an alternative list of constituents approved by the Executive Secretary:

(A) the results of the laboratory analysis shall list the constituents by name and CAS number; and

(B) a list of the detection limits and the test methods used; and

(v) the statistical analysis of the results of the ground water monitoring as required by Subsection R315-308-2~~[(7)]~~(8).

(vi) The results of the ground water monitoring may be submitted in electronic format.

~~[(5)]~~(6) After background constituent levels have been established, a ground water quality protection standard shall be set by the Executive Secretary which shall become part of the ground water monitoring plan. The ground water quality protection standard will be set as follows.

(a) For constituents with background levels below the standards listed in Section R315-308-4 or as listed in Section R315-308-5, which presents the ground water protection standards that are available for the constituents listed as Appendix II in 40 CFR 258, the ground water quality standards of Sections R315-308-4 and R315-308-5 shall be the ground water quality protection standard.

(b) If a constituent is detected and a background level is established but the ground water quality standard for the constituent is not included in Section R315-308-4 or Section R315-308-5 ~~[or the constituent has a background level that is higher than the value listed in Section R315-308-4 or Section R315-308-5 for that constituent,]~~ the ground water quality protection standard for that constituent shall be set according to health risk standards.

(c) If a constituent is detected and a background level is established and the established background level is higher than the value listed in Section R315-308-4, R315-308-5 or the level established

according to Subsection R315-308-2(6)(b), the ground water quality protection standard shall be the background concentration.

~~(6)~~(7) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

~~(7)~~(8) The owner or operator shall use a statistical method for determining whether a significant change has occurred as compared to background. The Executive Secretary will approve such a method as part of the ground water monitoring plan. Possible statistical methods include:

(a) a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent;

(b) an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent;

(c) a tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit;

(d) a control chart approach that gives control limits for each constituent; or

(e) another statistical test method approved by the Executive Secretary.

~~(8)~~(9) For both detection monitoring, as described in Subsection R315-308-2(~~(4)~~)(5), and assessment monitoring, as described in Subsection R315-308-2(~~(4)~~)(12), the Executive Secretary may specify additional or fewer sampling and analysis events, no less than annually, depending upon the nature of the ground water or the waste on a site[-] specific basis considering:

(a) lithology of the aquifer and unsaturated zone;

(b) hydraulic conductivity of the aquifer and unsaturated zone;

(c) ground water flow rates;

(d) minimum distance between upgradient edge of the landfill unit and downgradient monitoring well screen (minimum distance of travel); and

(e) resource value of the aquifer.

~~(9)~~(10) The owner or operator must determine and report the ground water flow rate and direction in the upper most aquifer each time the ground water is sampled.

~~(40)~~(11) If the owner or operator determines that there is a statistically significant increase over background in any parameter or constituent at any monitoring well at the compliance point, the owner or operator must:

(a) within 14 days of the completion of the statistical analysis of the sample results and within 30 days of the receipt of the sample results, enter the information in the operating record and notify the Executive Secretary of this finding in writing. The notification must indicate what parameters or constituents have shown statistically significant changes; and

(b) immediately resample the ground water in all monitoring wells, both background and downgradient, or in a subset of wells specified by the Executive Secretary, and determine:

(i) the concentration of all constituents listed in Section R315-308-4, including additional constituents that may have been identified in the approved ground water monitoring plan;

(ii) if there is a statistically significant increase over background of any parameter or constituent in any monitoring well at the compliance point; and

(iii) notify the Executive Secretary in writing within seven days of the completion of the statistical analysis of the sample results.

(c) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary and entered in the operating record. If a successful demonstration is made and documented, the owner or operator may continue monitoring as specified in Subsection R315-308-2(~~(4)~~)(5)(b).

(11) If, after 90 days, a successful demonstration as stipulated in Subsection R315-308-2(~~(4)~~)(11)(c) is not made, the owner or operator must initiate the assessment monitoring program required as follows:

(a) within 14 days of the determination that a successful demonstration is not made, take one sample from each downgradient well and analyze for all constituents listed as Appendix II in 40 CFR Part 258, 2001 ed., which is adopted and incorporated by reference.

(b) for any constituent detected from Appendix II, 40 CFR Part 258, in the downgradient wells a minimum of four independent samples from the upgradient and four independent samples from each downgradient well must be collected, analyzed, and statistically evaluated to establish background concentration levels for the constituents; and

(c) within 14 days of the completion of the statistical analysis of the sample results and within 30 days of the receipt of the sample results, place a notice in the operation record and notify the Executive Secretary in writing identifying the Appendix II, 40 CFR Part 258, constituents and their concentrations that have been detected as well as background levels. The Executive Secretary shall establish a ground water quality protection standard pursuant to Subsection R315-308-2(~~(5)~~)(6) for any Appendix II, 40 CFR Part 258, constituent detected in the downgradient wells.

(d) The owner or operator shall thereafter resample:

(i) at a minimum, all downgradient wells on a quarterly basis for all constituents in Section R315-308-4, or the alternative list that may have been approved as part of the permit, and for those constituents detected from Appendix II, 40 CFR Part 258;

(ii) the downgradient wells on an annual basis for all constituents in Appendix II, 40 CFR Part 258; and

(iii) statistically analyze the results of all ground water monitoring samples.

(e) The Executive Secretary may specify additional or fewer constituents depending upon the nature of the ground water or the waste on a site specific basis considering:

(i) the types, quantities, and concentrations of constituents in wastes managed at the landfill;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the landfill;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the ground water; and

(iv) the background concentration or values and coefficients of variation of monitoring parameters or constituents in the ground water.

(f) If after two consecutive sampling events, the concentrations of all constituents being analyzed in Subsection R315-308-2(~~(4)~~)(12)(d)(i) are shown to be at or below established background values, the owner or operator must notify the Executive Secretary of this finding and may, upon the approval of the Executive Secretary,

return to the monitoring schedule and constituents as specified in Subsection R315-308-2[(4)](5)(b).

[(42)](13) If one or more constituents from Section R315-308-4 or the approved alternative list, or from those detected from Appendix II, 40 CFR Part 258, are detected at statistically significant levels above the ground water quality protection standard as established pursuant to Subsection R315-308-2[(5)](6) in any sampling event, the owner or operator must:

(a) within 14 days of the receipt of this finding, place a notice in the operating record identifying the constituents and concentrations that have exceeded the ground water quality standard. Within the same time period, the owner or operator must also notify the Executive Secretary and all appropriate local governmental and local health officials that the ground water quality standard has been exceeded;

(b) characterize the nature and extent of the release by installing additional monitoring wells as necessary;

(c) install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well and analyze the sample for the constituents in Section R315-308-4 or the approved alternative list and the detected constituents from Appendix II, 40 CFR Part 258; and

(d) notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site as indicated by sampling of wells in accordance with Subsections R315-308-2[(42)](13)(b) and [(42)](13)(c).

(e) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary and entered in the operating record. If a successful demonstration is made, documented and approved, the owner or operator may continue monitoring as specified in Subsection R315-308-2[(44)](12)(d) or Subsection R315-308-2[(44)](12)(e) when applicable.

R315-308-3. Corrective Action Program.

(1) If, within 90 days, a successful demonstration as stated in Subsection R315-308-2[(42)](13)(e) is not made, the owner or operator must:

(a) continue to monitor as required in Subsection R315-308-2[(44)](12)(d).

(b) take any interim measures as required by the Executive Secretary or as necessary to ensure the protection of human health and the environment; and

(c) assess possible corrective action measures for the current conditions and circumstances of the disposal facility, addressing at least the following:

(i) the performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control exposure to any residual contamination;

(ii) time required to begin and complete the remedy;

(iii) the costs of remedy implementation;

(iv) public health or environmental requirements that may substantially affect implementation of the remedy; and

(v) prior to the selection of a remedy, discuss the results of the corrective measures assessment in a public meeting with interested and affected parties.

(d) Based on the results of the corrective measures assessment conducted and the comments received in the public meeting, the owner or operator must select a remedy which shall be submitted to the Executive Secretary.

(i) The corrective action remedy must:

(A) be protective of human health and the environment;

(B) use permanent solutions that are within the capability of best available technology;

(C) attain the established ground water quality standard;

(D) control the sources of release so as to reduce or eliminate, to the maximum extent practicable, further releases of contaminants into the environment that may pose a threat to human health or the environment; and

(E) be approved by the Executive Secretary.

(ii) Within 14 days after the selection of the remedy the owner or operator must:

(A) amend the corrective action program required by Subsection R315-302-2(2)(e) if necessary and send a report to the Executive Secretary for approval describing the selected remedy and amendments, along with a schedule of implementation and estimated time of completion; and

(B) put in place the financial assurance mechanism as required by Rule R315-309 for corrective action and notify the Executive Secretary of the financial assurance mechanism and its effective date.

(2) Upon approval of the selected corrective action remedy, the Executive Secretary will notify the owner or operator of such approval and will require that the corrective action plan proceed according to the approved schedule.

(a) The Executive Secretary may also require facility closure if the ground water quality standard is exceeded and, in addition, may revoke any permit and require reapplication.

(b) The Executive Secretary or the owner or operator may determine, based on information developed after implementation of the corrective action plan, that compliance with the requirements of Subsection R315-308-3(1)(d)(i) of this section are not being achieved through the remedy selected. In such a case[eases], the owner or operator must implement other methods or techniques, upon approval by the Executive Secretary, that could practicably achieve compliance with the requirements.

(c) Upon completion of the remedy, the owner or operator ~~must~~shall notify the Executive Secretary. The notification ~~must~~shall contain certification signed by the owner or operator and a qualified ground-water scientist that the concentration of contaminant constituents have been reduced to levels below the specified limits of the ground water quality standard for a period of three years or an alternative length of time specified by the Executive Secretary. Upon approval of the Executive secretary the owner or operator shall:

(i) terminate corrective action measures;

(ii) continue detection monitoring as required in Subsection R315-308-2[(44)](5)(b); and

(iii) be released from the requirements of financial assurance for corrective action.

R315-308-4. Constituents for Detection Monitoring.

The table lists the constituents for detection monitoring as specified by Subsection R315-308-2[(44)](5), the CAS number for the constituents, and the ground water quality standard for the constituents for any facility that is required to monitor ground water under Rule R315-308.

TABLE

Constituents for Detection Monitoring

Inorganic Constituents	CAS	Ground Water
		Protection Standard (mg/l)
Ammonia (as N)	7664-41-7	
Carbonate/Bicarbonate		
Calcium		
Chemical Oxygen Demand (COD)		
Chloride		
Iron	7439-89-6	
Magnesium		
Manganese	7439-96-5	
Nitrate (as N)		
pH		
Potassium		
Sodium		
Sulfate		
Total Dissolved Solids (TDS)		
Total Organic Carbon (TOC)		
Heavy Metals		
Antimony	7440-36-0	0.006
Arsenic	7440-38-2	[0.05] 0.01
Barium	7440-39-3	2
Beryllium	7440-41-7	0.004
Cadmium	7440-43-9	0.005
Chromium		0.1
Cobalt	7440-48-4	2
Copper	7440-50-8	1.3
Lead		0.015
Mercury	7439-97-6	0.002
Nickel	7440-02-0	0.1
Selenium	7782-49-2	0.05
Silver	7440-22-4	0.1
Thallium		0.002
Vanadium	7440-62-2	0.3
Zinc	7440-66-6	5
Organic Constituents		
Acetone	67-64-1	4
Acrylonitrile	107-13-1	0.1
Benzene	71-43-2	0.005
Bromochloromethane	74-97-5	0.01
Bromodichloromethane ¹	75-27-4	0.1
Bromoform ¹	75-25-2	0.1
Carbon disulfide	75-15-0	4
Carbon tetrachloride	56-23-5	0.005
Chlorobenzene	108-90-7	0.1
Chloroethane	75-00-3	15
Chloroform ¹	67-66-3	0.1
Dibromochloromethane ¹	124-48-1	0.1
1,2-Dibromo-3-chloropropane	96-12-8	0.0002
1,2-Dibromoethane	106-93-4	0.00005
1,2-Dichlorobenzene (ortho)	95-50-1	0.6
1,4-Dichlorobenzene (para)	106-46-7	0.075
trans-1,4-Dichloro-2-butene	110-57-6	
1,1-Dichloroethane	75-34-3	4
1,2-Dichloroethane	107-06-2	0.005
1,1-Dichloroethylene	75-35-4	0.007
cis-1,2-Dichloroethylene	156-59-2	0.07
trans-1,2-Dichloroethylene	156-60-5	0.1
1,2-Dichloropropane	78-87-5	0.005
cis-1,3-Dichloropropene	10061-01-5	0.002
trans-1,3-Dichloropropene	10061-02-6	0.002
Ethylbenzene	100-41-4	0.7
2-Hexanone	591-78-6	1.5
Methyl bromide	74-83-9	0.01
Methyl chloride	74-87-3	0.003
Methylene bromide	74-95-3	0.4
Methylene chloride	75-09-2	0.005
Methyl ethyl ketone	78-93-3	0.17
Methyl iodide	74-88-4	
4-Methyl-2-pentanone	108-10-1	3

Styrene	100-42-5	0.1
1,1,1,2-Tetrachloroethane	630-20-6	0.07
1,1,2,2-Tetrachloroethane	79-34-5	0.005
Tetrachloroethylene	127-18-4	0.005
Toluene	108-88-3	1
1,1,1-Trichloroethane	71-55-6	0.2
1,1,2-Trichloroethane	79-00-5	0.005
Trichloroethylene	79-01-6	0.005
Trichlorofluoromethane	75-69-4	10
1,2,3-Trichloropropane	96-18-4	0.04
Vinyl acetate	108-05-4	37
Vinyl Chloride	75-01-4	0.002
Xylenes	1330-20-7	10

¹The ground water protection standard of 0.1 mg/l is for the total of Bromodichloromethane, Bromoform, Chloroform, and Dibromochloromethane.

R315-308-5. Solid Waste Ground Water Quality Protection Standards for 40 CFR 258 Appendix II Constituents.

The table lists the CAS number for each constituent and the ground water quality protection standards which are currently available for the 40 CFR 258 Appendix II constituents required for assessment monitoring of ground water at a solid waste facility as specified by Subsection R315-308-2~~(11)~~(12).

TABLE

Appendix II Protection Standards

Appendix II Constituent	CAS	Ground Water Protection Standard (mg/l)
2,4-D	94-75-7	0.07
2,4,5-T	93-76-5	[36.5] 0.37
2,4,5-TP	93-72-1	0.05
<u>Anthracene</u>	<u>120-12-7</u>	<u>10</u>
Benzo(a)pyrene	50-32-8	0.0002
bis(2-Ethylhexyl)phthalate	117-81-7	0.006
Chlordane	57-74-9	0.002
Cyanide	57-12-5	0.2
Dinoseb	88-85-7	0.007
Endrin	72-20-8	0.002
Heptachlor	76-44-8	0.0004
Heptachlor epoxide	1024-57-3	0.0002
Hexachlorobenzene	118-74-1	0.001
Hexachlorocyclopentadiene	77-47-4	0.05
Lindane	58-89-9	0.0002
Methoxychlor	72-43-5	0.04
Pentachlorophenol	87-86-5	0.001
Polychlorinated biphenyls(PCBs)	1336-36-3	0.0005
Tin	7440-31-5	21.9
Toxaphene	8001-35-2	0.003
1,2,4-Trichlorobenzene	120-82-1	0.07

KEY: solid waste management, waste disposal
Date of Enactment or Last Substantive Amendment: ~~June 15, 2002~~ 2007
Notice of Continuation: March 14, 2003
Authorizing, and Implemented or Interpreted Law: 19-6-105; 40 CFR 258

◆ ————— ◆

Environmental Quality, Solid and Hazardous Waste
R315-309
Financial Assurance

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29209

FILED: 11/09/2006, 15:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify specific information that must be submitted to the executive secretary and that the information must be submitted on forms approved by the Executive Secretary. Also, the rule change provides that the Executive Secretary must direct in writing the payment of funds from an insurance policy. Also, the rule change provides more time to fund a trust fund and clarifies the method for calculating payments into a trust fund.

SUMMARY OF THE RULE OR CHANGE: The rule change requires documents submitted to the Executive Secretary must be signed originals. Also, the rule change provides that the Executive Secretary must direct in writing the payment of funds from an insurance policy. The rule change also requires that an insurer must submit an insurance endorsement on the form approved by the Executive Secretary. The rule change allows ten years to fund a trust fund and clarifies the method of payment calculation for payments.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and 40 CFR 258

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The rule change does not affect state agencies and the enforcement and oversight of the rule requirements will not change. Therefore, there is no anticipated cost or savings impact to the state budget as a result of the rule change.

❖ LOCAL GOVERNMENTS: The requirements of the rule are clarified and documents to be submitted are clarified. Therefore, there is no anticipated cost or savings impact to local government beyond that required by current statute or rule as a result of the rule change. Extension of time to fund a trust fund will not change the amount required for financial assurance. The time extension will allow a local government to spread the payments over a longer time which may result in a savings depending on the other uses of the money involved.

❖ OTHER PERSONS: The requirements of the rule are clarified and documents to be submitted are clarified. Therefore, there is no anticipated cost or savings impact to other persons beyond that required by current statute or rule as a result of the rule change. Extension of time to fund a trust fund will not change the amount required for financial assurance. The time extension will allow an owner or operator of a solid waste facility to spread the payments over a longer time which may result in a savings depending on the other uses of the money involved.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements of the rule are clarified and the change does not increase or decrease the financial assurance required, there is no expected cost or savings impact to affected persons beyond that required by current statute or rule as a result of

the rule change. Some savings may result from spreading the payments over a longer time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the requirements of the rule are clarified and the change does not increase or decrease the financial assurance required, there is no expected cost or savings impact to businesses beyond that required by current statute or rule as a result of the rule change. Some savings may result from spreading the payments over a longer time. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-309. Financial Assurance.****R315-309-3. General Requirements for Financial Assurance Mechanisms.**

(1) Any financial assurance mechanism in place for a solid waste facility:

(a) must be legally valid, binding, and enforceable under Utah and Federal law;

(b) must ensure that funds will be available in a timely fashion when needed; and

(c) any financial assurance mechanism that guarantees payment rather than performance, but does not allow the Executive Secretary to approve partial payments to a third party, shall establish a standby trust at the time the financial assurance mechanism is established.

(i) In the case of a financial assurance mechanism for which the establishment of a standby trust is required, the standby trust fund shall meet the requirements of Subsections R315-309-4(1), (2), and (4).

(ii) Payments from the financial assurance mechanism shall be deposited directly into the standby trust fund and payments from the standby trust fund must be approved by the Executive Secretary and the trustee.

(2) The owner or operator of a solid waste facility that is required to provide financial assurance:

(a) shall submit the required documentation of the financial assurance mechanism to the Executive Secretary; [~~and~~]

(b) prior to the financial assurance mechanism becoming effective and active for a solid waste facility, the mechanism must be approved by the Executive Secretary; and[-]

(c) Financial assurance mechanism documents submitted to the Executive Secretary shall be signed originals or signed duplicate originals.

(3) The owner or operator of a solid waste facility may establish financial assurance by any mechanism that meets the requirements of Subsection R315-309-1(1) as approved by the Executive Secretary.

(4) The owner or operator of a solid waste facility may establish financial assurance by a combination of mechanisms that together meet the requirements of Subsection R315-309-1(1) as approved by the Executive Secretary. Except for the conditions specified in Subsection R315-309-8(6)(c), financial assurance mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments.

R315-309-4. Trust Fund.

(1) The owner or operator of a solid waste facility may establish a trust fund and appoint a trustee as a financial assurance mechanism. The trust fund and trustee must be with an entity that has the authority to establish trust funds and act as a trustee and whose operations are regulated and examined by a Federal or state agency.

(2) The owner or operator shall submit a signed original of the trust agreement to the Executive Secretary for approval and shall place a signed original of the trust agreement in the operating record of the solid waste disposal facility.

(3) Payments into the trust fund must be made annually by the owner or operator according to the following schedule:

(a) for a trust fund for closure and post-closure care, annual payments that will ensure the availability of sufficient funds within [five years of permit approval]the permit term or the remaining life of the facility, whichever is shorter for the cost estimates required in Subsection R315-309-2(3). The initial payment into the trust fund must be made, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste and for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); or

(b) for a trust fund for corrective action, annual payments that will ensure the availability of sufficient funds within one-half of the estimated length in years of the corrective action program for the cost estimate required by Subsection R315-309-2(5). Payments shall be determined as follows:

(i) The first payment shall be at least equal to one-half of the current cost estimate for the corrective action divided by one-half of the estimated length of the corrective action program. The initial payment into the trust fund shall be made in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(ii) The amount of subsequent payments must be determined by the following formula: Next Payment = (RB-CV)/Y where RB is the most recent estimate of the required trust fund balance for corrective action (i.e., the total cost that will be incurred during the second half of the corrective action period), CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) The owner or operator, or other person authorized to conduct closure, post-closure, or corrective action may request reimbursement from the trustee for closure, post-closure, or corrective action costs.

(a) Prior to the release of funds by the trustee, the request for reimbursement must be approved by the Executive Secretary. The Executive Secretary shall act upon the reimbursement request within 30 days of receiving the request.

(b) After receiving approval from the Executive Secretary, the request for reimbursement may be granted by the trustee only if sufficient funds are remaining to cover the remaining costs and if justification and documentation of the costs is placed in the operating record.

(c) The owner or operator shall notify the Executive Secretary that documentation for the reimbursement has been placed in the operating record and that the reimbursement has been received.

R315-309-6. Insurance.

(1) The owner or operator of a solid waste facility may provide insurance as a financial assurance mechanism. The insurance must be effective, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste or, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3).

(2) At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and the owner or operator must notify the Executive Secretary that a copy of the insurance policy has been placed in the operating record.

(3) The insurance policy must guarantee that funds will be available to close the facility or unit and provide post-closure care or provide corrective action, if applicable. The policy must also guarantee that the insurer will be responsible for paying out funds, as directed in writing by the Executive Secretary, to the owner or operator or other person authorized to conduct closure, post-closure, or corrective action, if applicable, up to an amount equal to the face amount of the policy.

(4) The insurance policy must be issued for a face amount at least equal to the closure, post-closure, or corrective action cost estimates required by Subsection R315-309-2(3) or Subsection R315-309-2(5), whichever is applicable.

(5) An owner or operator, or other authorized person may receive reimbursements for closure, post-closure, or corrective action, if applicable, if the remaining value of the policy is sufficient to cover the remaining costs of the work required and if justification and documentation of the cost is placed in the operating record. The owner or operator must notify the Executive Secretary that the documentation and justification for the reimbursement has been placed in the operating record and that the reimbursement has been received.

(6) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator.

(7) The insurance policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner or operator and the Executive Secretary 120 days in advance of cancellation. If the insurer cancels the policy, the owner or operator must obtain alternate financial assurance.

(8) The insurer shall certify through the use of an insurance endorsement specified by the Executive Secretary that the policy issued provides insurance covering closure costs, post-closure costs, or corrective action costs.

