

UTAH STATE BULLETIN

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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <http://www.rules.utah.gov/>

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

Division of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 02, 2013, 12:00 a.m., and February 15, 2013, 11:59 p.m. are included in this, the March 01, 2013 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 Rules being repealed are completely struck out.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 between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. 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 April 1, 2013. The agency may accept comment beyond this date and will indicate 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 hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through June 29, 2013, 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 OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** 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 63G-3-301; 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

Agriculture and Food, Animal Industry
R58-1
Admission and Inspection of Livestock,
Poultry, and Other Animals

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37262

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add definitions and make modifications to the rule that are needed since the last revision. Subsections and definitions were modified so they are consistent with DAR guidelines.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) added "Identification" to the title to reflect the addition of language to conform with the Federal Animal Disease Traceability Rule that goes into law on 03/11/2013; 2) renumbered subsections to conform to required rule format; 3) edited definitions that conform to standard formatting; 4) added definitions for: Animal Identification Number (AIN), Approved livestock facility, Approved tagging site, Certificate of Veterinary Inspection, Dairy Cattle, designated brucellosis surveillance area, Exotic animal, Flock-based number system, Flock Identification Number (FIN), Group/Lot Identification Number (GIN), Import permit, Interstate movement, Location Identification (LID) Number, National Uniform Eartagging System (NUES) Official eartag, Official eartag shield, Official identification device or method, Official identification number, Officially identified, Premises Identification Number (PIN) Suspect, United States Department of Agriculture (USDA) approved backtag, and Zoological animal; 5) added Section R58-1-3. Official Identification Devices and Methods; 6) renumbered Section R58-1-3 to R58-1-4; 7) renumbered Section R58-1-4 to R58-1-5; 8) added Subsection R58-1-5(a) "Failure to obtain written permission may result in a citation."; 9) added to Subsection R58-1-5(3) that a Certificate of Veterinary Inspection must be submitted to the Department "within 7 calendar days from date on which the Certificate of Veterinary Inspection or other document is received or issued"; 10) added Subsection R58-1-5(6) "Certificate of Veterinary Inspection are considered valid for 30 days from the date of inspection."; 11) renumbered Section 58-1-5 to R58-1-6; 12) Subsection R58-1-6(2)(ii) now allows individual identification to be included on "A copy of the official brucellosis or tuberculosis test sheets must be stapled to each copy of the Certificate of Veterinary Inspection"; 13) Subsection R58-1-7(a) now requires all cattle and bison heifers that are between 4 to 12 months of age to be vaccinated for brucellosis; 14) Subsection R58-1-7(a) now requires all cattle and bison cattle that are over 12 months of age to be vaccinated for brucellosis or tested negative (new

option); 15) Subsection R58-1-7(d) now requires all cattle and bison cattle that are over 12 months of age to be tested negative for brucellosis if coming from a designated brucellosis surveillance area; 16) renumbered Section R58-1-6 to R58-1-7; 17) Subsection R58-1-7(4) now requires all stallions and semen imported into Utah to have an import permit issued (prior requirement was for EVA positive stallions and semen only); 18) renumbered Section R58-1-7 to R58-1-8; 19) renumbered Section R58-1-8 to R58-1-9; 20) renumbered Section R58-1-9 to R58-1-10 and added import requirement for poultry to this section; 21) renumbered Section R58-1-10 to R58-1-11 and required an import permit for all goat and camelids. Also required all goats and sheep that enter the State to comply with federal scrapie identification requirements; 22) renumbered Section R58-1-11 to R58-1-12 and removed the requirement for obtaining an import permit from psittacine and passerine birds and raptors; 23) renumbered Section R58-1-12 to R58-1-13 and added "All dogs, cats and ferrets over three months of age must be currently vaccinated against rabies before entering Utah" to clarify the age of vaccination requirement. Also, added a prohibition that puppies and kittens that are less than 8 weeks of age cannot be imported into Utah unless accompanied by the mother; 24) added Section R58-1-14 that cover exotic animals; 25) renumbered Section R58-1-13 to R58-1-15; 26) renumbered Section R58-1-13a to R58-1-16; 27) renumbered Section R58-1-14 to R58-1-17; 28) renumbered Section R58-1-15 to R58-1-18; and 29) renumbered Section R58-1-16 to R58-1-19.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(c)(i) and Subsection 4-2-2(1)(j) and Title 4, Chapter 31