KEY: solid waste management, waste disposal
Date of Enactment or Last Substantive Amendment: [~~October 15, 2003~~]**2007**
Notice of Continuation: March 14, 2003
Authorizing, and Implemented or Interpreted Law: 19-6-105; 40 CFR 258

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Environmental Quality, Solid and Hazardous Waste

R315-310

Permit Requirements for Solid Waste Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29210

FILED: 11/09/2006, 15:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to require the submittal of an archaeological survey. This survey is needed to meet the requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139). The rule is changed to require solid waste facility permit applications to specify certain public participation requirements during the permitting process; to extend the permit term; and to clarify the contents of a Class III Landfill permit application and post-closure care permit applications. (DAR NOTE: H.B. 139 (2006) is found at Chapter 292, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The rule is changed to require all new or expanding facilities or existing facilities that have not done an archaeological survey to submit one. The rule is changed to require all solid waste facility permit applications to establish requirements for the providing of information to owners of property adjacent to a proposed solid waste facility; to extend the permit to ten years; and to clarify the contents of a Class III Landfill and post-closure care permit applications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-108, and 19-6-109; and 40 CFR 258

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Submittal of the archaeological survey will save the State the cost of conducting the survey that is required by changes in the historical preservation statute. The rule change will require that the executive secretary contact property owners adjacent to solid waste disposal facilities and contact the local government within which the site is located and inform them of the permit application. This change will require minor staff time and the mailing costs will show a minor increase. The change in permit life from five to ten

years will reduce the time staff spends on permit reviews but this extra time will be used to address other parts of the solid waste program therefore no net savings will occur. Other areas of the rule are clarified but not changed; therefore, no cost or saving impacts are expected.

❖ **LOCAL GOVERNMENTS:** The requirement to submit an archaeological survey is not an increased cost because the survey was required to meet other sections of the rule, however submittal of the survey was not previously required. The only requirement was a letter from the state historical preservation officer indicating that the survey was submitted and concurring with the survey results. The statutory change made in the 2006 legislative general session (H.B. 139) requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application. A local government that applies to permit a solid waste disposal facility may experience a slight cost increase to prepare a permit application to include information required to meet the proposed public participation rule change. Extension of the permit term will decrease by half the expense of permit renewal. The aggregate anticipated cost increase or savings to local governments cannot be estimated but will be a net savings as the costs of obtaining the surrounding ownership data is small compared to the savings of only having to prepare a permit application every ten years instead of every five years. Other areas of the rule are clarified but not changed therefore no cost or saving impacts are expected.

❖ **OTHER PERSONS:** The requirement to submit an archaeological survey is not an increased cost because the survey was required to meet other sections of the rule, however submittal of the survey was not previously required. The only requirement was a letter from the state historical preservation officer indicating that the survey was submitted and concurring with the survey results. The statutory change made in the 2006 legislative general session requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application. Other persons that operate a new or existing solid waste disposal facility may experience a slight cost increase to prepare a permit application to include information of the proposed public participation requirements. Extension of the permit term will decrease by half the expense of permit renewal. The aggregate anticipated cost increase or savings to other persons cannot be estimated but will be a net savings as the costs of obtaining the surrounding ownership data is small compared to the savings of only having to prepare a permit application every ten years instead of every five years. Other areas of the rule are clarified but not changed; therefore, no cost or saving impacts are expected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The requirement to submit an archaeological survey is not an increased cost because the survey was required to meet other sections of the rule, however submittal of the survey was not previously required. The only requirement was a letter from the state historical preservation officer indicating that the survey was submitted and concurring with the survey results. The statutory change made in the 2006 legislative general session (H.B. 139) requires that the survey be submitted by the state

agency involved in the action. Therefore, the survey must be submitted as part of the permit application. Affected persons may experience a slight cost increase to prepare a permit application to include information of the proposed public participation requirements. Extension of the permit term will decrease by half the expense of permit renewal. The aggregate anticipated cost increase or savings to persons cannot be estimated but will be a net savings as the costs of obtaining the surrounding ownership data is small compared to the savings of only having to prepare a permit application every ten years instead of every five years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The requirement to submit an archaeological survey is not an increased cost because the survey was required to meet other sections of the rule, however submittal of the survey was not previously required. The only requirement was a letter from the state historical preservation officer stating that the survey was submitted and concurring with the survey results. The statutory change made in the 2006 legislative general session (H.B. 139) requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application. Businesses that operate solid waste facilities may experience a slight cost increase to prepare a permit application to include information of the proposed public participation requirements. Extension of the permit term will decrease by half the expense of permit renewal. The aggregate anticipated cost increase or savings to persons cannot be estimated but will be a net savings as the costs of obtaining the surrounding ownership data is small compared to the savings of only having to prepare a permit application every ten years instead of every five years. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-310. Permit Requirements for Solid Waste Facilities.

R315-310-1. Applicability.

(1) The following solid waste facilities require a permit:

(a) New and existing Class I, II, III, IV, V, and VI Landfills;

(b) Class I, II, III, IV, V, and VI Landfills that have closed but have not met the requirements of Subsection R315-302-3(7);

~~(b)~~(c) incinerator facilities that are regulated by Rule R315-306;

~~(c)~~(d) land treatment disposal facilities that are regulated by

Rule R315-307; and

(d) waste tire storage facilities.

(2) Permits are not required for corrective actions at solid waste facilities performed by the state or in conjunction with the United States Environmental Protection Agency or in conjunction with actions to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or corrective actions taken by others to comply with a state or federal cleanup order.

(3) The ~~permit~~ requirements of Rule R315-310 apply to each existing and new solid waste facility, for which a permit is required.

(a) The Executive Secretary may incorporate a compliance schedule for each existing facility to ensure that the owner or operator, or both, of each existing facility meet the requirements of Rule R315-310.

(b) The owner or operator, or both, where the owner and operator are not the same person, of each new facility or expansion at an existing solid waste facility, for which a permit is required, shall:

(i) apply for a permit according to the requirements of Rule R315-310;

(ii) not begin the construction or the expansion of the solid waste facility until a permit has been granted; and

(iii) not accept waste at the solid waste facility prior to receiving the approval required by Subsection R315-301-5(1).

(4) A landfill may not change from its current class, or subclass, to any other class, or subclass, of landfill except by meeting all requirements for the desired class, or subclass, to include obtaining a new permit from the Executive Secretary for the desired class, or subclass, of landfill.

R315-310-2. Procedures for Permits.

(1) Prospective applicants may request the Executive Secretary to schedule a pre-application conference to discuss the proposed solid waste facility and application contents before the application is filed.

(2) Any owner or operator who intends to operate a facility subject to the permit requirements must apply for a permit with the Executive Secretary. Two copies of the application, signed by the owner or operator and received by the Executive Secretary are required before permit review can begin.

(3) Applications for a permit must be completed in the format prescribed by the Executive Secretary.

(4) An application for a permit, all reports required by a permit, and other information requested by the Executive Secretary shall be signed as follows:

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

(b) for a partnership or sole proprietorship: by a general partner or the proprietor;

(c) for a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official; or

(d) by a duly authorized representative of the person above, as appropriate.

(i) A person is a duly authorized representative only if the authorization is made in writing, to the Executive Secretary, by a person described in Subsections R315-310-2(4)(a), (b), or (c), as appropriate.

(ii) The authorization may specify either a named individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of facility manager, director, superintendent, or other position of equivalent responsibility.

(iii) If an authorization is no longer accurate and needs to be changed because a different individual or position has responsibility for the overall operation of the facility, a new authorization that meets the requirements of Subsections R315-310-2(4)(d)(i) and (ii) shall be submitted to the Executive Secretary prior to or together with any report, information, or application to be signed by the authorized representative.

(5) Filing Fee and Permit Review Fee.

(a) A filing fee, as required by the Annual Appropriations Act, shall accompany the filing of an application for a permit. The review of the application will not begin until the filing fee is received.

(b) A review fee, as established by the Annual Appropriations Act, shall be charged at an hourly rate for the review of an application. The review fee shall be billed quarterly and shall be due and payable quarterly.

(6) All contents and materials submitted as a permit application shall become part of the approved permit and shall be part of the operating record of the solid waste disposal facility.

(7) The owner or operator, or both, of a facility shall apply for renewal of the facility's permit every ~~five~~ten years.

R315-310-3. General Contents of a Permit Application for a New Facility or a Facility Seeking Expansion.

(1) Each permit application for a new facility or a facility seeking expansion shall contain the following:

(a) the name and address of the applicant, property owner, and responsible party for the site operation;

(b) a general description of the facility accompanied by facility plans and drawings and, except for Class IIIb, IVb, and Class VI Landfills and waste tire storage facilities, unless required by the Executive Secretary, the facility plans and drawings shall be signed and sealed by a professional engineer registered in the State of Utah;

(c) a legal description and proof of ownership, lease agreement, or other mechanism approved by the Executive Secretary of the proposed site, latitude and longitude map coordinates of the facility's front gate, and maps of the proposed facility site including land use and zoning of the surrounding area;

(d) the types of waste to be handled at the facility and area served by the facility;

(e) the plan of operation required by Subsection R315-302-2(2);

(f) the form used to record weights or volumes of wastes received required by Subsection R315-302-2(3)(a)(i);

(g) an inspection schedule and inspection log required by Subsection R315-302-2(5)(a);

(h) the closure and post-closure plans required by Section R315-302-3;

(i) documentation to show that any waste water treatment facility, such as a run-off or a leachate treatment system, is being reviewed or has been reviewed by the Division of Water Quality;~~and~~

(j) a proposed financial assurance plan that meets the requirements of Rule R315-309~~[-]; and~~

~~(k) A historical and archeological identification efforts, which may include an archaeological survey conducted by a person holding a valid license to conduct surveys issued under R694-1.~~

~~(2) Public Participation Requirements.~~

~~(a) Each permit application shall provide:~~

~~(i) the name and address of all owners of property within 1,000 feet of the proposed solid waste facility; and~~

~~(ii) documentation that a notice of intent to apply for a permit for a solid waste facility has been sent to all property owners identified in Subsection R315-310-3(3)(a)(i).~~

~~(iii) the Executive Secretary with the name of the local government with jurisdiction over the site and the mailing address of that local government office.~~

~~(b) The Executive Secretary shall send a letter to each person identified in Subsection R315-310-3(3)(a)(i) and (iii) requesting that they reply, in writing, if they desire their name to be placed on an interested party list to receive further public information concerning the proposed facility.~~

~~(2)3 Special Requirements for a Commercial Solid Waste Disposal Facility.~~

(a) The permit application for a commercial nonhazardous solid waste disposal facility shall contain the information required by Subsections 19-6-108(9) and (10).

(b) Subsequent to the issuance of a solid waste permit by the Executive Secretary, a commercial nonhazardous solid waste disposal facility shall meet the requirements of Subsection 19-6-108(3)(c) and provide documentation to the Executive Secretary that the solid waste disposal facility is approved by the local government, the Legislature, and the governor.

(c) Construction of the solid waste disposal facility may not begin until the requirements of Subsections R315-310-3(2)(b) are met and approval to begin construction has been granted by the Executive Secretary.

(d) Commercial solid waste disposal facilities solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government are not subject to Subsections R315-310-3(2)(a), (b), and (c).

R315-310-4. Contents of a Permit Application for a New or Expanded Class I, II, III, IV, V, and VI Landfill Facility as Specified.

(1) Each application for a new or expanded landfill shall contain the information required by Section R315-310-3.

(2) Each application shall also contain:

(a) the following maps shall be included in a permit application for a Class I, II, III, IV, V, and VI Landfill:

(i) topographic map of the landfill unit drawn to a scale of 200 feet to the inch containing five foot contour intervals where the relief exceeds 20 feet and two foot contour intervals where the relief is less than 20 feet, showing the boundaries of the landfill unit, ground water monitoring wells, landfill gas monitoring points, and borrow and fill areas; and

(ii) the most recent full size U.S. Geological Survey topographic map, 7-1/2 minute series, if printed, or other recent topographic survey of equivalent detail of the area, showing the waste facility boundary, the property boundary, surface drainage channels, existing utilities, and structures within one-fourth mile of the facility site, and the direction of the prevailing winds.

(b) a permit application for a Class I, II, IIIa, IVa, and V Landfill shall contain a geohydrological assessment of the facility that addresses:

- (i) local and regional geology and hydrology, including faults, unstable slopes and subsidence areas on site;
- (ii) evaluation of bedrock and soil types and properties, including permeability rates;
- (iii) depths to ground water or aquifers;
- (iv) direction and flow rate of ground water;
- (v) quantity, location, and construction of any private and public wells on the site and within 2,000 feet of the facility boundary;
- (vi) tabulation of all water rights for ground water and surface water on the site and within 2,000 feet of the facility boundary;
- (vii) identification and description of all surface waters on the site and within one mile of the facility boundary;
- (viii) background ground and surface water quality assessment and identification of impacts of the existing facility upon ground and surface waters from landfill leachate discharges;
- (ix) calculation of a site water balance; and
- (x) conceptual design of a ground water and surface water monitoring system, including proposed installation methods for these devices and where applicable, a vadose zone monitoring plan;

(c) a permit application for a Class I, II, IIIa, IVa, and V Landfill shall contain an engineering report, plans, specifications, and calculations that address:

- (i) how the facility will meet the location standards pursuant to Section R315-302-1 including documentation of any demonstration made with respect to any location standard;
- (ii) the basis for calculating the facility's life;
- (iii) cell design to include liner design, cover design, fill methods, elevation of final cover and bottom liner, and equipment requirements and availability;
- (iv) identification of borrow sources for daily and final cover, and for soil liners;
- (v) interim and final leachate collection, treatment, and disposal;
- (vi) ground water monitoring plan that meets the requirements of Rule R315-308;
- (vii) landfill gas monitoring and control that meets the requirements of Subsection R315-303-3(5);
- (viii) design and location of run-on and run-off control systems;
- (ix) closure and post-closure design, construction, maintenance, and land use; and
- (x) quality control and quality assurance for the construction of any engineered structure or feature, excluding buildings at landfills, at the solid waste disposal facility and for any applicable activity such as ground water monitoring.

(d) a permit application for a Class I, II, III, IV, V, and VI Landfill shall contain a closure plan to address:

- (i) closure schedule;
- (ii) capacity of ~~site~~ the solid waste disposal facility in volume and tonnage;
- (iii) final inspection by regulatory agencies; and
- (iv) identification of closure costs including cost calculations and the funding mechanism.

(e) a permit application for a Class I, II, III, IV, V, and VI Landfill shall contain a post-closure plan to address, as appropriate for the specific landfill:

- (i) site monitoring of:
 - (A) landfill gas on a quarterly basis until the conditions of either Subsection R315-302-3(7)(b) or Subsection R315-302-3(7)(c) are met;

(B) ground water on a semiannual basis, or other schedule as determined by the Executive Secretary, until the conditions of either Subsection R315-302-3(7)(b) or Subsection R315-302-3(7)(c) are met; and

(C) surface water, if required, on the schedule specified by the Executive Secretary and until the Executive Secretary determines that the monitoring of surface water may be discontinued;

(ii) inspections of the landfill by the owner or operator:

(A) for landfills that are required to monitor landfill gas, and Class II Landfills, on a quarterly basis; and

(B) for other landfills that are not required to monitor landfill gas, on a semiannual basis;

(iii) maintenance activities to maintain cover and run-on and run-off systems;

(iv) identification of post-closure costs including cost calculations and the funding mechanism;

(v) changes to record of title as specified by Subsection R315-302-2(6); and

(vi) list the name, address, and telephone number of the person or office to contact about the facility during the post-closure period.

R315-310-5. Contents of a Permit Application for a New or ~~Expanded~~ Expanding Class III, IV, or VI Landfill.

(1) Each application for a permit for a new Class III, IV, or VI landfill or for a permit to expand an existing Class III, IV, or VI Landfill ~~[permit]~~ shall contain the information required in Section R315-310-3.

(2) Each application shall also contain an engineering report, plans, specifications, and calculations that address:

(a) the information and maps required by Subsections R315-310-4(2)(a)(i) and (ii);

(b) the design and location of the run-on and run-off control systems;

(c) the information required by Subsections R315-310-4(2)(d) and (e);

(d) the area to be served by the facility; and

(e) how the facility will meet the requirements of Rule R315-304, for a Class III Landfill, or Rule R315-305, for a Class IV or VI Landfill.

(3) Each application for a Class IIIa or Class IVa Landfill permit shall also contain the applicable information required in Subsections R315-310-4(2)(b) and (c).

R315-310-8. Contents of a Permit Application for a New or Expanding Waste Tire Storage Facility.

Each application for a waste tire storage facility permit shall contain the information required in Subsections R315-310-3(1)(a), (b), ~~and~~ (c), (f), (g), (h), (k), R315-310-3(2) and Subsection R315-314-3(3).

R315-310-9. Contents of ~~a Permit~~ an Application for ~~an Existing Facility or~~ a Permit Renewal.

The owner or operator, or both, where the owner and operator are not the same person, of each existing facility who intend to have the facility continue to operate, shall apply for a ~~permit or~~ renewal of ~~their~~ the permit by submitting the applicable information and application specified in Sections R315-310-3, -4, -5, -6, -7, or -8, as appropriate. ~~[Previous information submitted]~~ Applicable information, that was submitted to the Executive Secretary as part of a previous permit application, may be copied and included in the permit renewal application so that all required information is

contained in one document. ~~[may be referred to in the application. Changes in operating methods or other changes must be noted in the application in order to be authorized by permit.]~~ The information submitted shall reflect the current operation, monitoring, closure, post-closure, and all other aspects of the facility as currently established at the time of the renewal application submitte.

R315-310-10. Contents of an Application for a Permit for a Facility in Post-Closure Care.

The application for a Post-Closure Care permit shall contain the applicable information required in Section R315-310-3 and documentation as to how the facility will meet the requirements of Section R315-302-3(5) and (6).

R315-310-~~10~~11. Permit Transfer.

(1) A permit may not be transferred without approval from the Executive Secretary, nor shall a permit be transferred from one property to another.

(2) The new owner or operator shall submit to the Executive Secretary:

(a) [Application for transfer of a permit shall be made at least 60 days prior to the change of permittee] A revised permit application no later than 60 days prior to the scheduled change and

(b) A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees.

(3) The new permittee shall:

(a) assume permit requirements and all financial responsibility;

(b) provide adequate documentation that the ~~[operator]~~ permittee has or shall have ownership or control of the facility for which the transfer of permit has been requested;

(c) demonstrate adequate knowledge and ability to operate the facility in accordance with the permit conditions; and

(d) demonstrate adequate financial assurance as required in the permit and R315-309 for the operation of the facility.

(4) When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Rule R315-309 until the new owner or operator has demonstrated that it is complying with the requirements of that rule.

(5) An application for permit transfer may be denied if the Executive Secretary finds that the applicant has:

(a) knowingly misrepresented a material fact in the application;

(b) refused or failed to disclose any information requested by the Executive Secretary;

(c) exhibited a history of willful disregard of any state or federal environmental law; or

(d) had any permit revoked or permanently suspended for cause under any state or federal environmental law.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~[October 15, 2003]~~2007

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258

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Environmental Quality, Solid and Hazardous Waste

R315-311

Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29211

FILED: 11/09/2006, 15:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify when an application for a permit renewal must be submitted and to extend the time period for which the permit is granted. The timing for submittal of financial assurance information is set.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify that both the owner and the operator of a solid waste facility may be required to submit an application for a permit renewal but only if the facility is intended to continue operations after the current permit expires. Also, the permit life is extended to ten years with review of the financial assurance every five years.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The change in permit life from five to ten years will reduce the time staff spends on permit reviews but this extra time will be used to address other parts of the solid waste program therefore no net savings will occur.

❖ **LOCAL GOVERNMENTS:** The maximum period for which permits can be granted is extended which will reduce the permit renewal costs for local governments that operate solid waste facilities. The cost savings experienced by a facility operator will depend on the complexity of the permit application and therefore, cannot be estimated but should be reduced by half over a ten-year period.

❖ **OTHER PERSONS:** The maximum period for which permits can be granted is extended which will reduce the permit renewal costs for operators of solid waste facilities. The cost savings experienced by a facility operator will depend on the complexity of the permit application and therefore, cannot be estimated but should be reduced by half over a ten-year period.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs savings of an unknown amount will be experienced by owners and operators of permitted solid waste facilities. Over a ten-year period the permit application cost should be reduced by half.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Costs over a ten-year period should be reduced by half as facility owners and operators will have to complete one permit renewal application rather than two. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-311. Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities.
R315-311-1. General Requirements.

(1) Upon submittal of the complete ~~plan of operation and supporting~~ information required by Rule R315-310, as determined by the Executive Secretary, a draft permit or permit denial will be prepared and the owner or operator of the ~~proposed~~ new or existing facility will be notified in writing by the Executive Secretary.

(a) After meeting the requirements of the public comment period and public hearing as stipulated in Section R315-311-3, the owner or operator may be issued a permit which will include appropriate conditions and limitations on operation and types of waste to be accepted at the facility.

(b) Construction shall not begin prior to the receipt of the permit.

(c) An application that has been initiated by an owner or operator but ~~left inactive by the applicant~~ for which the Executive Secretary has not received a response to questions about the application for more than one year shall be canceled.

(2) Solid waste disposal facility plan approval and permit issuance will depend upon:

(a) the adequacy of the facility in meeting the location standards in Section R315-302-1;

(b) the hydrology and geology of the area; and

(c) the adequacy of the plan of operation, facility design, and monitoring programs in meeting the requirements of the applicable rules.

(3) A permit can be granted for up to ~~five~~ ten years by the Executive Secretary, except as allowed in Subsection R315-311-1(5).

(4) ~~Each~~ The owner or operator, or both, when the owner and the operator are not the same person, of each solid waste facility ~~must~~ shall:

(a) apply for a permit renewal, as required by Section R315-310-9]10, 180 days [before]prior to the expiration date of the current permit if the permit holder intends to continue operations after the current permit expires; and

(b) for facilities for which financial assurance is required by R315-309-1, submit, for review and approval by the Executive Secretary on a schedule of no less than every five years, a complete update of the financial assurance required in Rule R315-309 which shall contain:

(i) a calculation of the current costs of closure as required by Subsection R315-309-2(3); and

(ii) a calculation that is not based on a closure cost which has been obtained by applying an inflation factor to past cost estimates.

(5) A permit for a facility in post-closure care:

(i) may be issued for the life of the post-closure care period; and

(ii) the holder of the post-closure care permit shall comply with Subsection R315-311-1(3)(b).

R315-311-2. Permit Modification, Renewal, or Termination.

(1) A permit may be considered for modification, renewal, or termination at the request of any interested person, including the permittee, or upon the Executive Secretary's initiative as a result of new information or changes in statutes or rules. Requests for modification, reissuance, or termination shall be submitted in writing to the Executive Secretary and shall contain facts or reasons supporting the request. Requests for permit modification, renewal, or termination shall become effective only upon approval by the Executive Secretary.