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The changes to Rule R58-1 will not change the state budget. Although, by not requiring import permits on exotic animals, Division of Animal Industry personnel will be freed up to conduct other duties more efficiently.
- ◆ **LOCAL GOVERNMENTS:** This rule has only affected local government when a case was brought before a judge. This has only occurred once in the last ten years so the Division does not expect this rule change to affect local government.
- ◆ **SMALL BUSINESSES:** The rule change will affect buyers of cattle at livestock markets out of state in that they will no longer be required to have cattle tested for brucellosis when bringing cattle into the State of Utah. Veterinarians will no longer be required to call the Division of Animal Industry for an import permit on those animals that have had that requirement removed. Requiring import permits on meat goats and camelids, as well as stallions will not affect veterinarians to a great extent as fewer are imported into Utah. The biggest effect on small businesses (livestock and poultry producers and veterinarians) will be in complying with the Federal Animal Disease Traceability Rule that will go into law on 03/11/2013. The Department hopes to lower those

costs in providing identification devices and other tools at no or low cost.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change will not affect any other entities other than those individuals businesses listed under "Small businesses" above.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will be reduced overall for importation of animals into Utah with the greatest impact being seen for cattle imported from an auction market in a brucellosis free state (at the present time all states are brucellosis free). The costs associated with compliance to the Federal Animal Disease Traceability rule will be determined as it goes into law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to Rule R58-1 will have minimal impact on businesses, except that cattle dealers and producers will see a marked reduction in costs associated with testing of cattle for brucellosis at out-of-state auction markets and sales. This rule change was presented to the Agricultural Advisory Board on 01/22/2013 and approved.

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Bruce King by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at bking@utah.gov
◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
◆ Wyatt Frampton by phone at 801-538-7165, by FAX at 801-538-7169, or by Internet E-mail at wframpton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/08/2013

AUTHORIZED BY: Leonard Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-1. Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals.

R58-1-1. Authority.

(1)[A-] Promulgated under the authority of Title 4, Chapter 31 and Subsections 4-2-2(1)(c)(i), 4-2-2(1)(j).

(2)[B-] It is the intent of these rules to eliminate or reduce the spread of diseases among animals by providing standards to be met in the movement of animals within the State of Utah (INTRASTATE) and the importation of animals into the state (INTERSTATE).

R58-1-2. Definitions.

(1)[A-] "Accredited Veterinarian" means a[—A] veterinarian approved by the Deputy Administrator of Veterinary Services (VS), Animal and Plant Health Inspection Services (APHIS), United States Department of Agriculture (USDA), in accordance with the provisions of 9 CFR 161 to perform functions required by cooperative State-Federal disease control and eradication programs.

(2) "Animal identification number (AIN)" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of 15 digits, with the first 3 being the country code (840 for the United States or a unique country code for any U.S. territory that has such a code and elects to use it in place of the 840 code).

(3)[B-] "Animals" means a[—A]ll vertebrates, except humans.

(4) "Approved livestock facility" means a stockyard, livestock market, buying station, concentration point, or any other premises under State or Federal veterinary inspection where livestock are assembled and that has been approved by the Department.

(5)[C-] "Approved Livestock Market" means a[—A] livestock market that is licensed by the Department under Title 4, Chapter 30, Livestock Markets[market which meets the requirements as outline in 9 CFR 78, which is incorporated by reference, Title 4, Chapter 30, Utah Code Unannotated and R58-7, Utah Administrative Code].

(6)[D-] "Approved Slaughter Establishment" means a[—A] State or Federally inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by State or Federal inspectors.

(7) "Approved tagging site" means a premises, authorized by Department, where livestock may be officially identified on behalf of their owner or the person in possession, care, or control of the animals when they are brought to the premises.

(8)[E-] "Brand Inspection Certificate" means a[—A]n official form, issued by a government agency or other agency responsible for animal identification in the state of origin, used to transfer title of livestock; listing the identification marks of the animals(s) as well as the consignor and consignee contact information.

(9)[F-] "Camelidae" means a[—A] term referring to members of the family of animals which for the purposes of these rules includes camels (*Camelus dromedarius* and *Camelus bactrianus*), llamas (*Lama glama*), alpacas (*Vicugna pacos*), guanacos (*Lama guanicoe*), and vicunas (*Vicugna vicugna*).