(a) Minor modifications of a permit or plan of operation shall not be subject to the 30 day public comment period as required by Section R315-311-3. A permit modification shall be considered minor if:

(i) typographical errors are corrected;

(ii) the name, address, or phone number of persons or agencies identified in the permit are changed;

(iii) administrative or informational changes are made;

(iv) procedures for maintaining the operating record are changed or the location where the operating record is kept is changed;

(v) changes are made to provide for more frequent monitoring, reporting, sampling, or maintenance;

(vi) a compliance date extension request is made for a new date not to exceed 120 days after the date specified in the approved permit;

(vii) changes are made in the expiration date of the permit to allow an earlier permit termination;

(viii) changes are made in the closure schedule for a unit, in the final closure schedule for the facility, or the closure period is extended;

(ix) the Executive Secretary determines, in the case of a permit transfer application, that no change in the permit other than the change in the name of the owner or operator is necessary;

(x) equipment is upgraded or replaced with functionally equivalent components;

(xi) changes are made in sampling or analysis methods, procedures, or schedules;

(xii) changes are made in the construction or ground water monitoring quality control/quality assurance plans which will better certify that the specifications for construction, closure, sampling, or analysis will be met;

(xiii) changes are made in the facility plan of operation which conform to guidance or rules approved by the Board or provide more efficient waste handling or more effective waste screening;

(xiv) an existing monitoring well is replaced with a new well without changing the location;

(xv) changes are made in the design or depth of a monitoring well that provides more effective monitoring; ~~or~~

(xvi) changes are made in the statistical method used to statistically analyze the ground water quality data; ~~or~~

(xvii) ~~Other permit modifications shall be considered to be major modifications~~ Changes are made in any permit condition that are more restrictive or provide more protection to health or the environment.

~~(xviii)~~(b) The Executive Secretary may subject any minor modification request to the 30[-]-day public comment period if justified by conditions and circumstances.

(c) A permit modification that does not meet the requirements of Subsection R315-311-2(1)(a) for a minor modification shall be a major modification.

~~(b)~~(d) If the Executive Secretary determines that major modifications to a permit or plan of operation are justified, a new operational plan incorporating the approved modifications shall be prepared. The modifications shall be subject to the public comment period as specified in Section R315-311-3.

(2) An application for permit renewal shall consist of the information required by Section R315-310-9. Upon receipt of the application, the Executive Secretary will review the application and will notify the applicant as to what information or change of operational practice is required of the applicant, if any, to receive a permit renewal. The current permit shall remain in effect until issuance or denial of a new permit. Each permit renewal shall be subject to the public comment requirements of Section R315-311-3.

(3) The Executive Secretary shall notify, in writing, the owner or operator of any facility of intent to terminate a permit. A permit may be terminated for:

- (a) noncompliance with any condition of the permit;
- (b) noncompliance with any applicable rule;
- (c) failure in the application or during the approval or renewal process to disclose fully all relevant facts;
- (d) misrepresentation by the owner or operator of any relevant facts at any time; or
- (e) a determination that the solid waste activity or facility endangers human health or the environment.

(4) The owner or operator of a facility may appeal any action associated with modification, renewal, or termination in accordance with Section R315-317-3, Title 63 Chapter 46b, and Rule R315-12.

KEY: solid waste management, waste disposal
Date of Enactment or Last Substantive Amendment: ~~July 15, 2000~~ 2007
Notice of Continuation: March 14, 2003
Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108



Environmental Quality, Solid and
 Hazardous Waste
R315-312
 Recycling and Composting Facility
 Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29212

FILED: 11/09/2006, 15:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify the wastes that may not be accepted for composting by a composting facility and to include submittal of information required by changes made in the historical preservation statute made in the 2006 legislative general session (H.B. 139). (DAR NOTE: H.B. 139 (2006) is found at Chapter 292, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify that a composting facility may not accept asbestos waste, hazardous waste, waste containing polychlorinated biphenols (PCBs), or treated wood for composting. Also, the rule is change to have composting facilities, that compost municipal solid waste, sewage treatment sludge, and septage, require the generator of these materials to certify that the materials contain no hazardous waste, no PCBs, and no treated wood. The rule is changed to require that compost facilities meet the siting criteria for submittal of an archaeological survey.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-108, and Subsection 9-8-404(1)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The rule change does not affect state agencies and the enforcement and oversight of the rule will not change. Therefore, no cost or savings impact is anticipated for the state budget.

❖ **LOCAL GOVERNMENTS:** Those parts of the rule that are clarified but the requirements of the rule are not changed will result in no cost or savings impact to local governments beyond that required by current statute or rule. The change requiring submittal of an archaeological survey is implementing existing requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139); therefore, no cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact. The cost to screen the waste received and reject unacceptable waste may increase for some facilities; however, most compost facilities are conducting this screening and therefore, their costs will not change.

❖ **OTHER PERSONS:** Those parts of the rule that are clarified but the requirements of the rule are not changed, no cost or savings impact to other persons beyond that required by current statute or rule is anticipated as a result of the rule change. The change requiring submittal of an archaeological survey implements existing requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139); therefore, no cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact. The cost to screen the waste received and reject unacceptable waste may

increase for some facilities; however, most compost facilities are conducting this screening and therefore, their costs will not change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For those parts of the requirements of the rule that are clarified and not changed, no compliance cost or savings impact for affected persons is expected beyond that required by current statute or rule as a result of the proposed rule change. The change requiring submittal of an archaeological survey implements existing requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139); therefore, no cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact. The cost to screen the waste received and reject unacceptable waste may increase for some facilities; however, most compost facilities are conducting this screening and therefore, their costs will not change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: For those parts of the requirements of the rule that are clarified and not changed, no compliance cost or savings impact for businesses is expected beyond that required by current statute or rule as a result of the proposed rule change. The change requiring submittal of an archaeological survey implements existing requirements of the historical preservation statute passed in the 2006 legislative session (H.B. 139); therefore, no cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact. The cost to screen the waste received and reject unacceptable waste may increase for some facilities; however, most compost facilities are conducting this screening and therefore, their costs will not 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:
Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-312. Recycling and Composting Facility Standards.
R315-312-3. Composting Requirements.

(1) No new composting facility shall be located in the following areas:

- (a) wetlands, watercourses, or floodplains; or
- (b) within 500 feet of any permanent residence, school, hospital, institution, office building, restaurant, or church.

(2) Each new compost facility shall meet the requirements of Subsection R315-302-1(2)(f)

~~(2)~~(3) Each owner or operator of a composting facility, in addition to the operational plan required in Subsection R315-312-2(1), shall develop, keep on file, and abide by a plan that addresses:

- (a) detailed plans and specifications for the entire composting facility including manufacturer's performance data for equipment;
- (b) methods of measuring, grinding or shredding, mixing, and proportioning input materials;
- (c) a description and location of temperature and other types of monitoring equipment and the frequency of monitoring;
- (d) a description of any additive material, including its origin, quantity, quality, and frequency of use;
- (e) special precautions or procedures for operation during wind, heavy rain, snow, and freezing conditions;
- (f) estimated composting time duration, which is the time period from initiation of the composting process to completion;
- (g) for windrow systems, the windrow construction, including width, length, and height;
- (h) the method of aeration, including turning frequency or mechanical aeration equipment and aeration capacity; and
- (i) a description of the ultimate use for the finished compost, the method for removal from the site, and a plan for the disposal of the finished compost that can not be used in the expected manner due to poor quality or change in market conditions.

~~(3)~~(4) Composting Facility Operation Requirements.

(a) Operational records must be maintained during the life of the facility and during the post-closure care period, which include, at a minimum, temperature data and quantity and types of material processed.

(b) All waste materials collected for the purpose of processing must be processed within two years or as provided in the plan of operation.

(c) All materials not destined for processing must be properly disposed.

(d) Turning frequency of the compost must be sufficient to maintain aerobic conditions and to produce a compost product in the desired time frame.

(e) During the composting process, the compost must:

(i) maintain a temperature between ~~[440]~~104 and ~~[460]~~149 degrees Fahrenheit (~~[60]~~40 and ~~[74]~~65 degrees Celsius) for a period of not less than ~~[seven]~~five days; and

(ii) reach a temperature of not less than 131 degrees F (55 degrees C) for a consecutive period of not less than four hours during the five day period.

(f) The following wastes may not be accepted for composting:

- (i) asbestos waste;
- (ii) Hazardous waste;
- (iii) ~~or~~ waste containing PCBs; or
- (iv) treated wood~~[shall not be accepted for composting].~~

(g) Any composting facility utilizing municipal solid waste, municipal sewage treatment sludge, water treatment sludge, or septage shall require the generator to characterize the ~~[sludge]~~material and certify that any ~~[sludge]~~material used is nonhazardous, contains no PCB's, and contains no treated wood.

~~(e)~~(h) If the composting operation will be utilizing domestic sewage sludge, septage, or municipal solid waste:

(i) compost piles or windrows shall be placed upon a surface such as sealed concrete, asphalt, clay, or an artificial liner underlying the pile or windrow, to prevent contamination of subsurface soil, ~~and potential~~ ground water, or both ~~[contamination]~~ and to allow collection of run-off and leachate. The liner shall be ~~[designed]~~ of sufficient thickness and strength to withstand stresses imposed by compost handling vehicles and the compost itself;

(ii) run-off systems shall be designed, installed and maintained to control and collect the run-off from a 25-year storm event;

(iii) the collected leachate shall be treated in a manner approved by the Executive Secretary; and

(iv) run-on prevention systems shall be designed, constructed, and maintained to divert the maximum flow from a 25-year storm event.

~~(h)~~(i) If the Executive Secretary determines that a composting operation, which composts materials other than domestic sewage sludge, septage, or municipal solid waste, is likely to produce a leachate that in combination with the hydrologic, geologic, and climatic factors of the site will present a threat to human health or the environment, the Executive Secretary may require the owner or operator of the composting facility to meet the requirements specified in Subsection R315-312-3(3)(g).

~~(i)~~(j) The finished compost must contain no sharp inorganic objects and must be sufficiently stable that it can be stored or applied to land without creating a nuisance, environmental threat, or a hazard to health.

~~(4)~~(5) Composting Facility Closure and Post-closure Requirements.

(a) Within 30 days of closure, a composting facility shall:

(i) remove all piles, windrows, and any other compost material on the composting facility's property;

(ii) remove or revegetate compacted compost material that may be left on the land;

(iii) drain ponds or leachate collection system if any, back-fill, and assure removed contents are properly disposed;

(iv) cover if necessary; and

(v) record with the county recorder as part of the record of title, a plat and statement of fact that the property has been used as a composting facility.

(b) The post-closure care and monitoring shall be for five years and shall consist of:

(i) the maintenance of any monitoring equipment and sampling and testing schedules as required by the Executive Secretary; and

(ii) inspection and maintenance of any cover material.

R315-312-4. Requirements for Use on Land of Sewage Sludge, Woodwaste, and Other Organic Sludge.

(1) Any facility using domestic sewage sludge or septage on land is exempt from the requirements of Section R315-312-4 ~~[but is regulated]~~ when the facility has a permit or other approval under the applicable requirements of Rule R317-8 and 40 CFR 503 issued by the Utah Division of Water Quality.

(2) Any facility using organic sludge, other than domestic sewage sludge or septage, or untreated woodwaste on land shall comply with the recycling standards of Section R315-312-2.

(3) Only agricultural or silvicultural sites where organic sludge or untreated woodwaste is demonstrated to have soil conditioning or fertilizer value shall be acceptable for use under this subsection, provided that the sludge or woodwaste is applied as a soil conditioner or fertilizer in accordance with accepted agricultural and silvicultural practice.

(4) A facility using organic sludge or untreated woodwaste on the land in a manner not consistent with the requirements of Section R315-312-4 must meet the standards of Rule R315-307.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: [~~October 15, 2003~~2007]

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108

Environmental Quality, Solid and Hazardous Waste **R315-313-2** Transfer Station Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29213

FILED: 11/09/2006, 15:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify that transfer stations need to file an annual report with the executive secretary and to require transfer stations to prevent the acceptance of prohibited waste and to include submittal of information required by changes made in the historical preservation statute made in the 2006 legislative general session (H.B. 139). (DAR NOTE: H.B. 139 (2006) is found at Chapter 292, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify that transfer stations need to file an annual report with the executive secretary and to require transfer stations to prevent the acceptance of prohibited waste. The rule change also requires submittal of information required by the historical preservation act.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108; and Subsection 9-8-404(1)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The rule change does not affect state agencies and the enforcement and oversight of the requirements of the rule will not change. Therefore, there is no anticipated cost or savings impact to the state budget.

❖ **LOCAL GOVERNMENTS:** A local government that operates a transfer station will experience a slight increase in costs to begin a waste inspection/screening program to prevent the

acceptance of prohibited waste if this program is not currently in place. Most transfer stations are already conducting these inspections and will therefore not experience any cost changes. The anticipated aggregate cost increase to local governments cannot be estimated but will be small and in most cases will be zero as the inspections are already being conducted. The change requiring submittal of an archaeological survey implements existing requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139); therefore, no new cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact.

❖ OTHER PERSONS: Other persons that operate transfer stations will experience a slight increase in costs to begin a waste inspection/screening program to prevent the acceptance of prohibited waste if this program is not currently in place. Most transfer stations are already conducting these inspections and will therefore not experience any cost changes. The anticipated aggregate cost increase cannot be estimated but will be small and in most cases will be zero as the inspections are already being conducted. The change requiring submittal of an archaeological survey implements existing requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139); therefore, no new cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons that operate a transfer station are currently required to submit a Plan of Operation to the Executive Secretary and many transfer facilities currently inspect waste to prevent the acceptance of prohibited waste. The increase in costs to upgrade the Plan of Operation to include the waste inspection requirements will be small. The expected small increase in compliance costs for affected persons cannot be estimated. The change requiring submittal of an archaeological survey implements existing requirements of the historical preservation statute passed in the 2006 legislative general session (H.B. 139); therefore, no new cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses that operate a transfer station are currently required to submit a Plan of Operation to the Executive Secretary and many transfer facilities currently inspect waste to prevent the acceptance of prohibited waste. The increase in costs to up-grade the Plan of Operation to include the waste inspection requirements will be small and in most cases will be zero as the inspections are already being conducted. The expected small increase in compliance costs for affected persons cannot be estimated. The change requiring submittal of an archaeological survey implements existing requirements of the historical preservation statute passed in the 2006 legislative session (H.B. 139); therefore, no new cost is anticipated. The fiscal note attached to the bill making the changes to the historical statute showed no fiscal impact. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-313. Transfer Stations and Drop Box Facilities.

R315-313-2. Transfer Station Standards.

(1) Each transfer station shall meet the requirements of Subsection R315-302-1(2)(f).

(2) Each transfer station shall meet the requirements of Section R315-302-2 and shall submit a plan of operation and such other information as requested by the Executive Secretary for approval prior to construction and operation.

(3) Each transfer station shall submit, to the Executive Secretary, by March 1 of each year, a report that meets the applicable requirements of Subsection R315-302-2(4) and a certification that the facility has, during the past year, operated according to the submitted plan of operation.

~~(2)~~(4) Each transfer station shall be designed, constructed, and operated to:

(a) be surrounded by a fence, trees, shrubbery, or natural features so as to control access and to screen the station from the view of immediately adjacent neighbors, unless the tipping floor is fully enclosed by a building;

(b) be sturdy and constructed of easily cleanable materials;

(c) be free of potential rat harborage, and provide effective means to control rodents, insects, birds, and other vermin;

(d) be adequately screened to prevent blowing of litter and to provide effective means to control litter;

(e) provide protection of the tipping floor from wind, rain, or snow;

(f) have an adequate buffer zone around the active area to minimize noise and dust nuisances, and a buffer zone of 50 feet from the active area to the nearest property line in areas zoned residential;

(g) provide pollution control measures to protect surface and ground waters by the construction of:

(i) a run-off collection and treatment system, if required, must be designed and operated to collect and treat a 25-year storm and equipment cleaning and washdown water; and

(ii) a run-on prevention system to divert a 25-year storm event;

(h) provide all-weather access in all vehicular areas;

(i) provide pollution control measures to protect air quality including a prohibition against all burning and the development of odor and dust control plans to be made part of the plan of operation;

(j) prohibit scavenging;

(k) provide attendants on-site during hours of operation;

(l) have a sign that identifies the facility and shows at least the name of the site, hours during which the site is open for public use, materials not accepted at the facility, and other necessary information posted at the site entrance;

(m) prevent the acceptance of prohibited waste by meeting the requirements of Subsection R315-303-4(7):

~~(n)~~(n) have communication capabilities, if available in the facility area, to immediately summon fire, police, or emergency service personnel in the event of an emergency; and

~~(o)~~(o) remove all wastes at final closure from the facility to another permitted facility.

KEY: solid waste management

Date of Enactment or Last Substantive Amendment: ~~July 1, 2004~~2007

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108



Environmental Quality, Solid and Hazardous Waste **R315-314-3** Facility Standards for Piles Used for Storage and Treatment

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 29214
FILED: 11/09/2006, 15:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to refer to the permit requirement in Section R315-310-8. Section R315-310-8 is changed to require the submittal of an archaeological survey be submitted that is needed to meet the requirements of changes in the historical preservation statute passed in the 2006 legislative general session (H.B. 139). Section R315-310-8 is also changed to require solid waste facility permit applications to specify certain public participation requirements during the permitting process. (DAR NOTES: H.B. 139 (2006) is found at Chapter 292, Laws of Utah 2006, and was effective 05/01/2006. The proposed amendment to Rule R315-310 is under DAR No. 29210 is this issue, December 1, 2006, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The rule is changed to refer to the permit requirements in Section R315-310-8. Section R315-310-8 is changed to require all new or expanding facilities or existing facilities that have not done an archaeological survey to submit one. Section R315-310-8 is also changed to require all solid waste facility permit

applications to establish requirements for the providing of information to owners of property adjacent to a proposed solid waste facility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-105, 19-6-108, and 19-6-819

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Submittal of the archaeological survey will save the State the cost of conducting the survey that is required by changes in the historical preservation statute. The rule change will require the Executive Secretary to contact property owners adjacent to solid waste disposal facilities and contact the local government within which the site is located. This change will require minor staff time and the mailing costs will show a minor increase.

❖ **LOCAL GOVERNMENTS:** The statutory change made in the 2006 legislative session (H.B. 139) requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application. A local government that applies to permit a waste storage facility may experience a slight cost increase to prepare a permit application to include information required to meet the proposed public participation rule change.

❖ **OTHER PERSONS:** The statutory change made in the 2006 legislative general session (H.B. 139) requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application. Other persons that operate a new or existing waste tire storage facility may experience a slight cost increase to prepare a permit application to include information of the proposed public participation requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The statutory change made in the 2006 legislative general session (H.B. 139) requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application. Affected persons may experience a slight cost increase to prepare a permit application to include information of the proposed public participation requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The statutory change made in the 2006 legislative general session (H.B. 139) requires that the survey be submitted by the state agency involved in the action. Therefore, the survey must be submitted as part of the permit application. Businesses that operate waste tire storage facilities may experience a slight cost increase to prepare a permit application to include information of the proposed public participation requirements. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-314. Facility Standards for Piles Used for Storage and Treatment.****R315-314-3. Requirements for a Waste Tire Storage Facility.**

(1) The definitions of Section R315-320-2 are applicable to the requirements for a waste tire storage facility.

(2) No waste tire storage facility may be established, maintained, or expanded until the owner or operator of the waste tire storage facility has obtained a permit from the Executive Secretary. The owner or operator of the waste tire storage facility shall operate the facility in accordance with the conditions of the permit and otherwise follow the permit.

(3) The owner or operator of a waste tire storage facility shall:

(a) submit the following for approval by the Executive Secretary:

(i) the information required in Subsections R315-310-~~3(1)(a)~~, ~~(b)~~, and ~~(c)~~];

(ii) a plan of operation as required by Subsection R315-302-2(2);

(iii) a plot plan of the storage site showing:

(A) the arrangement and size of the tire piles on the site;

(B) the width of the fire lanes and the type and location of the fire control equipment; and

(C) the location of any on-site buildings and the type of fencing to surround the site;

(iv) a financial assurance plan including the date that the financial assurance mechanism becomes effective; and

(v) a vector control plan;

(b) accumulate tires only in designated areas;

(c) control access to the storage site by fencing;

(d) limit individual tire piles to a maximum of 5,000 square feet of continuous area in size at the base of the pile;

(e) limit the individual tire piles to 50,000 cubic feet in volume or 10 feet in height;

(f) insure that piles be at least 10 feet from any property line or any building and not exceed 6 feet in height when within 20 feet of any property line or building;

(g) provide for a 40 foot fire lane between tire piles that contains no flammable or combustible material or vegetation;

(h) effect a vector control program, if necessary, to minimize mosquito breeding and the harborage of other vectors such as rats or other animals;

(i) provide on-site fire control equipment that is maintained in good working order;

(j) display an emergency procedures plan and inspection approval by the local fire department and require all employees to be familiar with the plan;

(k) establish financial assurance for clean-up and closure of the site:

(i) in the amount of \$150 per ton of tires stored at the site; and

(ii) in the form of a trust fund, letter of credit, or other mechanism as approved by the Executive Secretary;

(l) maintain a record of the number of:

(i) tires received at the site;

(ii) tires shipped from the site

(iii) piles of tires at the site; and

(iv) tires in each pile; and

(m) meet the applicable reporting requirements of Subsection R315-302-2(4).

(4) Whole Tires Stored in a Tire Fence.

(a) Whole Tires stored in a tire fence are exempt from Subsections R315-314-3(3)(e), (f), and (g) but must:

(i) obtain a permit from the Executive Secretary as required by Subsection R315-314-3(2);

(ii) receive approval for establishing, maintaining, or expanding the tire fence from the local government and the local fire department and submit documentation of these approvals to the Executive Secretary; and

(iii) maintain the fence no more than one tire wide and eight feet high.

(b) An owner of a tire fence may receive a waiver from the requirements of Subsection R315-314-3(4)(a)(i) if the Executive Secretary receives written notice from the owner of the tire fence on or before November 15, 1999 that documents and certifies that:

(i) the tire fence was in existence prior to October 15, 1999; and

(ii) no tires have been added to the fence after October 14, 1999.

(5) Each tire recycler, as defined by Subsection 19-6-803(19), that stores tires in piles prior to recycling shall comply with the following requirements:

(a) if the tire recycler documents that the waste tires are stored for five or fewer days, the tire recycler shall:

(i) meet the requirements of Subsections R315-314-3(3)(b) through (g); or

(ii) obtain a waiver from the requirements of Subsections R315-314-3(3)(b) through (g) from the local fire department; or

(b) if the tire recycler does not document that the waste tires are stored for five or fewer days, the tire recycler shall be considered a waste tire storage facility and shall:

(i) meet the requirements of Subsections R315-314-3(2) and (3); and

(ii) the amount of financial assurance required by Subsection R315-314-3(3)(l) shall be \$150 per ton of tires held as the average inventory during the preceding year of operation.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~July 1, 2004~~ 2007

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

◆ ————— ◆

**Environmental Quality, Solid and
Hazardous Waste
R315-316
Infectious Waste Requirements**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 29215
FILED: 11/09/2006, 15:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to make it easier to find requirements for approval of an alternative treatment method and to clarify storage.

SUMMARY OF THE RULE OR CHANGE: Rule language outlining the requirements for an alternative treatment approval is moved from the applicability section to the treatment and disposal section. Storage wording is clarified.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The rule change does not affect state agencies and the enforcement and oversight of the rule will not change. Therefore, no cost or saving impact is anticipated for the state budget.
- ❖ **LOCAL GOVERNMENTS:** Since the requirements of the rule are clarified and not changed, there is no cost or savings impact anticipated for local governments.
- ❖ **OTHER PERSONS:** Since the requirements of the rule are clarified and not changed, there is no cost or savings impact anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements of the rule are clarified and not changed, no compliance cost or savings impact for affected persons is expected beyond that required by current statute or rule as a result of the proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the requirements of the rule are clarified and not changed, no compliance cost or savings impact for businesses is expected beyond that required by current statute or rule as a result of the 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-316. Infectious Waste Requirements.**

R315-316-1. Applicability.

- (1) The standards of Rule R315-316 apply to:
 - (a) any health facility as defined by Subsection 19-6-102(10) that generates more than 200 pounds, per month, of infectious waste as defined by Subsection 19-6-102(12);
 - (b) any transporter that collects and transports more than 200 pounds of infectious waste in any one load; and
 - (c) a storage, treatment, or disposal facility.
- (2) The standards of Rule R315-316 do not apply to a health facility that generates 200 pounds, or less, of infectious waste per month.
 - ~~(3) All material that has been rendered non-infectious may be handled as non-infectious waste, provided it is not an otherwise regulated hazardous or radioactive waste and is not subject to the requirements of Rule R315-316.~~
 - ~~(a) Except for incineration and steam sterilization, no treatment method may be used to render materials non-infectious without receiving approval from the Executive Secretary.~~
 - ~~(b) Prior to its use, the Executive Secretary shall make a determination, on a site specific basis, that the proposed treatment method renders materials non-infectious.~~
 - ~~(c) The determination shall be based on the results of laboratory tests, submitted by the person proposing the use of the treatment method, meeting the following requirements:

 - ~~(i) the laboratory tests shall be conducted:

 - ~~(A) by qualified laboratory personnel;~~
 - ~~(B) using recognized microbial techniques;~~
 - ~~(C) on samples that have been inoculated with the test organisms, then subjected to the proposed treatment method and processed the same way as will be used in the treatment process if approved; and~~
 - ~~(ii) the results of the tests must document that the proposed treatment method inactivates:

 - ~~(A) vegetative bacteria - Staphylococcus aureus (ATCC 6538) or Pseudomonas aeruginosa (ATCC 15442) at a 6 Log₁₀ reduction or greater (a 99.9999% reduction or greater of the organism population);~~
 - ~~(B) fungi - Candida albicans (ATCC 18804), Penicillium chrysogenum (ATCC 24791), or Aspergillus niger at a 6 Log₁₀ reduction or greater;~~
 - ~~(C) viruses - Polio 2, Polio 3, or MS 2 Bacteriophage (ATCC15597-B1) at a 6 Log₁₀ reduction or greater;~~
 - ~~(D) parasites - Cryptosporidium spp. oocysts or Giardia spp. cysts at a 6 Log₁₀ reduction or greater;~~~~~~~~

~~—(E) mycobacteria—Mycobacterium terrae, Mycobacterium phlei, or Mycobacterium bovis (BCG) (ATCC 35743) at a 6 Log₁₀ reduction or greater; and~~

~~—(B) Bacterial spores—Bacillus stearothermophilus spores (ATCC 7953) or Bacillus subtilis spores (ATCC 19659) at a 4 Log₁₀ reduction or greater (a 99.99% reduction or greater of the organism population);~~

~~—(iii) The Executive Secretary shall review the submitted materials and reply in writing within 30 days of the receipt of the submittal.]~~

R315-316-3. Storage and Containment Requirements.

(1) Containment shall be in a manner and location which affords protection from animal intrusion, does not provide a breeding place or a food source for insects ~~and~~ or rodents, and minimizes exposure to the public.

(2) Unless all waste is considered infectious and labeled as such, infectious waste shall be segregated by separate containment from other waste ~~[at the point of origin] during storage.~~

(3) Except for sharps, infectious waste shall be contained in plastic bags or inside rigid containers. The bags shall be securely tied and the containers shall be securely sealed to prevent leakage or expulsion of solid or liquid wastes during storage, handling, or transport.

(4) Sharps shall be contained for storage, transportation, treatment, and disposal in leak-proof, rigid, puncture-resistant containers which are taped closed or tightly lidded to preclude loss of contents.

(5) All containers used for containment of any infectious waste shall be red or orange, or if containers are not red or orange, shall be clearly identified with the international biohazard sign and one of the following labels: "INFECTIOUS WASTE", "BIOMEDICAL WASTE", or "BIOHAZARD".

(6) If other waste is placed in the same container as ~~[regulated]~~ infectious waste, then the generator must package, label, and mark the container and its entire contents as infectious waste.

(7) A rigid infectious waste container may be reused for infectious or non-infectious waste if it is thoroughly washed and decontaminated each time it is emptied or if the surfaces of the container have been completely protected from contamination by disposable, unpunctured, or undamaged liners, bags, or other devices that are removed with the infectious waste, and the surface of the liner has not been damaged or punctured.

(8) Storage and containment areas ~~[must] shall~~: protect infectious waste from the elements~~[-];~~ be ventilated to the outside~~[-];~~ be only accessible to authorized persons~~[-];~~ and be marked with prominent warning signs on, or adjacent to, the exterior doors or gates. The warning signs shall contain the international biohazard sign and shall state: "CAUTION -- INFECTIOUS WASTE STORAGE AREA -- UNAUTHORIZED PERSONS KEEP OUT" and must be easily read during daylight from a distance of 25 feet.

(9) If infectious waste is stored longer than seven days, it shall be stored at 40 degrees Fahrenheit (5 degrees Celsius), or below~~[-but must be treated or disposed within 30 days].~~

~~(10) Under no conditions may infectious waste be stored for longer than 30 days.~~

~~(40)~~(11) Compactors, grinders, or similar devices shall not be used to reduce the volume of infectious waste before the waste has been rendered non-infectious unless the device is contained sufficiently to prevent contamination of the surrounding area.

R315-316-5. Infectious Waste Treatment and Disposal Requirements.

(1) Infectious waste shall be treated or disposed as soon as possible but not to exceed 30 days after generation, and shall be treated or disposed at a facility with a permit or other form of approval allowing the facility to treat or dispose infectious waste.

~~(2)(a) All material that has been rendered non-infectious through an approved treatment method may be handled as non-infectious waste, provided it is not otherwise a hazardous waste or radioactive waste excluded from disposal in a solid waste facility by Rule R315-316.~~

~~(b) Except for incineration and steam sterilization, no treatment method may be used to render materials non-infectious without receiving prior approval from the Executive Secretary.~~

~~(2)~~(3) Infectious waste may be incinerated in an incinerator.

(a) The incinerator shall comply with the requirements of Rule R315-306 and provide complete combustion of the waste to carbonized or mineralized ash.

(b) A composite sample of the ash and residues from the incinerator shall be taken at least once each year. The sample shall be analyzed by the U.S. EPA Test Method 1311 as provided in 40 CFR Part 261, Appendix II, 1991 ed., Toxic Characteristics Leaching Procedure (TCLP) on parameters determined by the Executive Secretary to determine if it is a hazardous waste. If hazardous, it shall be managed by applicable state regulations.

~~(3)~~(4) Infectious waste may be sterilized by heating in a steam sterilizer to render the waste non-infectious.

(a) The operator shall have available and shall certify in writing that he understands written operating procedures for each steam sterilizer, including time, temperature, pressure, type of waste, type of container, closure on container, pattern of loading, water content, and maximum load quantity.

(b) Infectious waste shall be subjected to sufficient temperature, pressure and time to inactivate Bacillus stearothermophilus spores in the center of the waste load at a 6 Log₁₀ reduction or greater.

(c) Unless a steam sterilizer is equipped to continuously monitor and record temperature and pressure during the entire length of each sterilization cycle, each package of infectious waste to be sterilized shall have a temperature sensitive tape or equivalent test material, such as chemical indicators, attached that will indicate if the sterilization temperature and pressure have been reached. Waste shall not be considered sterilized if the tape or equivalent indicator fails to indicate that a temperature of at least 250 degrees Fahrenheit (121 degrees Celsius) was reached during the process.

(d) Each sterilization unit shall be evaluated for effectiveness with spores of B. stearothermophilus at least once each 40 hours of operation or each week, whichever is less.

(e) A written log for each load shall be maintained for each sterilization unit which shall contain at a minimum:

(i) the time of day, date, and operator's name;

(ii) the amount and type of infectious waste placed in the sterilizer; and

(iii) the temperature and duration of treatment.

~~(5)(a) Alternative treatment methods may be approved on a site-specific basis when the Executive Secretary finds the proposed alternative treatment method renders the material non-infectious.~~

~~(b) The determination shall be based on the results of laboratory tests, submitted by the person proposing the use of the treatment method, meeting the following requirements:~~

(i) the laboratory tests shall be conducted:
 (A) by qualified laboratory personnel;
 (B) using recognized microbial techniques;
 (C) on samples that have been inoculated with the test organisms, then subjected to the proposed treatment method and processed the same way as will be used in the treatment process if approved; and

(ii) the results of the tests must document that the proposed treatment method inactivates:

(A) vegetative bacteria - *Staphylococcus aureus* (ATCC 6538) or *Pseudomonas aeruginosa* (ATCC 15442) at a 6 Log₁₀ reduction or greater (a 99.9999% reduction or greater of the organism population);

(B) fungi - *Candida albicans* (ATCC 18804), *Penicillium chrysogenum* (ATCC 24791), or *Aspergillus niger* at a 6 Log₁₀ reduction or greater;

(C) viruses - Polio 2, Polio 3, or MS-2 Bacteriophage (ATCC15597-B1) at a 6 Log₁₀ reduction or greater;

(D) parasites - *Cryptosporidium* spp. oocysts or *Giardia* spp. cysts at a 6 Log₁₀ reduction or greater;

(E) mycobacteria - *Mycobacterium terrae*, *Mycobacterium phlei*, or *Mycobacterium bovis* (BCG) (ATCC 35743) at a 6 Log₁₀ reduction or greater; and

(B) Bacterial spores - *Bacillus stearothermophilus* spores (ATCC 7953) or *Bacillus subtilis* spores (ATCC 19659) at a 4 Log₁₀ reduction or greater (a 99.99% reduction or greater of the organism population).

(iii) The Executive Secretary shall review the submitted materials and reply in writing within 30 days of the receipt of the submittal.

(4)(6) Infectious waste may be discharged to a sewage treatment system that provides secondary treatment of waste but only if the waste is liquid or semi-solid and if approved by the operator of the sewage treatment system.

(5)(7) Infectious waste may be disposed in a permitted Class I, II, or V Landfill. Upon entering the landfill, the transporter of infectious waste shall notify the landfill operator that the load contains infectious waste. The landfill operator shall abide by the following procedures in the disposition and covering of infectious waste:

(a) place the infectious waste containers at the bottom of the working face with sufficient care to avoid breaking them;

(b) completely cover the infectious waste immediately with a minimum of 12 inches of earth or waste material containing no infectious waste; and

(c) not compact the infectious waste until completely covered with 12 inches of earth or waste material containing no infectious waste.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: [October 15, 2003]2007

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-105

Environmental Quality, Solid and Hazardous Waste

R315-317

Other Processes, Variances, and Violations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29216

FILED: 11/09/2006, 15:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to make clear the method to petition the Executive Secretary of the Solid and Hazardous Waste Control Board for a rule change. Also, the method for review and granting of a variance is made consistent with the hazardous waste rules.

SUMMARY OF THE RULE OR CHANGE: Rule language outlining the requirements for a petition to change a rule is added. Variances will now be granted in accordance with Section R315-2-13.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The rule change does not affect state agencies and the enforcement and oversight of the rule will not change. Therefore, no cost or savings impact is anticipated for the state budget.

❖ **LOCAL GOVERNMENTS:** Since the requirements of the rule are to clarify the procedures to petition for a rule change, there is no cost or savings impact anticipated for local governments.

The requirement that petitions follow the form outlined in Section R315-2-13 does not change the interpretation and implementation of the rule.

❖ **OTHER PERSONS:** Since the requirements of the rule are to clarify the procedures to petition for a rule change, there is no cost or savings impact anticipated for other persons. The requirement that petitions follow the form outlined in Section R315-2-13 does not change the interpretation and implementation of the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements of the rule are to clarify the procedures to petition for a rule change, no compliance cost or savings impact for affected persons is expected beyond that required by current statute or rule as a result of the proposed rule changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the requirements of the rule are to clarify the procedures to petition for a rule change, no compliance cost or savings impact for businesses is expected beyond that required by current statute or rule as a result of the proposed rule changes. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-317. Other Processes, Variances, ~~and~~ Violations, and Petition for Rule Change.****R315-317-2. Variances.**

(1) Variances will be granted in accordance with Section R315-2-13 ~~by the Board only to the extent allowed under State and Federal law.~~

~~—(2) The Board may consider a variance application in accordance with the standard established in section 19-6-111.~~

~~—(3) The Board may, at its own instance, review any variance granted during the term for which a variance was granted.~~

~~—(4) A person applying for a variance shall submit the application, in writing, to the Executive Secretary. The application shall provide the following:~~

~~—(a) Citation of the statutory, regulatory, or permit requirement from which the variance is sought;~~

~~—(b) For variances for which the Board promulgates or has promulgated specific rules, information meeting the requirements of those rules;~~

~~—(c) Information demonstrating that application of or compliance with the requirement would cause undue or unreasonable hardship on the person applying for the variance;~~

~~—(d) Proposed alternative requirements, if any;~~

~~—(e) Information demonstrating that the variance will achieve the purpose and intent of the statutory, regulatory, or permit provision from which the variance is sought;~~

~~—(f) Information demonstrating that any alternative requirement will adequately protect human health and the environment; and~~

~~—(g) If no alternative requirement is proposed, information demonstrating that if the variance is granted, human health and the environment will be adequately protected.~~

~~—(5) A person applying for a variance shall provide such additional information as the Board or the Executive Secretary requires.~~

~~—(6) Nothing in subsections R315-317-2(4) or (5) limits the authority of the Board to grant variances in accordance with the standard established in section 19-6-111.~~

R315-317-4. Petition for Rule Change.

(1) The requirements of Section R315-317-4 shall apply to a petition for:

(a) making a new rule;

(b) amending, repealing, or repealing and reenacting and existing rule;

(c) amending a proposed rule;

(d) allowing a proposed rule or change in proposed rule to lapse; or

(e) any combination of the above.

(2) Petition Procedure and Form.

(a) The petition shall be addressed and delivered to the Executive Secretary.

(b) The petition shall follow the requirements of Sections R15-2-3 through 5.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~September 15, 2004~~ 2007

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 19-6-111; 19-6-112

◆ ————— ◆

Environmental Quality, Solid and Hazardous Waste

R315-318-1

General Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29217

FILED: 11/09/2006, 15:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify that any facility that is permitted by rule must be operated to minimize any risk to human health and the environment and may not be operated in any way that violates the requirements of the Utah Solid and Hazardous Waste Act or Rules R315-301 through R315-320.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify that any facility that is permitted by rule must be operated to minimize any risk to human health and the environment and may not be operated in any way that violates the requirements of the Utah Solid and Hazardous Waste Act or Rules R315-301 through R315-320.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The rule change does not affect state agencies and the enforcement and oversight of the requirements of the rule will not change. Therefore, there is no anticipated cost or savings impact on the state budget.

❖ **LOCAL GOVERNMENTS:** Since the requirements of the rule are clarified and not changed, there is no cost or savings impact anticipated for local governments.

❖ **OTHER PERSONS:** Since the requirements of the rule are clarified and not changed, there is no cost or savings impact anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements of the rule are clarified and not changed, no compliance cost or savings impact for affected persons is expected beyond that required by current statute or rule as a result of the proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the requirements of the rule are clarified and not changed, no compliance cost or savings impact for affected persons is expected beyond that required by current statute or rule as a result of the 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-318. Permit by Rule.

R315-318-1. General Requirements.

(1) Any facility that disposes of solid waste, including an incinerator [~~incinerators~~], may be permitted by rule upon application to the Executive Secretary if the Executive Secretary determines the facility is regulated by Federal or state agencies which have regulations or rules as stringent as, or more stringent than, Rules R315-301 through R315-320.

(2) No permit by rule may be granted to a facility that began receiving waste after July 15, 1993 without application to the Executive Secretary.

(3) Any facility permitted by rule is not required to obtain a permit [~~or comply with any other provisions of Rules R315-301 through R315-320 except where operation of the facility may endanger~~] as required by Subsection R315-301-5(1) and Subsection R315-310-1(1) but may be required to follow operational practices, as determined by the Executive Secretary, to minimize risk to human health or the environment [~~or otherwise violate the provisions of the Solid and Hazardous Waste Act~~].

(4) In no case may a facility operating under a permit by rule approved by the Executive Secretary conduct disposal operations that are in violation of the Utah Solid and Hazardous Waste Act or Rules R315-301 through R315-320.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: [~~October 15, 2003~~]**2007**

Notice of Continuation: March 14, 2003

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

Environmental Quality, Solid and Hazardous Waste

R315-320

Waste Tire Transporter and Recycler Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29218

FILED: 11/09/2006, 15:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify the conditions that must be met to become a registered waste tire transporter or recycler.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify that at the time of registration, a waste tire recycler must show that the recycling activities are actually being conducted or that the recycler has the equipment in place and the ability to recycle waste tires. This change is putting into rule guidance that the Division has used to judge the ability of individuals to conduct recycling as required by the statute. Waste tire transporter requirements are clarified to indicate the information that is needed on an application for registration.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-819

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The rule change does not affect state agencies and the enforcement and oversight of the requirements of the rule will not change. Therefore, there is no anticipated cost or savings impact to the state budget.
- ❖ LOCAL GOVERNMENTS: Since the requirements of the rule are clarified and not changed, there is no anticipated cost or savings impact for local governments.
- ❖ OTHER PERSONS: Since the requirements of the rule are clarified and not changed, there is no cost or savings impact anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements of the rule are clarified and not changed, no compliance cost or savings impact for affected persons is expected beyond that required by current statute or rule as a result of the proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the requirements of the rule are clarified and not changed, fiscal impact for affected businesses is expected as a result of the proposed rule change beyond that required by current statute or rule. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/31/2007

AUTHORIZED BY: Dennis Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-320. Waste Tire Transporter and Recycler Requirements.
R315-320-4. Waste Tire Transporter Requirements.**

(1) Each waste tire transporter who transports waste tires within the state of Utah must apply for, receive and maintain a current waste tire transporter registration certificate from the Executive Secretary.

(2) Each applicant for registration as a waste tire transporter shall complete a waste tire transporter application form provided by the Executive Secretary and provide the following information:

- (a) business name;
- (b) address to include:
 - (i) mailing address; and
 - (ii) site address if different from mailing address;
- (c) telephone number;
- (d) list of vehicles used including the following:
 - (i) description of vehicle;
 - (ii) license number of vehicle;
 - (iii) vehicle identification number; and
- (e) name of registered owner;
- (f) name of business owner;
- (g) name of business operator;
- (g) list of sites to which waste tires are to be transported;
- (h) liability insurance information as follows:
 - (i) name of company issuing policy;
 - (ii) amount of liability insurance coverage; and
 - (iii) term of policy.
- (i) meet the requirements of R315-320-4(3)(b) and (c).

(3) A waste tire transporter shall:

(a) demonstrate financial responsibility for bodily injury and property damage, including bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising

form transporting waste tires. The waste tire transporter shall have and maintain liability coverage for sudden or nonsudden accidental occurrences in the amount of \$300,000;

(b) for the initial application for a waste tire transporter registration or for any subsequent application for registration at a site not previously registered, demonstrate to the Executive Secretary that all local government requirements for a waste tire transporter have been met, including obtaining all necessary permits or approvals where required; and

(c) demonstrate to the Executive Secretary that the waste tires transported by the transporter are taken to a registered waste tire recycler or that the waste tires are placed in a permitted waste tire storage facility that is in full compliance with the requirements of Rule R315-314. Filing of a complete report as required in Subsection R315-32-4(9) shall constitute compliance with this requirement.

(4) A waste tire transporter shall notify the Executive Secretary of:

(a) any change in liability insurance coverage within 5 working days of the change; and

(b) any other change in the information provided in Subsection R315-320-4(2) within 20 days of the change.

(5) A registration certificate will be issued to an applicant following the:

(a) completion of the application required by Subsection R315-320-4(2);

(b) presentation of proof of liability coverage as required by Subsection R315-320-4(3); and

(c) payment of the fee as established by the Annual Appropriations Act.

(6) A waste tire transporter registration certificate is not transferable and shall be issued for the term of one year.

(7) If a waste tire transporter is required to be registered by a local government or a local health department:

(a) the waste tire transporter may be assessed an annual registration fee by the local government or the local health department not to exceed to the following schedule:

(i) for one through five trucks, \$50; and

(ii) \$10 for each additional truck;

(b) the Executive Secretary shall issue a non-transferable registration certificate upon the applicant meeting the requirements of Subsections R315-320-4(2) and (3) and shall not require the payment of the fee specified in Subsection R315-320-4(5)(c), if the fee allowed in Subsection R315-320-4(7)(a) is ~~assessed~~ paid; and

(c) the registration certificate shall be valid for one year.

(8) Waste tire transporters storing tires in piles must meet the requirements of Rule R315-314.

(9) Reporting Requirements.

(a) Each waste tire transporter shall submit a quarterly activity report to the Executive Secretary. The activity report shall be submitted on or before the 30th of the month following the end of each quarter.

(b) The activity report shall contain the following information:

(i) the number of waste tires collected at each waste tire generator, including the name, address, and telephone number of the waste tire generator;

(ii) the number of tires shall be listed by the type of tire based on the following:

(A) passenger/light truck tires or tires with a rim diameter of 19.5 inches or less;

(B) truck tires or tires ranging in size from 7.50x20 to 12R24.5; and

(C) other tires such as farm tractor, earth mover, motorcycle, golf cart, ATV, etc.

(iii) the number or tons of waste tires shipped to each waste tire recycler or processor for a waste tire recycler, including the name, address, and telephone number of each recycler or processor;

(iv) the number of tires shipped as used tires to be resold;

(v) the number of waste tires placed in a permitted waste tire storage facility; and

(vi) the number of tires disposed in a permitted landfill, or put to other legal use.

(c) The activity report may be submitted in electronic format.

(10) Revocation of Registration.

(a) The registration of a waste tire transporter may be revoked upon the Executive Secretary finding that:

(i) the activities of the waste tire transporter that are regulated under Section R315-320-4 have been or are being conducted in a way that endangers human health or the environment;

(ii) the waste tire transporter has made a material misstatement of fact in applying for or obtaining a registration as a waste tire transporter or in the quarterly activity report required by Subsection R315-320-4(9);

(iii) the waste tire transporter has provided a recycler with a material misstatement of fact which the recycler subsequently used as documentation in a request for partial reimbursement under Section 19-6-813;

(iv) the waste tire transporter has violated any provision of the Waste Tire Recycling Act, Title 19 Chapter 6, or any order, approval, or rule issued or adopted under the Act;

(v) the waste tire transporter failed to meet or no longer meets the requirements of Section R315-320-4;

(vi) the waste tire transporter has been convicted under Subsection 19-6-822; or

(vii) the waste tire transporter has had the registration from a local government or a local health department revoked.

(b) Registration will not be revoked for submittal of incomplete information required for registration or a reimbursement request if the error was not a material misstatement.

(c) For purposes of Subsection R315-320-4(10)(a), the statements, actions, or failure to act of a waste tire transporter shall include the statements, actions, or failure to act of any officer, director, agent or employee of the waste tire transporter.

(d) The administrative procedures set forth in Rule R315-12 shall govern revocation of registration.

R315-320-5. Waste Tire Recycler Requirements.

(1) Each waste tire recycler requesting the reimbursement allowed by Subsection 19-6-809(1), must apply for, receive, and maintain a current waste tire recycler registration certificate from the Executive Secretary.

(2) Each applicant for registration as a waste tire recycler shall complete a waste tire recycler application form provided by the Executive Secretary and provide the following information:

(a) business name;

(b) address to include:

(i) mailing address; and

(ii) site address if different from mailing address;

(c) telephone number;

(d) owner name;

(e) operator name;

(f) description of the recycling process;

(g) proof that the recycling process described in Subsection R315-320-5(2)(f):

~~(i) is being conducted at the site; or~~

~~(ii) for the initial application for a recycler registration, that the recycler has the equipment in place and the ability to conduct the process at the site;~~

~~(h) estimated number of tires to be recycled each year; ~~and~~~~

~~(i) liability insurance information as follows:~~

~~(i) name of company issuing policy;~~

~~(ii) proof of the amount of liability insurance coverage; and~~

~~(iii) term of policy; ~~and~~~~

~~(j) meet the requirements of Subsection R315-320-5(3)(b).~~

(3) A waste tire recycler shall:

(a) demonstrate financial responsibility for bodily injury and property damage, including bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising from storing and recycling waste tires. The waste tire recycler shall have and maintain liability coverage for sudden or nonsudden accidental occurrences in the amount of \$300,000; and

(b) for the initial application for a recycler registration or for any subsequent application for registration at a site not previously registered, demonstrate to the Executive Secretary that all local requirements for a waste tire recycler have been met, including obtaining all necessary permits or approvals where required.

(4) A waste tire recycler shall notify the Executive Secretary of:

(a) any change in liability insurance coverage within 5 working days of the change; and

(b) any other change in the information provided in Subsection R315-320-5(2) within 20 days of the change.

(5) A registration certificate will be issued to an applicant following the:

(a) completion of the application required by Subsection R315-320-5(2);

(b) presentation of proof of liability coverage as required by Subsection R315-320-5(3); and

(c) payment of the fee as established by the Annual Appropriations Act.

(6) A waste tire recycler registration certificate is not transferable and shall be issued for a term of one year.

(7) If a waste tire recycler is required to be registered by a local government or a local health department:

(a) the waste tire recycler may be assessed an annual registration fee by the local government or local health department according to the following schedule:

(i) if up to 200 tons of waste tires are recycled per day, the fee shall not exceed \$300;

(ii) if 201 to 700 tons of waste tires are recycled per day, the fee shall not exceed \$400; or

(iii) if over 700 tons of waste tires are recycled per day, the fee shall not exceed \$500.

(b) The Executive Secretary shall issue a non-transferable registration certificate upon the applicant meeting the requirements of Subsections R315-320-5(2) and (3) and shall not require the payment of the fee specified in Subsection R315-320-5(5)(c), if the fee allowed by Subsection R315-320-5(7)(a) is ~~assessed~~ paid.

(c) The registration certificate shall be valid for one year.

(8) Waste tire recyclers must meet the requirements of Rule R315-314 for waste tires stored in piles.

(9) Revocation of Registration.

- (a) The registration of a waste tire recycler may be revoked upon the Executive Secretary finding that:
 - (i) the activities of the waste tire recycler that are regulated under Section R315-320-5 have been or are being conducted in a way that endangers human health or the environment;
 - (ii) the waste tire recycler has made a material misstatement of fact in applying for or obtaining a registration as a waste tire recycler;
 - (iii) the waste tire recycler has made a material misstatement of fact in applying for partial reimbursement under Section 19-6-813;
 - (iv) the waste tire recycler has violated any provision of the Waste Tire Recycling Act, Title 19 Chapter 6, or any order, approval, or rule issued or adopted under the Act;
 - (v) the waste tire recycler has failed to meet or no longer meets the requirements of Subsection R315-320-5(1);
 - (vi) the waste tire recycler has been convicted under Subsection 19-6-822; or
 - (vii) the waste tire recycler has had the registration from a local government or a local health department revoked.
- (b) Registration will not be revoked for submittal of incomplete information required for registration or a reimbursement request if the error was not a material misstatement.
- (c) For purposes of Subsection R315-320-5(9)(a), the statements, action, or failure to act of a waste tire recycler shall include the statements, actions, or failure to act of any officer, director, agent, or employee of the waste tire recycler.
- (d) The administrative procedures set forth in Rule R315-12 shall govern revocation of registration.

KEY: solid waste management, waste disposal
Date of Enactment or Last Substantive Amendment: [~~October 15, 2003~~2007]
Notice of Continuation: March 1, 2004
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-819

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Financial Institutions, Nondepository Lenders

R343-1

Rule Governing Form of Disclosures For Title Lenders, Who Are Under the Jurisdiction of the Department of Financial Institutions

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE NO.: 29225
 FILED: 11/14/2006, 16:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Under Subsection 7-24-203(2), the Department shall, for title loans, specify by rule "...information to be provided in the disclosure form."

SUMMARY OF THE RULE OR CHANGE: This new rule establishes minimum standards for the form of disclosure for title loans to protect the public interest.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 7-24-203(2)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no impact on the state budget as compliance to the rule affects title lenders not the department.
- ❖ **LOCAL GOVERNMENTS:** Local governments are not involved in regulating the form of title loan disclosures and are therefore not subject to this rule.
- ❖ **OTHER PERSONS:** Title lenders are currently required to comply with the minimum standards of disclosure under Section 7-24-203 and federal law and compliance to the rule should have minimal budgetary impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Title lenders are currently required to comply with the minimum standards of disclosure under Section 7-24-203 and federal law and compliance to the rule should have minimal budgetary impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Title lenders are currently required to comply with the minimum standards of disclosure under Section 7-24-203 and federal law and compliance to the rule should have minimal budgetary impact. G. Edward Leary, Commissioner

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

FINANCIAL INSTITUTIONS
 NONDEPOSITORY LENDERS
 Room 201
 324 S STATE ST
 SALT LAKE CITY UT 84111-2393, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/09/2007

AUTHORIZED BY: Edward Leary, Commissioner

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R343. Financial Institutions, Nondepository Lenders.
R343-1. Rule Governing Form of Disclosures For Title Lenders, Who Are Under the Jurisdiction of the Department of Financial Institutions.
R343-1-1. Authority, Scope and Purpose.
 (1) This rule is issued pursuant to Section 7-24-203(2).

(2) This rule establishes minimum standards for the form of disclosure to protect the public interest.

R343-1-2. Definitions.

(1) "Department" means the Department of Financial Institutions.

R343-1-3. Form of Disclosure.

(1) Content of disclosure form. The disclosure form required by this rule must include:

(a) a statement about the cost of obtaining the loan in the format prescribed in Section 226.18 and Appendix H of Truth in Lending 12 CFR 226;

(b) a statement that failure to make any payment by the end of the contractual grace period may result in repossession of the property pledged to secure the loan;

(c) a statement that title loans are typically high cost loans and that lower cost loans are usually available to consumers with reasonable credit. Consumers should compare the "Annual Percentage Rate" of the loan with other loans that are available from other lenders that typically offer loans;

(d) a statement that if the consumer is obtaining the loan because of problems with their credit they may wish to obtain credit counseling or financial advice from entities listed under "Credit and Debt Counseling" in the yellow pages or the department or a governmental agency which regulates Utah lenders.

(e) the statements described above shall be disclosed on the front side of the disclosure form preceding the borrowers' signature line.

(2) Type size of the disclosure form. The disclosure form required by this rule must be of the following font sizes:

(a) the terms for "Annual Percentage Rate" and "Finance Charge" shall be 12 point;

(b) no other disclosure shall be as conspicuous except the creditor's identity;

(c) all other disclosures shall be at least 9 point.

(3) Disclosure requirements; timing and method of disclosures.

(a) The title lender shall provide the disclosure form to the consumer in writing before the consumer completes the loan agreement.

(b) Disclosures must be readily understandable. The disclosures required by this rule must be conspicuous, simple, direct and designed to call attention to the nature and significance of the information provided. Examples of methods that could call attention to the nature and significance of the information provided include:

(i) A plain-language heading to call attention to the disclosures;

(ii) Boldface or italics for key words; and

(iii) Distinctive type style, and graphic devices, such as shading or sidebars, when the disclosures are combined with other information.

KEY: financial institutions

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 7-24-203(2)

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Health, Health Care Financing, Coverage and Reimbursement Policy

R414-510

Intermediate Care Facility for Individuals with Mental Retardation Transition Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 29197

FILED: 11/06/2006, 14:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule implements the Intermediate Care Facility for Individuals with Mental Retardation (ICF/MR) Transition Program, which allows an individual to transition out of an ICF/MR to receive home and community-based waiver services.

SUMMARY OF THE RULE OR CHANGE: This new rule states that participation in the ICF/MR Transition Program is voluntary and provided at the state's option. It also outlines client eligibility requirements, program access requirements, and reimbursement methodology for the ICF/MR Transition Program. The rule incorporates by reference services and limitations found in the Home and Community-Based Services Waiver for Individuals with Mental Retardation and Other Related Conditions. Waiver services include behavioral services, companion services, support services, environmental adaptations, family training services, financial services, homemaker services, residential habilitation services, respite care, employment services, medical equipment, and non-medical transportation. Waiver support coordination services include eligibility determination, needs assessment, service access, and discharge planning.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3, and 42 CFR 440.225

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Medicaid 1915(c) Home and Community-Based Services Waiver for Individuals with Mental Retardation and Other Related Conditions, State Implementation Plan, July 1, 2005, ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The annual cost is variable depending on legislative appropriations. For fiscal year 2006, the cost to the general fund is \$241,484 which is matched with \$571,320 in federal funds.

❖ LOCAL GOVERNMENTS: There is no cost or savings because no local funds are used in this program.

❖ OTHER PERSONS: There is no cost or savings because only state and federal dollars are used in this program. Nevertheless, providers receive revenue when legislative appropriations fund new participants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because only state and federal dollars are used in this program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule implements a voluntary program, subject to legislative appropriations, to transition clients into the community. Fiscal impact on business should be positive as business serves these clients.
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:
Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/10/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-510. Intermediate Care Facility for Individuals with Mental Retardation Transition Program.

R414-510-1. Introduction and Authority.

(1) This rule implements the Intermediate Care Facility for Individuals with Mental Retardation (ICF/MR) Transition Program. Program participation is voluntary and allows an individual to transition out of an ICF/MR into the Mental Retardation and Related Conditions Home and Community-Based Services Waiver Program.

(2) This rule is authorized by Section 26-18-3. Waiver services for this program are optional and provided in accordance with 42 CFR 440.225.

R414-510-2. Client Eligibility Requirements.

Services are available to an individual who:

(1) receives ICF/MR benefits under the Utah Medicaid State Plan;

(2) has a diagnosis of mental retardation or a related condition;

(3) meets ICF/MR level of care criteria defined in Section R414-502-8;

(4) meets the Utah Department of Human Services, Division of Services for People with Disabilities state funding eligibility criteria found in Subsection 62A-5-102(4); and

(5) has resided in a Medicaid-certified ICF/MR located in Utah for at least 12 consecutive months.

R414-510-3. Program Access Requirements.

(1) Legislative appropriations determine the number of participants selected in the particular year for placement in the program.

(2) Upon new legislative appropriation for the program, the Department announces an open application period for accepting applications.

(3) After the open application period, the Department places the name of each applicant on both a longevity list and a random list. On the longevity list, the Department ranks each applicant according to length of consecutive stay in an ICF/MR in Utah. On the random list, the Department randomly ranks each applicant based on a computerized random selection.

(4) The Department takes evenly from the longevity list and the random list for placement in the Mental Retardation and Related Conditions Home and Community-Based Services Waiver Program. If the Legislature funds an odd number of program participants, the Department places one additional individual from the longevity list.

(5) Once the Department places individuals into the program for the year's appropriation, the longevity and random lists are retired and no longer used. The Department makes no new placements into the program to replace individuals who leave the program for whatever reason.

(6) As the Legislature makes new appropriations for the program, the Department creates new longevity and random lists for each new appropriation and selects individuals for the program as described in subsections (2) through (4).

R414-510-4. Service Coverage.

This rule incorporates by reference the services and limitations found in the Medicaid 1915(c) Home and Community-Based Services Waiver for Individuals with Mental Retardation and Other Related Conditions, State Implementation Plan, Effective July 1, 2005.

R414-510-5. Reimbursement Methodology.

The Department of Human Services (DHS) contracts with DHCF to set 1915(c) HCBS waiver rates for waiver covered services. The DHS rate-setting process is designed to comply with requirements under the 1915(c) HCBS Waiver program and other applicable Medicaid rules. Medicaid requires that rates for services not exceed customary charges.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: 2007
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

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Money Management Council,
Administration
R628-17
Limitations on Commercial Paper and
Corporate Notes

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 29222
FILED: 11/14/2006, 14:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The five-year review filing date was missed and the rule expired and was removed the Utah Administrative Code on 11/10/2006. This rule provides limits on the investment in any one issuer of commercial paper and needs to be in place. The Money Management Council (MMC) reviewed the rule and approved it as it was. Therefore, the MMC is proposing to put the rule back in place.

SUMMARY OF THE RULE OR CHANGE: The proposed rule is the same rule that has been in place. There are no changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-7-18(2)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--The rule is currently being followed so any costs are ongoing.
- ❖ **LOCAL GOVERNMENTS:** None--The rule is currently being followed so any costs are ongoing.
- ❖ **OTHER PERSONS:** None--The rule is currently being followed so any costs are ongoing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As the rule is already being followed and no changes were made, there should be no additional costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule was being followed so any fiscal impact is already dealt with. Bruce B. Cohne, Chair

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

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
Room E315 EAST OFFICE BLDG
STATE CAPITOL COMPLEX
PO BOX 142315
SALT LAKE CITY UT 84114-2315, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/09/2007

AUTHORIZED BY: Bruce B. Cohne, Chair

R628. Money Management Council, Administration.
R628-17. Limitations on Commercial Paper and Corporate Notes.
R628-17-1. Authority.

This rule is issued pursuant to Section 51-7-18(2)(b).

R628-17-2. Scope.

This rule establishes limits on the dollar amount of public funds that a public treasurer may invest in commercial paper or corporate obligations of a single issuer.

R628-17-3. Purpose.

The purpose of this rule is to provide guidelines for treasurers when investing public funds in commercial paper or corporate obligations. The guidelines established by this rule are designed to be flexible enough to allow public treasurers to receive competitive market rates on funds placed in these types of investment instruments while maintaining sufficient protection from loss.

R628-17-4. Definitions.

For the purpose of this rule:

Commercial paper means: an unsecured promissory note that matures on a specific date, and is issued by industrial, utility, and finance companies. The commercial paper must meet the criteria for investment as described in Section 51-7-11(3).

Corporate obligation means: A secured or unsecured note with original term to maturity ranging from nine months to thirty years that is issued by an industrial, utility or finance company. The corporate obligation must meet the criteria for investment as described in Section 51-7-11(3).

R628-17-5. General Rule.

The maximum amount of any public treasurer's portfolio which can be invested in a single issuer of commercial paper and corporate obligations shall be as follows:

1. Portfolios of \$10,000,000 or less may not invest more than 10% of the total portfolio with a single issuer.
2. Portfolios greater than \$10,000,000 but less than \$20,000,000 may not invest more than \$1,000,000 in a single issuer.
3. Portfolios of \$20,000,000 or more may not invest more than 5% of the total portfolio with a single issuer.

The amount or percentages used in determining the amount of commercial paper and or corporate obligations a treasurer may purchase, shall be determined by the book value of the portfolio at the time of purchase.

KEY: public investments, securities, securities regulations
Date of Enactment or Last Substantive Amendment: 2007
Authorizing, and Implemented or Interpreted Law: 51-7-18(2)(b)

◆ ————— ◆

Natural Resources, Wildlife Resources
R657-41-2
 Definitions

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 29201
 FILED: 11/08/2006, 13:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to correct numbering updates and a subsection reference that did not get amended appropriately during the last amendment to this rule, which became effective 08/08/2006.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments correct a subsection reference within the definition of Sportsman Permit and correct subsection numbering with the definition of Statewide Conservation Permit.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division of Wildlife Resources (DWR) determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget. These amendments simply correct a reference and numbering within the definition section and will not affect workload or existing budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: These amendments only correct a reference and numbering within the definition section, therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments only correct references and number within the definition section. There are no additional compliance costs associated with this amendment for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/09/2007

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.
R657-41. Conservation and Sportsman Permits.
R657-41-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
 (2) In addition:

(a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a conservation permit species, and may include an extended season, or legal weapon choice, or both, beyond the season except turkey permits are valid during any season option.

(i) Area Conservation permits issued for limited entry units are not valid on cooperative wildlife management units.

(b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting wildlife conservation and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.

(c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division for purposes identified in Section R657-41-1.

(d) "Conservation Permit Species" means the species for which conservation permits may be issued and includes deer, elk, pronghorn, moose, bison, Rocky Mountain goat, Rocky Mountain bighorn sheep, desert bighorn sheep, wild turkey, cougar, and black bear.

(e) "Multi-Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-7 for three consecutive years to sell, market or otherwise use as an aid in wildlife related fund raising activities.

(f) "Retained Revenue" means 60% of the revenue raised by a conservation organizations from the sale of conservation permits that the organization retains for eligible projects, excluding interest earned thereon.

(g) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection ~~(e)~~(i), and which is authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(h) "Single Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-6 for one year to sell, market or otherwise use as an aid in wildlife related fund raising activities.

(i) "Statewide Conservation Permit" means a permit issued for a conservation permit species that allows a permittee to hunt:

(i) big game species on any open unit with archery equipment during the general archery season published in the big game proclamation for the unit beginning before September 1, and with

any weapon from September 1 through December 31, except pronghorn and moose from September 1 through November 15 and deer and elk from September 1 through January 15;

(ii) one Merriam and one Rio Grand turkey on any open unit from April 1 through May 31;

(iii) bear on any open unit during the season authorized by the Wildlife Board for that unit;

(iv) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective; and

(v) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit.

KEY: wildlife, wildlife permits

Date of enactment or last Substantive Change: ~~August 8, 2006~~2007

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

◆ ————— ◆

Public Safety, Fire Marshal
R710-3
Assisted Living Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29235

FILED: 11/15/2006, 17:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on November 14, 2006, in a regularly scheduled Board meeting and voted by majority to make a number of amendments to Rule R710-3 for the purpose of adopting the 2006 editions of the International Fire and Building Codes and other needed amendments to the code.

SUMMARY OF THE RULE OR CHANGE: The proposed rule amendments to Rule R710-3 are as follows: 1) in Section R710-3-1, the Board proposes to insert language that make this rule an "in addition" to Rule R710-9; 2) in Subsection R710-3-1(1.1), the Board proposes to update the currently adopted 2003 edition of the International Fire Code to the 2006 edition; 3) in Subsection R710-3-1(1.2), the Board proposes to update the currently adopted 2003 edition of the International Building Code to the 2006 edition; 4) in Subsections R710-3-2(2.2.1), (2.2.2), and (2.2.3), the Board proposes to make some amendments that clarify the intent of the rule; 5) in Subsections R710-3-3(3.3.6.4) and (3.3.7), the Board proposes to add the requirement that in assisted living facility secure units they will be required to be located on the level of exit discharge; and 6) in other sections of the rule there are some small clarifying language changes that have been inserted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 1) the International Fire Code, 2006 edition, as published by the International Code Council; and 2) the International Building Code, 2006 edition, as published by the International Code Council

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There would be an aggregate anticipated cost to the state budget of approximately \$1,500 to purchase the necessary updated references for those employees that would need these references to complete their job responsibilities.

❖ **LOCAL GOVERNMENTS:** There would be a cost to local government of approximately \$150 each to purchase the two updated incorporated references. The summation of an aggregate anticipated cost is impossible to calculate due to the unknown number of codes that would be purchased, and the unknown number of local government agencies that would purchase them.

❖ **OTHER PERSONS:** There would be a cost to other persons of approximately \$150 each to purchase the two updated incorporated references. The aggregate anticipated cost to other persons is impossible to calculate for the completely unknown number of other persons that would purchase the codes for professional use.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons would be approximately \$150 each to purchase the updated incorporated references. The cost to persons is impossible to calculate for the completely unknown number of other persons that would purchase the codes for professional use.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses for the enactment of these changes. Businesses normally do not purchase regulatory manuals for usage as government agencies do. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/09/2007

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

R710. Public Safety, Fire Marshal.

R710-3. Assisted Living Facilities.

R710-3-1. Introduction.

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts for the purpose of establishing minimum standards for prevention of fire and for the protection of life and property against fire and panic in assisted living facilities. The requirements listed in this rule text are in addition to the requirements listed in R710-9, Rules Pursuant to the Utah Fire Prevention Law.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 International Fire Code (IFC), [2003]2006 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-3-3, et seq.

1.2 International Building Code (IBC), [2003]2006 edition, as published by the International Code Council, Inc. (ICC), and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.3 Copies of the above code are on file in the Office of Administrative Rules and the State Fire Marshal.

R710-3-2. Definitions.

2.1 "Ambulatory" means a person who is capable of achieving mobility sufficient to exit without the physical assistance of another person. An equivalency to "Ambulatory" may be approved under the conditions stated in Sections 3.2.9, 3.3.8 or 3.4.9.

2.2 "Assisted Living Facility" means:

2.2.1 a Type 1 Assisted Living Facility, which is a residential facility subject to licensure[~~licensed~~] by the Utah Department of Health, that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

2.2.2 a Type 2 Assisted Living Facility, which is a residential facility subject to licensure [~~licensed~~] by the Utah Department of Health, that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent.

2.2.3 a Residential Treatment/Support Assisted Living Facility, which creates a group living environment for four or more residents contracted by the Division of Services to people with disabilities and subject to licensure[~~licensed~~] by the Utah Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

2.2.4 Assisted Living Facilities shall be classified by size as follows:

2.2.4.1 "Type 1, 2, and Residential Treatment/Support Limited Capacity Facility" means an assisted living facility accommodating five or less residents, excluding staff.

2.2.4.2 "Type 1, 2, and Residential Treatment/Support Small Facility" means an assisted living facility accommodating at least six and not more than 16 residents, excluding staff.

2.2.4.3 "Type 1, 2, and Residential Treatment/Support Large Facility" means an assisted living facility accommodating more than sixteen residents, excluding staff.

2.3 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority.

2.4 "Board" means Utah Fire Prevention Board.

2.5 "IBC" means International Building Code.

2.6 "ICC" means International Code Council, Inc.

2.7 "IFC" means International Fire Code.

2.8 "Licensing Authority" means the Utah Department of Health or the Utah Department of Human Services.

2.9 "Semi-independent" means a person who is:

2.9.1 physically disabled but able to direct his or her own care; or

2.9.2 cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

2.10 "SFM" means State Fire Marshal.

R710-3-3. Amendments and Additions.

3.1 General Requirements

3.1.1 All facilities shall be inspected annually and obtain a certificate of fire clearance signed by the AHJ.

3.1.2 All facility administrators shall develop emergency plans and preparedness as required in IFC, Chapter 4.

3.1.3 IFC, Chapter 9, Sections 907.3.1.2 and 907.3.1.8 is deleted.

3.1.4 IFC, Chapter 9, Section 903.2.7 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 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 its primary power from the building wiring and a commercial power system. This Exception does not apply to Type II Limited Capacity Assisted Living Facilities.

3.2 Type I Assisted Living Facilities

3.2.1 Type I Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC.

3.2.2 Type I Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.2.3 Residents in Type I Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

3.2.4 In Type I Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have escape or rescue windows as required in IFC, Chapter 10, Section 1025.

3.2.5 In Type I Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.10.1.2.

3.2.6 Type I Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.2.7 Type I Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.2.8 Type I Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.2.8.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.2.9 In a Type I Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

3.3 Type II Assisted Living Facilities

3.3.1 Type II Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.3.2 Type II Limited Capacity Assisted Living Facilities shall have an approved automatic fire extinguishing system installed in compliance with the IBC and IFC, or provide a staff to a resident ratio of one to one on a 24 hour basis.

3.3.3 Type II Small Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.3.3.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.3.4 Type II Small Assisted Living Facilities shall have a minimum corridor width of six feet.

3.3.4.1 Type II Small Assisted Living Facilities licensed before November 16, 2004, shall have a minimum corridor width of six feet or a path of egress that is acceptable to the AHJ.

3.3.5 Type II Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-2, and maintained in accordance with the IBC and IFC.

3.3.5.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.3.6 In Type II Assisted Living Facilities, where the clinical needs of the patients require specialized security, approved access controlled egress doors may be installed when all of the following are met:

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

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

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

3.3.6.4 The secure area or unit with controlled egress doors shall be located at the level of exit discharge in Type V construction.

3.3.7 In Type II Assisted Living Facilities, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IBC, Section 1008.1.8.6. Section 1008.1.8.6(3) is deleted. The secure area or unit with delayed egress locks shall be located at the level of exit discharge in Type V construction.

3.3.8 In a Type II Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

3.4 Residential Treatment/Support Assisted Living Facilities

3.4.1 Residential Treatment/Support Limited Capacity Assisted Living Facility shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC.

3.4.2 Residential Treatment/Support Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.4.3 Residents in Residential Treatment/Support Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

3.4.4 In Residential Treatment/Support Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have escape or rescue windows as required in IBC, Chapter 10, Section [4025]1026.

3.4.5 In Residential Treatment/Support Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.10.1.2.

3.4.6 Residential Treatment/Support Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.4.7 Residential Treatment/Support Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.4.8 Residential Treatment/Support Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.4.8.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.4.9 In a Residential Treatment/Support Assisted Living Facility, non-ambulatory persons are permitted after meeting the requirements listed in Utah Administrative Code, R501-2[44], and receiving approval from the Office of Licensing, Utah Department of Human Services.

KEY: assisted living facilities

Date of Enactment or Last Substantive Amendment: ~~May 16, 2006~~ January 9, 2007

Notice of Continuation: June 19, 2002

Authorizing, and Implemented or Interpreted Law: 53-7-204



Public Safety, Fire Marshal
R710-4

Buildings Under the Jurisdiction of the
State Fire Prevention Board

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29233

FILED: 11/15/2006, 15:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met in a regularly scheduled Board meeting on November 14, 2006, and voted to make a number of amendments to the currently adopted rule for the purpose of adopting several updated incorporated references, modifying the rule to fit those adoptions, and other necessary changes to clarify the rule.

SUMMARY OF THE RULE OR CHANGE: The proposed rule amendments to Rule R710-4 are as follows: 1) in Section R710-4-1, the Board proposes to add language that makes this rule "in addition" to Rule R710-9, thereby eliminating a lot of redundancy in the rule; 2) in Subsection R710-4-1(1.2), the Board proposes to update the currently adopted International Building Code, 2003 edition, to the 2006 edition; 3) in Subsection R710-4-1(1.3), the Board proposes to update the currently adopted International Mechanical Code, 2003 edition, to the 2006 edition; 4) in Subsection R710-4-1(1.4), the Board proposes to update the currently adopted International Fuel Gas Code, 2003 edition, to the 2006 edition; 5) in Subsection R710-4-1(1.5), the Board proposes to update the the currently adopted International Plumbing Code, 2003 edition, to the 2006 edition; 6) in Section R710-4-3, the Board proposes to strike out a number of currently adopted sections because they are already stated in Rule R710-9 and do not need to be repeated in this rule; and 7) in Subsection R710-4-3(3.3.3.1.1.2), the Board proposes to rewrite the requirement for when non or partially fire sprinklered occupancies should have fire alarm systems installed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 1) the International Building Code, 2006 edition, as published by the International Code Council; 2) the International Mechanical Code, 2006 edition, as published by the International Code Council; 3) the International Fuel Gas Code, 2006 edition, as published by the International Code Council; and 4) the International Plumbing Code, 2006 edition, as published by the International Code Council

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There would be an aggregate anticipated cost to the state budget of approximately \$1,800 to purchase the needed incorporated references for those employees that would need copies of these references to complete their job.

❖ LOCAL GOVERNMENTS: There would be no aggregate anticipated cost or savings to local government because this set of rules is directed towards those buildings under the jurisdiction of the Fire Prevention Board, and that responsibility falls to state government and does not affect local government.

❖ OTHER PERSONS: There would be no aggregate anticipated cost or savings to other persons because the majority of the regulatory function of this rule falls to state government to complete.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be a compliance cost for affected persons of about \$230 each to purchase all of the incorporated references that are proposed to be updated in this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be no fiscal impact on businesses for the enactment of these changes. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/09/2007

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

R710. Public Safety, Fire Marshal.**R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.****R710-4-1. Adoption of Fire Codes.**

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules for the prevention of fire and for the protection of life and property against fire and panic in any publicly owned building, including all public and private schools, colleges, and university buildings, and in any building or structure used or intended for use, as an asylum, hospital, mental hospital, sanitarium, home for the aged, assisted living facility, children's home or day care center, or any similar institutional type occupancy of any capacity; and in any place of assemblage where fifty (50) or more persons may gather together in a building, structure, tent, or room, for the purpose of amusement, entertainment, instruction, or education. The requirements listed in this rule text are in addition to the requirements listed in R710-9, Rules Pursuant to the Utah Fire Prevention Law.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), 2006 edition, except as amended by provisions listed in R710-4-3, et seq. The following chapters from NFPA, Standard 101 are the only chapters adopted: Chapter 18 - New Health Care Occupancies; Chapter 19 - Existing Health Care Occupancies; Chapter 20 - New Ambulatory Health Care Occupancies; Chapter 21 - Existing Ambulatory Health Care Occupancies; Chapter 22 - New Detention and Correctional Occupancies; Chapter 23 - Existing Detention and Correctional Occupancies; and other sections referenced within and pertaining to these chapters only. Wherever there is a section, figure or table in NFPA 101 that references "NFPA 5000 - Building Construction and Safety Code", that reference shall be replaced with the "International Building Code".[

~~1.2 National Fire Protection Association (NFPA), Standard 13, Installation of Sprinkler Systems, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.~~

~~1.3 National Fire Protection Association (NFPA), Standard 13R, Installation of Sprinkler Systems - Residential Occupancies up to and Including Four Stories in Height, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.~~

~~1.4 National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.~~

~~1.5 National Fire Protection Association (NFPA), Standard 70, National Electric Code (NEC), 2002 edition, as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953. Wherever there are sections or tables in the International Fire Code (IFC) that reference "ICC Electrical Standard", the reference to "ICC Electrical Standard" shall be replaced with "National Electric Code".]~~

1.[6]2 International Building Code (IBC), [2003]2006 edition, as published by the International Code Council, Inc. (ICC), and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.[

~~1.7 International Fire Code (IFC), 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-4-3, et seq.]~~

1.[8]3 International Mechanical Code (IMC), [2003]2006 edition, as published by the International Code Council, Inc., and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.[9]4 International Fuel Gas Code (IFGC), [2003]2006 edition, as published by the International Code Council, and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.[10]5 International Plumbing Code (IPC), [2003]2006 edition, as published by the International Code Council, Inc., and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.[11]6 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal.

R710-4-2. Definitions.

[2.1 "Appreciable Depth" means a depth greater than 1/4 inch.
~~2.2]1 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.[~~

~~2.3 "AWWA" means American Water Works Association.]~~

2.[4]2 "Board" means Utah Fire Prevention Board.

2.[5]3 "Bureau of Fire Prevention or Fire Prevention Bureau" means the AHJ.

2.[6]4 "Fire Chief or Chief of the Department" means the AHJ.

2.[7]5 "Fire Department" means the AHJ.

2.[8]6 "Fire Marshal" means the AHJ.

2.[9]7 "Fire Officer" means the State Fire Marshal, the state fire marshal's deputies, the fire chief or fire marshal of any county, city, or town fire department, the fire officer of any fire district or special service district organized for fire protection purposes is the AHJ.

2.[10]8 "IBC" means International Building Code.

2.[11]9 "ICC" means International Code Council, Inc.

2.[12]10 "IFC" means International Fire Code.

2.[13]11 "IFGC" means International Fuel Gas Code.

2.[14]12 "IMC" means International Mechanical Code.

2.[15]13 "IPC" means International Plumbing Code.

2.[16]14 "LSC" means Life Safety Code.

2.[17]15 "NEC" means National Electric Code.

2.[18]16 "NFPA" means National Fire Protection Association.

2.[19]17 "SFM" means State Fire Marshal.

2.[20]18 "UCA" means Utah State Code Annotated 1953 as amended.

R710-4-3. Amendments and Additions.

[3.1 Administration

~~3.1.1 IFC, Chapter 1, Section 102.3 is deleted and rewritten and follows: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure maintains a reasonable level of fire and life safety and the change to use or occupancy does not create a distinct hazard to life or property as determined by the AHJ.~~

~~3.1.2 IFC, Chapter 1, Section 102.4 is deleted and rewritten as follows: The design and construction of new structures shall comply with the International Building Code. Repairs, alterations and additions to existing structures are allowed when such structure maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.~~

~~3.1.3 IFC, Chapter 1, Section 102.5 is deleted and rewritten as follows: The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings are allowed when such historic structures maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.~~

~~3.2 Definitions~~

~~3.2.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".~~

~~3.2.2 IFC, Chapter 2, Section 202, Institutional Group I-1 is amended to add the following:~~

~~On line nine add "type 1" in front of the words "assisted living facilities".~~

~~3.2.3 IFC, Chapter 2, Section 202, Institutional Group I-2 is amended as follows: On line three delete the word "five" and replace it with the word "three". On line eight after the words "detoxification facilities" delete the rest of the paragraph, and add the following: "ambulatory surgical centers with two or more operating rooms where care is less than 24 hours and type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer~~

persons shall be classified as a Group R-4. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.

~~3.2.4 IFC, Chapter 2, Section 202, Institutional Group I-2, Child care facility is amended as follows: On line two delete the word "five" and replace it with the word "four".~~

~~3.2.5 IFC, Chapter 2, Section 202, Institutional Group I-4 day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception delete the word "five" and replace it with the word "four".~~

~~3.3.1 Fire Drills~~

~~3.3.1.1 IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:~~

~~[e]. Secondary schools in Group E occupancies shall have a fire drill conducted at least every two months, to a total of four fire drills during the nine-month school year. The first fire drill shall be conducted within 10 days of the beginning of classes.~~

~~[d]. A-3 occupancies in academic buildings of institutions of higher learning are required to have one fire drill per year, provided the following conditions are met:~~

~~1. The building has a fire alarm system in accordance with Section 907.2.~~

~~2. The rooms classified as assembly, shall have fire safety floor plans as required in Section 404.3.2(4) posted.~~

~~3. The building is not classified a high-rise building.~~

~~4. The building does not contain hazardous materials over the allowable quantities by code.~~

~~3.4.2 Door Closures~~

~~3.4.2.1 IFC, Chapter 7, Section 703.2. Add the following: Exception[-]: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closures may be of the friction hold-open type on classrooms doors with a rating of 20 minutes or less only.~~

~~3.5.3 [Automatic Fire Sprinkler]Fire Protection Systems[-and Commercial Cooking Operations~~

~~3.5.1 Inspection and Testing of Automatic Fire Sprinkler Systems~~
~~The owner or administrator of each building shall insure the inspection and testing of water-based fire protection systems as required in IFC, Chapter 9, Section 901.6.]~~

~~3.5.2.3.1 IFC, Chapter 9, Section 903.2.[9]7 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 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 its primary power from the building wiring and a commercial power system.[-~~

~~3.5.3 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.2 Commercial cooking operation suppression. Automatic fire sprinkler systems protecting commercial kitchen exhaust hood and duct systems with appliances that generate appreciable depth of cooking oils shall be replaced with a UL300 listed system by May 1, 2004.]~~

~~3.5.4.3.2 Water Supply Analysis~~

~~3.5.4.1.3.2.1 For proposed construction in both sprinklered and unsprinklered occupancies, the owner or architect shall provide an engineer's water supply analysis evaluating the available water supply.~~

~~3.5.4.2.3.2.2 The owner or architect shall provide the water supply analysis during the preliminary design phase of the proposed construction.~~

~~3.5.4.3.3.2.3 The water analysis shall be representative of the supply that may be available at the time of a fire as required in NFPA, Standard 13, [Appendix A-9-2.1]Annex A.15.2.1.[-~~

~~3.6 Alternative Automatic Fire Extinguishing Systems~~

~~3.6.1 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.3 Dry chemical hood system suppression. Existing automatic fire extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinder; or 4) Reconfiguring of the system piping.~~

~~3.6.2 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.4 Wet chemical hood system suppression. Existing wet chemical fire extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinder; or 4) Reconfiguration of the system piping.]~~

~~3.7.3.3 Fire Alarm Systems~~

~~3.7.3.3.1 Required Installations~~

~~3.7.3.3.1.1 All state-owned buildings, college and university buildings, other than institutional, with an occupant load of 300 or more, all schools with an occupant load of 50 or more, shall have an approved fire alarm system with the following features:~~

~~3.7.3.3.1.1.1 [Smoke detectors]Automatic detection devices that detect smoke shall be installed throughout all corridors and spaces open to the corridor at the maximum prescribed spacing of thirty feet on center and no more than fifteen feet from the walls or smoke detectors shall be installed as required in NFPA, Standard 72, Section 5.3.~~

~~3.7.3.3.1.1.2 [In non or partially fire sprinklered buildings, automatic detectors shall be installed in each enclosed space, other than corridors, at maximum prescribed spacing as specified in Section 3.7.1.1.2 for smoke detectors or by the manufacturer's listing for heat detectors.]-Where structures are not protected or partially protected with an automatic fire sprinkler system, approved automatic detectors shall be installed in accordance with the complete coverage requirements of NFPA, Standard 72.~~

~~3.7.3.3.1.1.3 Manual fire alarm boxes shall be provided as required. In public and private elementary and secondary schools, manual fire alarm boxes shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the AHJ.~~

~~3.7.3.3.2 Main Panel~~

~~3.7.3.3.2.1 An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.~~

~~3.7.3.3.2.2 The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the SFM. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.~~

3.[7]3.3.3 System Wiring, Class and Style

3.[7]3.3.3.1 Fire alarm system wiring shall be designated and installed as a Class A circuit in accordance with the following style classifications:

3.[7]3.3.3.1.1 The initiating device circuits shall be designated and installed Style D as defined in NFPA, Standard 72.

3.[7]3.3.3.1.2 The notification appliance circuits shall be designated and installed Style Z as defined in NFPA, Standard 72.

3.[7]3.3.3.1.3 Signaling line circuits shall be designated and installed Style 6 or 7 as defined in NFPA, Standard 72.

3.[7]3.3.4 Fan Shut Down

3.[7]3.3.4.1 The fan shut down relay(s) in the air handling equipment shall be normally energized, and connected through and controlled by a normally closed contact in the fire alarm panel, or a normally closed contact of a remote relay under supervision by the main panel. The relays will transfer on alarm, and shall not restore until the panel is reset.

3.[7]3.3.4.2 Duct detectors required by the IMC, shall be interconnected, and compatible with the fire alarm system.

3.[7]3.3.5 Nuisance Alarms

3.[7]3.3.5.1 IFC, Chapter 9, Section 907.20.5 is amended to add the following sentences: Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.]

~~3.8 Retroactive Installation of Automatic Fire Alarm Systems~~

~~3.8.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4 and 907.3.1.9 are deleted.~~

~~3.9 Fireworks~~

~~3.9.1 IFC, Chapter 33, Section 3301.1.3, Exception 4 is amended to add the following sentence: Fireworks are permitted as allowed in UCA 53-7-220 and UCA 11-3-1.~~

~~3.10 Flammable and Combustible Liquids~~

~~3.10.1 IFC, Chapter 34, Section 3406.1 is amended to add the following special operation: 8. Sites approved by the AHJ.~~

~~3.10.2 IFC, Chapter 34, Section 3406.2 is amended to add the following: On line two after the word "sites" add the words "and sites approved by the AHJ". On line five after the words "borrow pits" add the words "and sites approved by the AHJ".~~

~~3.11 Health Care Facilities~~

~~3.11.1 LSC Chapters 18, 19, 20 and 21, Sections 18.1.2.4, 19.1.2.4, 20.1.2.2 and 21.1.2.2 (Exiting Through Adjoining Occupancies) exception is deleted.~~

~~3.11.2 LSC Chapter 19, Section 19.3.6.1, (Rooms Allowed open to Corridor) exceptions No. 1, No. 5, No. 6, and No. 8 are deleted.~~

~~3.11.3 IFC, Chapter 10, Section 1008.1.8.3 is amended to add the following: 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 the 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. 6. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IFC, Section 1008.1.8.6.]~~

3.[42]4 Time Out and Seclusion Rooms

3.[42]4.1 Time Out and Seclusion Rooms are allowed in occupancies protected by an automatic fire alarm system.

3.[42]4.2 A vision panel shall be provided in the room door for observation purposes.

3.[42]4.3 Time Out and Seclusion Room doors may not be fitted with a lock unless it is a self-releasing latch that releases automatically if not physically held in the locked position by an individual on the outside of the door.

3.[42]4.4 Time Out and Seclusion Rooms shall be located where a responsible adult can maintain visual monitoring of the person and room.

KEY: fire prevention, public buildings

Date of Enactment or Last Substantive Amendment: [May 16, 2006] January 9, 2007

Notice of Continuation: June 12, 2002

Authorizing, and Implemented or Interpreted Law: 53-7-204

Public Safety, Fire Marshal R710-8 Day Care Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29234

FILED: 11/15/2006, 16:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on November 14, 2006, in a regularly scheduled Board meeting and voted to make some amendments to the currently adopted rule for the purpose of adopting the 2006 International Fire and Building Codes and some other small amendments to the code.

SUMMARY OF THE RULE OR CHANGE: The proposed rule amendments to Rule R710-8 are as follows: 1) in Section R710-8-1, the Board proposes to make this rule "in addition" to the requirements that are currently in Rule R710-9; 2) in Subsection R710-8-1(1.1), the Board proposes to update the currently adopted International Fire Code, 2003 edition, to the 2006 edition; 3) in Subsection R710-8-1(1.2), the Board proposes to update the currently adopted International Building Code, 2003 edition, to the 2006 edition; and 4) in Subsections R710-8-3(3.3.2.1) and (3.3.4.1), the Board proposes to make some code section changes to correspond with the newly adopted incorporated standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 1) the International Fire Code, 2006 edition, as published by the International Code Council; and 2) the International Building Code, 2006 edition, as published by the International Code Council

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There would be an aggregate anticipated cost to the state budget of approximately \$1,500 to purchase the needed incorporated references for those employees that would need copies of these references to complete their assignment.

❖ LOCAL GOVERNMENTS: There would be an aggregate anticipated cost to local government of approximately \$150 per person to purchase the updated references. An aggregate anticipated cost to local government is impossible to calculate due to the unknown number of local government agencies that would purchase the regulatory codes and the amount of codes that would be purchased.

❖ OTHER PERSONS: The aggregate anticipated cost to other persons would be approximately \$150 per person. The aggregate anticipated cost to all other persons is also impossible to predict due to the completely unknown number of other persons that would be purchasing the codes and which codes would they purchase.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons would be approximately \$150 per person to acquire these updated incorporated codes. The cost is impossible to predict due to the completely unknown number of persons that would be purchasing the codes and which codes would they purchase.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be no fiscal impact to businesses for the enactment of these changes. Businesses normally do not purchase the regulatory manuals as do government agencies. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/09/2007

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

R710. Public Safety, Fire Marshal.**R710-8. Day Care Rules.****R710-8-1. Adoption of Codes.**

Pursuant to Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum standards for the prevention of fire and for the protection of life and property against fire and panic in any day care facility or children's home. The requirements listed in this rule text are in addition to the requirements listed in R710-9, Rules Pursuant to the Fire Prevention Law.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 International Fire Code (IFC), [~~2003~~2006 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-8-3, et seq.

1.2 International Building Code (IBC), [~~2003~~2006 edition, as published by the International Code Council, Inc. (ICC), and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.3 Copies of the above codes are on file in the Office of Administrative Rules and the Office of the State Fire Marshal.

R710-8-3. Amendments and Additions.

3.1 Exemptions

3.1.1 Places of religious worship shall not be required to meet the provisions of this rule in order to operate a nursery or day care while religious services are being held in the building.

3.2 Fire Code Amendments

3.2.1 IFC, Chapter 2, Section 202, Educational E, Day Care is amended as follows: On line three delete the word "five" and replace it with the word "four".

3.2.2 IFC, Chapter 2, Section 202, Institutional Group I-4, day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception delete the word "five" and replace it with the word "four".

3.2.3 IFC, Chapter 9, Sections 907.3.1.1 Group E is deleted.

3.3 Family Day Care

3.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

3.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

3.3.2.1 Type 1 Family Day Care units, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section [~~1025~~1026.

3.3.3 Family Day Care units shall not be located above the second story.

3.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

3.3.4.1 Clients under the age of two may be housed above or below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section 1009 or Section 1010 or Section [~~1022~~1023.

3.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

3.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10.

3.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure continued operation of the smoke detectors.

3.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

3.3.9 Fire drills shall be conducted in Family Day Care units monthly and shall include the complete evacuation from the building of all clients and staff. At least quarterly, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if one is used as a substitute for one of the required means of egress.

3.4 Day Care Centers

3.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

3.4.2 Fire Drills shall be completed as required in IFC, Chapter 4, Section 405.

3.5 Requirements for all Day Care

3.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

3.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure.

3.5.3 The AHJ shall insure at each inspection there is sufficient adult staff to client ratios to allow safe and orderly evacuation in case of fire.

3.5.3.1 For Day Care involving children, the AHJ may use the care giver to children ratios established in rule by the Department of Health as an established guideline.

KEY: fire prevention, day care

Date of Enactment or Last Substantive Amendment: ~~November 16, 2004~~ **January 9, 2007**

Notice of Continuation: April 23, 2002

Authorizing, and Implemented or Interpreted Law: 53-7-204

Public Safety, Fire Marshal

R710-9

Rules Pursuant to the Utah Fire
Prevention Law

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29232

FILED: 11/15/2006, 14:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on November 14, 2006, in a regularly scheduled Board meeting and voted by majority to make a number of amendments to the currently adopted rule for the purpose of adopting the 2006 edition of the International Fire Code and other incorporated National Fire Protection Association (NFPA) references.

SUMMARY OF THE RULE OR CHANGE: The proposed rule amendments to R710-9 are as follows: 1) in Subsection R710-9-1(1.3), the Board proposes to insert language that correctly reflects the contents of the rule; 2) in Subsections R710-9-1(1.4.1) and (1.5), the Board proposes to update the currently adopted International Fire Code, 2003 edition, to the 2006 edition; 3) in Subsection R710-9-1(1.5.5), the Board proposes to update the currently used National Electric Code, 2002 edition, to the 2005 edition; 4) in Subsection R710-9-1(1.5.7), the Board proposes to update the currently used NFPA Life Safety Code 101, 2003 edition, to the 2006 edition; 5) in Subsection R710-9-1(1.6), the Board proposes to update the currently used NFPA Standard 96, 2001 edition, to the 2004 edition; 6) in Section R710-9-6, the Board proposes to strike out a number of currently used references because they were changed in the newly adopted codes, they are no longer needed, or they were moved in the rule text; and 7) also in Section R710-9-6, the Board proposes to add a number of references to this section that clarifies the newly adopted incorporated references, modifies portions of the codes for specific needs in the State of Utah, and rewrites several previously adopted amendments to be correct with the newly adopted standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 1) the International Fire Code, 2006 edition, as published by the International Code Council; 2) NFPA 70, National Electric Code, 2005 edition, as published by the National Fire Protection Association; 3) NFPA 101, Life Safety Code, 2006 edition, as published by the National Fire Protection Association; and 4) NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2004 edition, as published by the National Fire Protection Association

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There would be an aggregate anticipated cost to the state budget of approximately \$3,500 to purchase the needed incorporated references for those employees that would need copies of these references to complete their job.

❖ **LOCAL GOVERNMENTS:** There would be a cost to local government officials of approximately \$245 per person to purchase all the needed incorporated standards that are being

updated. An aggregate anticipated cost of all local government purchases is impossible to predict due to the unknown number of codes that would be purchased, and the unknown number of employees that would need codes and which codes would they purchase.

❖ OTHER PERSONS: The cost for Other persons would be approximately \$245 per person to purchase all the newly updated standards. The aggregate anticipated cost to all other persons is also impossible to predict due to the completely unknown number of other persons that would be purchasing the codes and which codes would they purchase.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons would be approximately \$245 to each affected person that would purchase all the updated standards for usage.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be a fiscal impact to businesses only if the business wished to purchase one of the incorporated references to assist them with the known regulations. Other than that, there is no fiscal impact to businesses for the implementation of this proposed rule amendment. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/09/2007

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

R710. Public Safety, Fire Marshal.
R710-9. Rules Pursuant to the Utah Fire Prevention Law.
R710-9-1. Title, Authority, and Adoption of Codes.

1.1 These rules shall be known as the "Rules Pursuant to the Utah Fire Prevention Law", and may be cited as such, and will be hereafter referred to as "these rules".

1.2 These rules are promulgated in accordance with Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, as amended.

1.3 These rules are adopted by the Utah Fire Prevention Board to provide minimum rules for safeguarding life and property from the hazards of fire and explosion, for board meeting conduct, procedures to amend incorporated references, establishing amendments and additions

to the adopted codes, establishing board subcommittees, enforcement of the rules of the State Fire Marshal, and deputizing Special Deputy State Fire Marshals.

1.4 There is adopted as part of these rules the following code which is incorporated by reference:

1.4.1 International Fire Code (IFC), [2003]2006 edition, excluding appendices, as promulgated by the International Code Council, Inc., except as amended by provisions listed in R710-9-6, et seq.

1.5 There is further adopted as part of these rules the following codes which are also incorporated by reference and supercede the adopted standards listed in the International Fire Code, [2003]2006 edition, Chapter 45, Referenced Standards, as follows:

1.5.1 National Fire Protection Association (NFPA), NFPA 10, Standard for Portable Fire Extinguishers, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.

1.5.2 National Fire Protection Association (NFPA), NFPA 13, Standard for Installation of Sprinkler Systems, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.

1.5.3 National Fire Protection Association (NFPA), NFPA 13D, Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.

1.5.4 National Fire Protection Association (NFPA), NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.

1.5.5 National Fire Protection Association (NFPA), NFPA 70, National Electric Code, [2002]2005 edition, as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code R156-56-701. Wherever there is a section, figure or table in the International Fire Code (IFC) that references "ICC Electrical [Standard]Code", that reference shall be replaced with "National Electric Code".

1.5.6 National Fire Protection Association (NFPA), NFPA 72, National Fire Alarm Code, 2002 edition, except as amended in provisions listed in R710-9-6, et seq.

1.5.7 National Fire Protection Association (NFPA), NFPA 101, Life Safety Code, [2003]2006 edition, except as amended in provisions listed in R710-9-6, et seq. Wherever there is a section, figure or table in NFPA 101 that references "NFPA 5000 - Building Construction and Safety Code", that reference shall be replaced with the "International Building Code".

1.5.8 National Fire Protection Association (NFPA), NFPA 160, Standard for Flame Effects Before an Audience, 2001 edition, except as amended by provisions listed in R710-9-6, et seq.

1.6 National Fire Protection Association (NFPA), NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, [2004]2004 edition, except as amended by provisions listed in R710-9-6, et seq.

R710-9-6. Amendments and Additions.

The following amendments and additions are hereby adopted by the Board for application statewide:

6.1 International Fire Code - Administration

[6.1.1 IFC, Chapter 1, Section 102.3 is deleted and rewritten as follows: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure maintains a reasonable level of fire and life safety and

the change to use or occupancy does not create a distinct hazard to life or property as determined by the AHJ.

6.1.2 IFC, Chapter 1, Section 102.4 is deleted and rewritten as follows: The design and construction of new structures shall comply with the International Building Code. Repairs, alterations and additions to existing structures are allowed when such structure maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

6.1.3 IFC, Chapter 1, Section 102.5 is deleted and rewritten as follows: The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings are allowed when such historic structures maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

6.1.4 IFC, Chapter, 1, Section 102.4 is amended as follows: On line three after the words "Building Code." add the following sentence: "The design and construction of detached one and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code." 6.1.1 IFC, Chapter 1, Section 105.6.16 is amended to add the following section: 11. The owner of an underground tank that is out of service for longer than one year, shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ.

6.1.[5]2 IFC, Chapter 1, Section 109.2 is amended as follows: On line three after the words "is in violation of this code," add the following "or other pertinent laws or ordinances".

6.2 International Fire Code - Definitions

6.2.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".

6.2.2 IFC, Chapter 2, Section 202, Institutional Group I, Group I-1 is amended to add the following: On line ten [A]add "Type 1" in front of the words "Assisted living facilities".

6.2.3 IFC, Chapter 2 Section 202, Institutional Group I, Group I-2 is amended as follows: On line [three]four delete the word "five" and replace it with the word "three". On line eleven [A]after the words "Detoxification facilities" delete the rest of the [paragraph]section, and add the following: "Ambulatory surgical centers with two or more operating rooms where care is less than 24 hours, [Ø]outpatient medical care facilities for ambulatory patients (accommodating more than five such patients in each tenant space) which may render the patient incapable of unassisted self-preservation, and Type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.

6.2.4 IFC, Chapter 2, Section 202, Institutional Group I, Group I-4, day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception [after Child care facility]delete the word "five" and replace it with the word "four".

6.2.5 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-1 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

6.2.6 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-2 is amended to add the

following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

6.3 International Fire Code - General Precautions Against Fire

6.3.1 IFC, Chapter 3, Section 304.1.2 is amended [to delete the following sentence]as follows: ["Vegetation clearance requirements in urban-wildland interface areas shall be in accordance with the International Urban/Wildland Interface Code."]Delete the current line six and add the following in it's place: "the Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance."

6.3.2 IFC, Chapter 3, Section 311.1.1 is amended as follows: On line ten delete the words "International Property Maintenance Code and the" from this section.

6.3.3 IFC, Chapter 3, Section 311.5 is amended as follows: On line two delete the word "shall" and replace it with the word "may".

6.3.[3]4 IFC, Chapter 3, Section 315.2.1 is amended to add the following: Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard.

6.4 International Fire Code - Emergency Planning and Preparedness

6.4.1 IFC, Chapter 4, Section 404.2(7) is amended as follows: After the word "buildings" add "to include sororities and fraternity houses".

6.[4]5 [Elevator Recall and Maintenance]International Fire Code - Building Services and Systems

6.[4]5.1 IFC, Chapter 6, Section 607.3 is deleted and rewritten as follows: Firefighter service keys shall be kept in a "Supra - Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, [and]one key for lobby control, and any other keys necessary for emergency service.[

6.5 [Building Services and Systems]

6.5.[+2] IFC, Chapter 6, Section [610.4]609.1 is amended to add the following: On line three after the word "Code" add the words "and NFPA 96".

6.6 [Record Drawings]International Fire Code - Fire Protection Systems

6.6.1 IFC, Chapter 9, Section 901.2[+1] is amended to add the following: The code official has the authority to request record drawings ("as built") to verify any modifications to the previously approved construction documents.

6.6.2 IFC, Chapter 9, Section 902.1 Definitions, RECORD DRAWINGS is deleted and rewritten as follows: Drawings ("as built") that document all aspects of a fire protection system as installed.[

6.7 Fire Protection Systems]

6.[7+]6.3 [Inspection and Testing of Automatic Fire Sprinkler Systems]IFC, Chapter 9, Section 901.6 is amended to add the following: The owner or administrator of each building shall insure the inspection and testing of water based fire protection systems as required in [IFC, Chapter 9, Section 901.6.]Rule R710-5, Automatic Fire Sprinkler System Inspecting and Testing.

6.6.4 IFC, Chapter 9, Section 903.2.1.2 is amended to add the following subsection: 4. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used.

6.6.5 IFC, Chapter 9, Section 903.2.3(2) is deleted and rewritten as follows: Where a Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access: or

6.6.6 IFC, Chapter 9, Section 903.2.6(2) is deleted and rewritten as follows: Where a Group M fire area is located more than three stories above the lowest level of fire department vehicle access; or

6.[7-2]6.7 IFC, Chapter 9, Section 903.2.7 Group R, is amended to add the following: Exception: 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.

6.[7-3]6.8 IFC, Chapter 9, Section 903.2.7 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 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 its primary power from the building wiring and a commercial power system.

6.6.9 IFC, Chapter 9, Section 903.2.8(2) is deleted and rewritten as follows: A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access; or

6.6.10 IFC, Chapter 9, Section 903.3.5 is amended by adding the following at the end of the section: The potable water supply to automatic fire sprinkler systems and standpipe systems shall be protected against backflow in accordance with the International Plumbing Code as amended in the Utah Administrative Code, R156-56-707, Utah Uniform Building Standard Act Rules.

6.6.11 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.2 Group A-2 occupancies. An automatic fire sprinkler system shall be provided throughout existing Group A-2 occupancies where indoor pyrotechnics are used.

6.6.12 IFC, Chapter 9, Section 904.11 is deleted and rewritten as follows: Commercial Cooking Systems. The automatic fire extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions. The Exception in Section 904.11 is not deleted and shall remain as currently written in the IFC.

6.6.13 IFC, Chapter 9, Sections 904.11.3 and 904.11.3.1 is deleted and rewritten as follows:

6.6.13.1 Existing automatic fire extinguishing systems used for commercial cooking that use dry chemical is prohibited and shall be removed from service.

6.6.13.2 Existing wet chemical fire extinguishing systems used for commercial cooking that are not UL300 listed and labeled are prohibited and shall be either removed or upgraded to a UL300 listed and labeled system.

6.[7-4]6.14 IFC, Chapter 9, Section [903-6]904.11.4 is amended to add the following subsection: [903-6.2]904.11.4.2[Commercial cooking operation suppression]. Existing [A]automatic fire sprinkler systems protecting commercial [kitchen]cooking equipment, [exhaust]hood, and [duct]exhaust systems [with appliances]that generate appreciable depth of cooking oils shall be replaced with a UL300 [listed]system [by May 1, 2004]that is listed and labeled for the intended application.[

6.7.5 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.3 Dry chemical hood system suppression. Existing automatic fire extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006.

6.7.6 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.4 Wet chemical hood system suppression. Existing wet chemical fire extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006.

6.7.7 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.5 Group A-2 occupancies. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used.[

6.[7-8]6.15 IFC, Chapter 9 Section 904.11.6.4 is amended to add the following: Automatic fire extinguishing systems located in occupancies where usage is limited and less than six consecutive months, may be serviced annually if the annual service is conducted immediately before the period of usage, and approval is received from the AHJ.

[6.7.9 IFC, Chapter 9, 906.2 is amended to add the following exception: 2. 30 day inspections shall not be required and maintenance shall be permitted to be once every three years for dry chemical or halogenated agent portable fire extinguishers that are connected to a supervised listed electronic monitoring system that meet the following: 2.1 Electronic monitoring shall confirm that extinguishers are properly positioned, properly charged, and unobstructed; 2.2 Loss of power or circuit continuity to the electronic monitoring device shall initiate a trouble signal; 2.3 The extinguishers shall be installed inside of a building or cabinet in a non-corrosive environment; 2.4 Electronic monitoring devices and supervisory circuits shall be tested every three years when extinguisher maintenance is performed; and, 2.5 A written log of required hydrostatic test dates for extinguishers shall be maintained by the owner to ensure that hydrostatic tests are conducted at the frequency required by NFPA 10.

6.7.10 NFPA, Standard 10, Section 6.2.1 is amended to add the following sentence: The use of a supervised listed electronic monitoring system shall be permitted to satisfy the 30 day fire extinguisher interval inspection requirement.

6.7.11 NFPA, Standard 10, Section 6.3.1 is amended to add the following: Fire extinguishers that are connected to a supervised listed electronic monitoring system are allowed to have the maintenance intervals extended to 3 years.

6.8 Backflow Protection

6.8.1 The potable water supply to automatic fire sprinkler systems and standpipe systems shall be protected against backflow in accordance with the International Plumbing Code as amended in the Utah Administrative Code, R156-56-707.

6.9 Retroactive Installations of Automatic Fire Alarm Systems in Existing Buildings]6.6.16 IFC, Chapter 9, Section 905.11 is deleted.

6.6.17 IFC, Chapter 9, Section 907.3 is deleted and rewritten as follows: An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances and equipment shall be approved. The automatic fire detectors shall be smoke detectors, except an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector.

6.[9-1]6.18 IFC, Chapter 9, Sections 907.3.1, 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4, 907.3.1.5, 907.3.1.6, 907.3.1.7, and 907.3.1.8 are deleted.[

6.10 Smoke Alarms]

6.[10-1]6.19 IFC, Chapter 9, Section 907.3.2 is amended to add the following: On line three after the word "occupancies" add "and

detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.[40-2]6.20 IFC, Chapter 9, Section 907.3.2.3 is amended to add the following: On line one after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.[40-3]6.21 IFC, Chapter 9, Section 907.20.5 is amended to add the following sentences: Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.

6.[44]7 International Fire Code - Means of Egress

6.[44-1]7.1 IFC, Chapter 10, Section 1008.1.8.3 is amended to add the following:

6.7.1.1.5. 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:

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

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

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

6.7.1.1.4.5.4 The secure area or unit with controlled egress doors shall be located at the level of exit discharge in Type V construction.

6.7.1.2.6. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IFC, Section 1008.1.8.6. The secure area or unit with delayed egress locks shall be located at the level of exit discharge in Type V construction.

6.[44-2]7.2 IFC, Chapter 10, Section 1009.3 is amended as follows: On line [six] five of Exception [5]4 delete "7.75" and replace it with "8". On line seven of Exception [5]4 delete "10" and replace it with "9".

6.[44-3]7.3 IFC, Chapter 10, Section 1009.[44]10, is amended to add the following [E]exception[4 is deleted and replaced with the following]: [4]6. 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.

6.[44-4]7.4 IFC, Chapter 10, Section [4009-44-3]1012.3 is amended to add the following: 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 (51mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16mm) and 1.5 inches (38mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6mm) deep on each side and shall be at least 0.5 (13mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin] with a perimeter greater than 6 1/4 inches (160mm) shall provide a

graspable finger recess area on both sides of the profile. The finger recess shall begin within a distance of 3/4 inch (19mm) measured vertically from the tallest portion of the profile and achieve a depth of at least 5/16 inch (8mm) within 7/8 inch (22mm) below the widest portion of the profile. This required depth shall continue for at least 3/8 inch (10mm) to a level that is not less than 1 3/4 inches (45mm) below the tallest portion of the profile. The minimum width of the handrail above the recess shall be 1 1/4 inches (32mm) to a maximum of 2 3/4 inches (70mm). Edges shall have a minimum radius of 0.01 inch (0.25mm).

6.[44]7.5 IFC, Chapter 10, Section [4012-2]1013.2 is amended to add the following exception: 3. For occupancies in Group R-3 and within individual dwelling units in occupancies in [Group]Group R-2, as applicable in Section 101.2, guards shall form a protective barrier not less than 36 inches (914mm).

6.7.6 IFC, Chapter 10, Section 1015.2.2 is amended to add the following sentence at the end of the section: Additional exits or exit access doorways shall be arranged a reasonable distance apart so that if one becomes blocked, the others will be available.

6.[44-6]7.7 IFC, Chapter 10, Section 102[7]8.2 is amended to add the following: On line [five]six after the word "fire" add the words "and building".

6.[42]8 International Fire Code - Explosives and Fireworks

6.[42]8.1 IFC, Chapter 33, Section 3301.1.3, Exception 4 is amended to add the following sentence: [Exception: 10.-]The use of fireworks for display and retail sales is allowed as set forth in UCA 53-7-220 and UCA 11-3-1.

6.[43]9 International Fire Code - Flammable and Combustible Liquids

6.9.1 IFC, Chapter 34, Section 3401.4 is amended to add the following at the end of the section: The owner of an underground tank that is out of service for longer than one year, shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ.

[6-13-1 IFC, Chapter 34, Section 3404.4.3 is amended as follows: Delete 3403.6 on line three and replace it with 3403.4.

—]6.9.2 IFC, Chapter 34, Section 3406.1 is amended to add the following special operation: 8. Sites approved by the AHJ.

6.9.3 IFC, Chapter 34, Section 3406.2 is amended to add the following: On line five after the words "borrow pits" add the words "and sites approved by the AHJ".

6.[44]10 International Fire Code - Liquefied Petroleum Gas

6.[44]10.1 IFC, Chapter 38, Section 3809.12, is amended as follows: [Delete 20 from line three and replace it with 10]In Table 3809.12, Doorway or opening to a building with two or more means of egress, with regard to quantities 720 or less and 721 - 2,500, the currently stated "5" is deleted and replaced with "10".

6.[44]10.2 IFC, Chapter 38, Section 3809.14 is amended as follows: Delete 20 from line three and replace it with 10.

6.11 National Fire Protection Association

6.11.1 NFPA, Standard 10, Section 6.2.1 is amended to add the following sentence: The use of a supervised listed electronic monitoring system shall be permitted to satisfy the 30 day fire extinguisher interval inspection requirement.

6.11.2 NFPA, Standard 10, Section 6.3.1 is amended to add the following: Fire extinguishers that are connected to a supervised listed electronic monitoring system are allowed to have the maintenance intervals extended to 3 years.

KEY: fire prevention, law

Date of Enactment or Last Substantive Amendment: ~~March 6, 2006~~ **January 9, 2007**

Notice of Continuation: June 12, 2002

Authorizing, and Implemented or Interpreted Law: 53-7-204



**Public Safety, Peace Officer Standards
and Training
R728-205-1
Authority**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29196

FILED: 11/06/2006, 10:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being amended to update the Utah Code citation that makes this rule applicable.

SUMMARY OF THE RULE OR CHANGE: The rule needs to be changed to reflect changes in the Utah Code. The authorization citations for this rule were Subsections 49-4-203(3)(b) and 49-4a-203(5)(b). They have been repealed. The new citations are Subsections 49-14-201(4), (5), and (6) and 49-15-201(5), (6), and (7).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 49-14-201(4), (5), and (6) and 49-15-201(5), (6), and (7)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The change to this rule simply updates the related Code citations to this administrative rule. There are no other changes that would affect any interested parties' budgets.

❖ LOCAL GOVERNMENTS: The change to this rule simply updates the related Code citations to this administrative rule. There are no other changes that would affect any interested parties' budgets.

❖ OTHER PERSONS: The change to this rule simply updates the related Code citations to this administrative rule. There are no other changes that would affect any interested parties' budgets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The change to this rule simply updates the related Code citations to this administrative rule. There are no other changes that would affect any interested parties' budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment will not have any fiscal impact on state, local, or any other persons or businesses. Scott Duncan, Commissioner

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Winward at the above address, by phone at 801-965-4373, by FAX at 801-965-4910, or by Internet E-mail at swinward@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/10/2007

AUTHORIZED BY: Rich Townsend, Director

**R728. Public Safety, Peace Officer Standards and Training.
R728-205. Council Resolution of Public Safety Retirement
Eligibility.**

R728-205-1. Authority.

The authority for this rule is authorized under UCA Sections ~~[49-4-203(3)(b)]~~ 49-14-201(4)(5)(6) and ~~[49-4a-203(5)(b)]~~ 49-15-201(5)(6)(7).

KEY: retirement, peace officers^[§]

Date of Enactment or Last Substantive Amendment: ~~April 15, 1997~~ **2007**

Notice of Continuation: June 27, 2005

Authorizing, and Implemented or Interpreted Law: ~~[49-4-203; 49-4a-203]~~ 49-14-201(4)(5)(6); 49-15-201(5)(6)(7)



**Tax Commission, Property Tax
R884-24P-19
Appraiser Designation Program
Pursuant to Utah Code Ann. Sections
59-2-701 and 59-2-702**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29223

FILED: 11/14/2006, 15:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Pursuant to Section 59-2-702, the Commission is required to train applicants for appraisal designation programs. The Commission will now be teaching an equivalent for Course D.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment provides that equivalent appraisal education may be allowed for Course D; and clarifies that equivalent appraisal education satisfies the criteria for successful completion of the ad valorem training and designation program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-701 and 59-2-702

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed amendment allows program participants an equivalent to Course D to satisfy the criteria for ad valorem training and designation program.

❖ LOCAL GOVERNMENTS: None--The proposed amendment allows program participants an equivalent to Course D to satisfy the criteria for ad valorem training and designation program.

❖ OTHER PERSONS: None--The proposed amendment allows program participants an equivalent to Course D to satisfy the criteria for ad valorem training and designation program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Course D is a required course for two appraiser designations. The proposed amendment allows applicant to satisfy the Course D requirement with a course D equivalent class.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal costs. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at cleee@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/09/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-19. Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.

(1) "State certified general appraiser," "state certified residential appraiser," and "state licensed appraiser" are as defined in Section 61-2b-2.

(2) The ad valorem training and designation program consists of several courses and practica.

(a) Certain courses must be sanctioned by either the Appraiser Qualification Board of the Appraisal Foundation (AQB) or the Western States Association of Tax Administrators (WSATA).

(b) The courses comprising the basic designation program are:

(i) Course A - Assessment Practice in Utah;

(ii) Course B - Fundamentals of Real Property Appraisal ;

(iii) Course C - Mass Appraisal of Land;

(iv) Course D - Building Analysis and Valuation;

(v) Course E - Income Approach to Valuation ;

(vi) Course G - Development and Use of Personal Property Schedules;

(vii) Course H - Appraisal of Public Utilities and Railroads (WSATA); and

(viii) Course J - Uniform Standards of Professional Appraisal Practice (AQB).

(c) The Tax Commission may allow equivalent appraisal education to be submitted in lieu of Course B, Course D, Course E, and Course J.

(3) Candidates must attend 90 percent of the classes in each course and pass the final examination for each course with a grade of 70 percent or more to be successful.

(4) There are four recognized ad valorem designations: ad valorem residential appraiser, ad valorem general real property appraiser, ad valorem personal property auditor/appraiser, and ad valorem centrally assessed valuation analyst.

(a) These designations are granted only to individuals working as appraisers, review appraisers, valuation auditors, or analysts/administrators providing oversight and direction to appraisers and auditors.

(b) An assessor, county employee, or state employee must hold the appropriate designation to value property for ad valorem taxation purposes.

(5) Ad valorem residential appraiser.

(a) To qualify for this designation, an individual must:

(i) successfully complete;

____(A) Courses A, B, C, D, and J; or

____(B) equivalent appraisal education as allowed under Subsection (2)(c);

____(ii) successfully complete a comprehensive residential field practicum; and

(iii) attain and maintain state licensed or state certified appraiser status.

(b) Upon designation, the appraiser may value residential, vacant, and agricultural property for ad valorem taxation purposes.

(6) Ad valorem general real property appraiser.

(a) In order to qualify for this designation, an individual must:

(i) successfully complete;

____(A) Courses A, B, C, D, E, and J; or

____(B) equivalent appraisal education as allowed under Subsection (2)(c);

____(ii) successfully complete a comprehensive field practicum including residential and commercial properties; and

(iii) attain and maintain state licensed or state certified appraiser status.

(b) Upon designation, the appraiser may value all types of locally assessed real property for ad valorem taxation purposes.

(7) Ad valorem personal property auditor/appraiser.

(a) To qualify for this designation, an individual must; ~~successfully complete;~~

(i) successfully complete:
(A) Courses A, B, G, and J; or
(B) equivalent appraisal education as allowed under Subsection (2)(c); and

(ii) successfully complete a comprehensive auditing practicum.

(b) Upon designation, the auditor/appraiser may value locally assessed personal property for ad valorem taxation purposes.

(8) Ad valorem centrally assessed valuation analyst.

(a) In order to qualify for this designation, an individual must:

(i) successfully complete:
(A) Courses A, B, E, H, and J; or
(B) equivalent appraisal education as allowed under Subsection (2)(c);
 ___(ii) successfully complete a comprehensive valuation practicum; and
 (iii) attain and maintain state licensed or state certified appraiser status.

(b) Upon designation, the analyst may value centrally assessed property for ad valorem taxation purposes.

(9) If a candidate fails to receive a passing grade on a final examination, one re-examination is allowed. If the re-examination is not successful, the individual must retake the failed course. The cost to retake the failed course will not be borne by the Tax Commission.

(10) A practicum involves the appraisal or audit of selected properties. The candidate's supervisor must formally request that the Property Tax Division administer a practicum.

(a) Emphasis is placed on those types of properties the candidate will most likely encounter on the job.

(b) The practicum will be administered by a designated appraiser assigned from the Property Tax Division.

(11) An appraiser trainee referred to in Section 59-2-701 shall be designated an ad valorem associate if the appraiser trainee:

(a) has completed all Tax Commission appraiser education and practicum requirements for designation under Subsections (5), (6), and (8); and

(b) has not completed the requirements for licensure or certification under Title 71, Chapter 2b, Real Estate Appraiser Licensing and Certification.

(12) An individual holding a specified designation can qualify for other designations by meeting the additional requirements outlined above.

(13) Maintaining designated status requires completion of 28 hours of Tax Commission approved classroom work every two years.

(14) Upon termination of employment from any Utah assessment jurisdiction, or if the individual no longer works primarily as an appraiser, review appraiser, valuation auditor, or analyst/administrator in appraisal matters, designation is automatically revoked.

(a) Ad valorem designation status may be reinstated if the individual secures employment in any Utah assessment jurisdiction within four years from the prior termination.

(b) If more than four years elapse between termination and rehire, and:

___(i) the individual has been employed in a closely allied field, then the individual may challenge the course examinations. Upon successfully challenging all required course examinations, the prior designation status will be reinstated; or

(ii) if the individual has not been employed in real estate valuation or a closely allied field, the individual must retake all required courses and pass the final examinations with a score of 70 percent or more.

(15) All appraisal work performed by Tax Commission designated appraisers shall meet the standards set forth in section 61-2b-27.

(16) If appropriate Tax Commission designations are not held by assessor's office personnel, the appraisal work must be contracted out to qualified private appraisers. An assessor's office may elect to contract out appraisal work to qualified private appraisers even if personnel with the appropriate designation are available in the office. If appraisal work is contracted out, the following requirements must be met:

___(a) The private sector appraisers contracting the work must hold the state certified residential appraiser or state certified general appraiser license issued by the Division of Real Estate of the Utah Department of Commerce. Only state certified general appraisers may appraise nonresidential properties.

(b) All appraisal work shall meet the standards set forth in Section 61-2b-27.

(17) The completion and delivery of the assessment roll required under Section 59-2-311 is an administrative function of the elected assessor.

(a) There are no specific licensure, certification, or educational requirements related to this function.

(b) An elected assessor may complete and deliver the assessment roll as long as the valuations and appraisals included in the assessment roll were completed by persons having the required designations.

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment:
~~September 21, 2006~~**2007**
Notice of Continuation: April 5, 2002
Authorizing, and Implemented or Interpreted Law: 59-2-701; 59-2-702

◆ ————— ◆

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 January 2, 2007. At its option, the agency may hold public hearings.

From the end of the waiting period through March 31, 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.

**Commerce, Occupational and
Professional Licensing
R156-11a
Cosmetologist/Barber, Esthetician,
Electrologist, and Nail Technician
Licensing Act Rules**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 29013
Filed: 11/13/2006, 14:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a public rule hearing, comments received during the rule hearing, and further Division review, additional amendments are being proposed.

SUMMARY OF THE RULE OR CHANGE: In Section R156-11a-302a, all subsections that referenced a "theory and practical examination" the titles of the examinations have been split up into two separate subsections so that it is clear that two separate examinations are required, both a practical examination and a theory examination. In Section R156-11a-702, added in subsection (7) that high frequency or galvanic current and heat lamps are to be included in the curriculum. This addition makes the rule consistent with the statute requirements found in Subsection 58-11a-102(25)(e). In Subsections R156-11a-703(17) and (24), amendments are made regarding lymphatic massage and advanced mechanical and electrical devices to return wording to the rule which had previously been deleted in the original rule filing. In Subsection R156-11a-705(2)(c), changed the word "electrologist" to "cosmetologist/barber". (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the October 1, 2006, issue of the Utah State Bulletin, on page 5. 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 58-11a-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No additional costs will be incurred beyond those costs previously identified in the original proposed rule amendment filing.

❖ LOCAL GOVERNMENTS: The additional proposed changes do not apply to local governments; therefore, no costs or savings are anticipated. The proposed changes only apply to licensees and applicants for licensure as either a cosmetologist/barber, esthetician, electrologist, or nail technician.

❖ OTHER PERSONS: The Division anticipates no additional costs or savings beyond those previously identified in the original proposed rule filing as a result of these additional proposed amendments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates no additional costs or savings beyond those previously identified in the original proposed rule filing as a result of these additional proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change in proposed rule does not create any fiscal impact to businesses. 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:

Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@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 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/10/2007

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-11a. Cosmetologist/Barber, Esthetician, Electrologist, and
Nail Technician Licensing Act Rules.
R156-11a-302a. Qualifications for Licensure - Examination
Requirements.**

In accordance with Section 58-11a-302, the various examination requirements for licensure are established as follows:

- (1) Applicants for licensure as a cosmetologist/barber shall:
 - (a) pass the Utah Cosmetology/Barber Theory Examination with a score of at least 75%; and
 - (b) pass the Utah Cosmetology/Barber Practical Examination with a score of at least 75%; or
 - (~~b~~c) pass any cosmetology/barber theory and practical examination approved by the licensing authority of another state.
- (2) Applicants for licensure as a cosmetologist/barber instructor shall:
 - (a) pass the Utah Cosmetologist/Barber Instructor Licensing Examination with a score of at least 75%; or
 - (b) pass any cosmetology/barber instructor examination approved by the licensing authority of another state.

- (3) Applicants for licensure as an electrologist shall:
- (a) pass the Utah Electrologist Theory Examination with a score of at least 75%; and
 - (b) pass the Utah Electrologist Practical Examination with a score of at least 75%; or
 - (~~b~~) pass any electrologist theory and practical examination approved by the licensing authority of another state.
- (4) Applicants for licensure as an electrologist instructor shall:
- (a) pass the Utah Electrologist Instructor Examination with a score of at least 75%; or
 - (b) pass any electrology instructor examination approved by the licensing authority of another state.
- (5) Applicants for licensure as an esthetician shall:
- (a) pass the Utah Esthetics Theory Examination with a score of at least 75%; and
 - (b) pass the Utah Esthetics Practical Examination with a score of at least 75%; or
 - (~~b~~) pass an esthetics theory and practical examination approved by the licensing authority of another state.
- (6) Applicants for licensure as a master esthetician shall:
- (a) pass the Utah Master Esthetician Theory Examination with a score of at least 75%; and
 - (b) pass the Utah Master Esthetician Practical Examination with a score of at least 75%; or
 - (~~b~~) pass a master esthetician theory and practical examination approved by the licensing authority of another state.
- (7) Applicants for licensure as an esthetician instructor shall:
- (a) pass the Utah Esthetician Instructor Examination with a score of at least 75%; or
 - (b) pass any esthetician instructor examination approved by the licensing authority of another state.
- (8) Applicants for licensure as a nail technician shall:
- (a) pass the Utah Nail Technician Theory Examination with a score of at least 75%; and
 - (b) pass the Utah Nail Technician Practical Examination with a score of at least 75%; or
 - (~~b~~) pass a nail technician theory and practical examination approved by the licensing authority of another state.
- (9) Applicants for licensure as a nail technician instructor shall:
- (a) pass the Utah Nail Technician Instructor Examination with a score of at least 75%; or
 - (b) pass any nail technology instructor examination approved by the licensing authority of another state.

R156-11a-702. Curriculum for Esthetics School - Esthetician Programs.

In accordance with Subsection 58-11a-302(10)(c)(iv), the curriculum for an esthetics school esthetician program shall consist of 600 hours of instruction in the following subject areas:

- (1) introduction consisting of:
 - (a) history of esthetics; and
 - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) sterilization methods and procedures; and
 - (c) health risks to the esthetician;
- (3) business and salon management including:
 - (a) developing a clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;

- (e) public relations; and
- (f) advertising.
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of the skin including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
- (7) implements, tools, and equipment for esthetics including:
 - (a) high frequency or galvanic current; and
 - (b) heat lamps;
- (8) first aid;
- (9) anatomy;
- (10) basic science of esthetics;
- (11) analysis of the skin;
- (12) physiology of the skin;
- (13) facials, manual and mechanical;
- (14) limited chemical exfoliation including:
 - (a) pre-exfoliation consultation;
 - (b) post-exfoliation treatments; and
 - (c) chemical reactions;
- (15) chemistry for esthetics;
- (16) temporary removal of superfluous hair by waxing;
- (17) treatment of the skin;
- (18) packs and masks;
- (19) Aroma therapy;
- (20) application of makeup including:
 - (a) application of false eyelashes;
 - (b) arching of the eyebrows; and
 - (c) tinting of the eyelashes and eyebrows;
- (21) medical devices;
- (22) cardio pulmonary resuscitation (CPR);
- (23) basic facials;
- (24) chemistry of cosmetics;
- (25) skin treatments with and without machines;
- (26) manual lymphatic massage of the face and neck;
- (27) pedicures;
- (28) elective topics; and
- (29) Utah Esthetic Examination review.

R156-11a-703. Curriculum for Esthetics School -- Master Esthetician Programs.

In accordance with Subsection 58-11a-302(10)(c)(iv), the curriculum for an esthetics school master esthetician program shall consist of 1,200 hours of instruction, 600 of which consist of the curriculum for an esthetician program, the remaining 600 of which shall be in the following subject areas:

- (1) introduction consisting of:
 - (a) history of master esthetics; and
 - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) sterilization methods and procedures; and
 - (c) health risks to the master esthetician;
- (3) business and salon management consisting of:
 - (a) developing clients;

- (b) professional image;
- (c) professional ethics;
- (d) professional associations;
- (e) advertising; and
- (f) public relations;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) the human immune system;
- (6) diseases and disorders of the skin including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) contamination; and
 - (e) infection controls;
- (7) implements, tools and equipment for master esthetics;
- (8) first aid;
- (9) anatomy;
- (10) basic science of master esthetics;
- (11) analysis of the skin;
- (12) physiology of the skin;
- (13) advanced facials, manual and mechanical;
- (14) chemistry for master esthetics;
- (15) advanced chemical exfoliation, including:
 - (a) pre-exfoliation consultation;
 - (b) post-exfoliation treatments; and
 - (c) reactions;
- (16) temporary removal of superfluous hair by waxing and advanced waxing;
- (17) 200 hours of instruction in lymphatic massage by manual or other means ~~[consisting of]~~ including:
 - (a) anatomy and physiology of the lymphatic system to consist of 40 hours of training;
 - (~~a~~)b) manual lymphatic massage of the full body ~~[including the face and neck; and]~~ to consist of 40 hours of training;
 - (~~b~~)c) lymphatic massage by other means, including but not limited to, suction assisted massage or pressure assisted therapy equipment to consist of 60 applications of one hour each;
 - (18) advanced pedicures;
 - (19) advanced Aroma therapy;
 - (20) the aging process and its damage to the skin;
 - (21) medical devices;
 - (22) cardio pulmonary resuscitation (CPR) training;
 - (23) hydrotherapy;
 - (24) advanced mechanical and electrical devices including instruction in using:
 - (a) ~~[mechanical]~~ sanding and microdermabrasion techniques; ~~[consisting of:]~~
 - (~~a~~)b) ~~[electrical devices which use]~~ galvanic or high-frequency current for treatment of the skin;
 - (~~b~~)c) ~~[a-]~~ devices equipped with a brush to cleanse the skin; ~~[~~
 - (e) ~~an electrical device which uses galvanic current for the treatment of the skin;]~~
 - (d) ~~[a device which applies]~~ devices that apply a mixture of steam and ozone to the skin;
 - (e) ~~[a device which is used to]~~ devices that spray water and other liquids on the skin ~~[to stimulate circulation in the skin];~~ and
 - (f) any other mechanical devices, ~~[other]~~ esthetic preparations or procedures approved by the division in collaboration with the

- board for the care and treatment of the skin ~~[which is approved by the division in collaboration with the board];~~
- (25) elective topics; and
- (26) Utah Master Esthetician Examination review.

R156-11a-705. Curriculum for Cosmetology/Barber Schools.

In accordance with Subsection 58-11a-302(3)(c)(iv), the curriculum for a cosmetology/barber school shall consist of 2,000 hours of instruction, 600 of which shall consist of the curriculum for an esthetics school esthetician program; 200 of which shall consist of the curriculum for a nail technology school; and the remaining 1,200 hours shall be in the following subject areas:

- (1) introduction consisting of:
 - (a) history of cosmetology/barbering, esthetics, nail technology; and
 - (b) overview of the cosmetology/barber curriculum;
- (2) personal, client and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) sterilization methods and procedures;
 - (c) health risks to the ~~[electrologist]~~ cosmetologist/barber;
- (3) business and salon management including:
 - (a) developing clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of skin, nails, hair, and scalp including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
 - (7) implements, tools and equipment for cosmetology, barbering, esthetics and nail technology;
 - (8) first aid;
 - (9) anatomy;
 - (10) basic science of cosmetology/barbering;
 - (11) analysis of the skin, hair and scalp;
 - (12) physiology of the human body;
 - (13) electricity and light therapy;
 - (14) limited chemical exfoliation;
 - (15) chemistry for cosmetology/barbering, esthetics and nail technology;
 - (16) temporary removal of superfluous hair;
 - (17) properties of the hair, skin and scalp;
 - (18) basic hairstyling including:
 - (a) wet and thermal styling;
 - (b) permanent waving;
 - (c) hair coloring;
 - (d) chemical hair relaxing; and
 - (e) thermal hair straightening;
 - (19) men and women's haircuts including:
 - (a) draping;

- (b) clipper variations;
- (c) scissor cutting;
- (d) shaving; and
- (e) wigs and artificial hair;
- (20) razor cutting for men;
- (21) mustache and beard design;
- (22) elective topics; and
- (23) Utah Cosmetology/Barber Examination review.

KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians
Date of Enactment or Last Substantive Amendment: ~~2006~~2007
Notice of Continuation: July 11, 2002
Authorizing, and Implemented or Interpreted Law: 58-11a-101; 58-1-106(1)(a); 58-1-202(1)(a)



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).

Commerce, Occupational and Professional Licensing **R156-55a** Utah Construction Trades Licensing Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29198
FILED: 11/08/2006, 13:20

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 58-55-301(2) provides for the licensure of contractors. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-55-103(1)(b) provides the Construction Services Commission shall, with the concurrence of the division director, make reasonable rules to administer and enforce this chapter. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to contractors.

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 January 2002, it has been amended several times. However, the Division has received no written comments with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule 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 55, with respect to contractors. 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:

Dennis Meservy at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 11/08/2006



Commerce, Occupational and Professional Licensing **R156-55b** Electricians Licensing Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29199
FILED: 11/08/2006, 13:24

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 58-55-301(2) provides for the licensure of various classifications of electricians. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-55-201(2) provides that the Electricians Licensing Board's duties and responsibilities include recommending to the commission appropriate rules. Subsection 58-55-103(1)(b)(i) provides the Construction

Services Commission shall with the concurrence of the division director make reasonable rules. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to electricians.

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 January 2002, it has been amended two times. However, the Division has received no written comments with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule 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 55, with respect to electricians. 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:
 Dennis Meservy at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 11/08/2006



Commerce, Occupational and
 Professional Licensing
R156-55c
 Construction Trades Licensing Act
 Plumber Licensing Rules

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 29200
 FILED: 11/08/2006, 13:26

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: Subsection 58-55-301(2) provides for the licensure of plumbers. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-55-201(2) provides that the Plumbers Licensing Board's duties and responsibilities include recommending to the commission appropriate rules. Subsection 58-55-103(1)(b)(i) provides the Construction Services Commission shall, with the concurrence of the division director, make reasonable rules. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to plumbers.

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 January 2002, it has been amended once. However, the Division has received no written comments with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule 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 55, with respect to plumbers. 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:
 Dennis Meservy at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 11/08/2006



School and Institutional Trust Lands,
 Administration
R850-8
 Adjudicative Proceedings

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 29195
 FILED: 11/06/2006, 08:16

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53C-1-304 requires the Board of Trustees for the School and Institutional Trust Lands Administration to establish due process rules for the resolution of conflicts regarding actions by the board, director, and the agency. This rule provides procedures for aggrieved parties to petition for administrative or judicial review of actions taken by the board or agency.

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 comments have been received concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There continues to be a need for a mechanism for aggrieved parties to petition for redress of agency/board actions which affect an interest held by the parties. This rule provides a reasonable and effective

way to address challenges to agency actions. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
Room 500
675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John W. Andrews at the above address, by phone at 801-538-5180, by FAX at 801-355-0922, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 11/06/2006



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF EXPIRED RULES

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 (Section 63-46a-9). 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 (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63-46a-9. These rules have expired and have been removed from the *Utah Administrative Code*. The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63-46a-9(8).

Money Management Council

Administration

No. 29221 (filed 11/14/2006 at 2:11 p.m.): R628-17. Limitations on Commercial Paper and Corporate Notes.

ENACTED OR LAST REVIEWED: 11/09/2001 (No. 24201, 5YR, filed 11/09/2001 at 3:30 p.m., published 12/01/2001).

EXPIRED: 11/10/2006

(DAR NOTE: See the proposed new rule filing for Rule R628-17 under DAR No. 29222 in this issue, December 1, 2006, of the Bulletin.)

End of the Notices of Expired Rules 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*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Commerce

Administration

No. 29014 (AMD): R151-33-403. Additional Procedures for Immediate License Suspension.
Published: October 1, 2006
Effective: November 8, 2006

Education

No. 29038 (AMD): R277-419. Pupil Accounting.
Published: October 1, 2006
Effective: November 9, 2006

No. 29039 (AMD): R277-422. State Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvement Programs.
Published: October 1, 2006
Effective: November 9, 2006

No. 29040 (NEW): R277-604. Private School, Home School, Electronic High School (EHS), and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests.
Published: October 1, 2006
Effective: November 9, 2006

No. 29041 (AMD): R277-616. Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students.
Published: October 1, 2006
Effective: November 9, 2006

Health

Health Systems Improvement, Child Care Licensing
No. 28733 (R&R): R430-100. Child Care Center.
Published: June 1, 2006
Effective: December 30, 2006

No. 28733 (CPR): R430-100. Child Care Center.
Published: September 1, 2006
Effective: December 30, 2006

Professional Practices Advisory Commission

Administration

No. 29037 (AMD): R686-100. Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings.
Published: October 1, 2006
Effective: November 9, 2006

Public Safety

Fire Marshal

No. 29042 (AMD): R710-6. Liquefied Petroleum Gas Rules.
Published: October 1, 2006
Effective: November 8, 2006

No. 29044 (AMD): R710-10. Rules Pursuant to Fire Service Training, Education, and Certification.
Published: October 1, 2006
Effective: November 8, 2006

No. 29043 (NEW): R710-11. Fire Alarm System Inspecting and Testing.
Published: October 1, 2006
Effective: November 8, 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 November 15, 2006, the effective dates of which are no later than December 1, 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/>).

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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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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<u>utah.gov</u> Governor, Planning and Budget, Chief Information Officer	28790	R365-4	NSC	06/22/2006	Not Printed
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<u>utility rules</u> Transportation, Preconstruction	28360	R930-6	AMD	01/27/2006	2005-24/31
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	28570	R477-7	AMD	07/01/2006	2006-8/36
	28690	R477-7	AMD	07/01/2006	2006-10/47
	28571	R477-7	EMR	04/01/2006	2006-8/64
<u>victim compensation</u> Crime Victim Reparations, Administration	28355	R270-1	AMD	01/04/2006	2005-23/6
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	28473	R270-1-4	NSC	02/22/2006	Not Printed
	28984	R270-1-24	AMD	10/23/2006	2006-18/11
	28868	R270-2	5YR	07/03/2006	2006-15/27
<u>victims of crime</u> Crime Victim Reparations, Administration	28355	R270-1	AMD	01/04/2006	2005-23/6
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	28868	R270-2	5YR	07/03/2006	2006-15/27
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	28930	R313-14	AMD	10/20/2006	2006-17/24
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	28942	R657-26	AMD	10/24/2006	2006-18/32
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