(10)[G-] "Captive Cervidae" means a[—A] term referring to members of the family of animals which for the purposes of these rules includes captive bred Caribou (Reindeer (*Rangifer tarandus*)), captive bred Elk (*Cervus canadensis nelsoni*), and captive bred Fallow deer (*Dama dama*) or any other captive bred cervidae allowed with permission from the S[s]tate V[eterinarian] and the Utah Division of Wildlife Resources.

(11) "Certificate of Veterinary Inspection" means an official paper or electronic form completed by an accredited veterinarian that

has examined the animal or animals listed on the certificate and has completed all disease testing or vaccinations as required.

(12)[H-] "Commuter herd[~~eattle~~]" means a ~~a[-A]~~ herd of cattle located in two or more states that is documented as a valid ranching operation by those states in which the herd is located and which requires movement of cattle interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premise owned, leased, or rented by the same individual.

(13) "Commuter herd agreement" means a written agreement between the owner(s) of a herd of cattle and the animal health officials for the States or Tribes of origin and destination, specifying the conditions required for the interstate movement from one premises to another in the course of normal livestock management operations and specifying the time period, up to 1 year, that the agreement is effective. A commuter herd agreement may be renewed annually.

(14) "Dairy cattle" means all cattle, regardless of age or sex or current use, that are of a breed(s) used to produce milk or other dairy products for human consumption, including, but not limited to, Ayrshire, Brown Swiss, Holstein, Jersey, Guernsey, Milking Shorthorn, and Red and Whites.

(15)[F-] "Department" [-] means the Utah Department of Agriculture and Food.

(16) "Designated brucellosis surveillance area" means an area within a state that has been designated by the animal health official of that state as an area of increased disease risk for bovine brucellosis.

(17)[F-] "Direct Movement" [-] means the ~~m[M]~~ovement in which the animals are not unloaded enroute to their final destination, except for stops of less than 24 hours to feed, water, or rest the animals being moved, and not commingled with another producer's animals.

(18) "Exotic animal" means a rare or unusual animal pet or an animal, not commonly thought of as a pet, kept within a human household. For this chapter, rodents, reptiles, and amphibians are considered exotic animals.

(19)[K-] "Exposed"[Animal, "Reactor", "Suspect",] means an animal that has been in contact with or on the same premises of or within a quarantine zone where animals with a contagious or communicable disease are present[as defined in the United States Department of Agriculture, Animal and Plant Health Inspection Service and Veterinary Services Brucellosis Eradication Uniform Methods and Rules, and 9 CFR 78].

(20)[E-] "Farm of Origin" [-For the purposes of this rule,-] means the farm where the animal was born and remain prior to importation into the state.

(21) "Flock-based number system" means the flock-based number system that combines a flock identification number (FIN) with a producer's unique livestock production numbering system to provide a nationally unique identification number for an animal.

(22) "Flock identification number (FIN)" means a nationally unique number assigned by a State, Tribal, or Federal animal health authority to a group of animals that are managed as a unit on one or more premises and are under the same ownership.

(23) "Group/lot identification number (GIN)" means the identification number used to uniquely identify a "unit of animals" of the same species that is managed together as one group throughout the preharvest production chain.

(24) "Import Permit" means a number given by the Department to the issuing veterinarian that is recorded on the certificate of veterinary inspection and is required before movement of the animals into the state.

(25) "Interstate movement" means movement of animals from one State into or through any other State.

(26)[M-] "Livestock Market Veterinarian" means a[-A] Utah licensed and USDA accredited veterinarian appointed by the Utah Department of Agriculture and Food to work at approved[in] livestock markets[- in livestock health and movement matters].

(27) "Location identification (LID) number" means a nationally unique number issued by a State, Tribal, and/or Federal animal health authority to a location as determined by the State or Tribe in which it is issued. The LID number may be used in conjunction with a producer's own unique livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal. It may also be used as a component of a group/lot identification number (GIN).

(28) "National Uniform Eartagging System (NUES)" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal.

(29)[N-] "Official Calfhood Vaccine" means [-F]female bison or cattle vaccinated by a USDA Veterinary Services representative, State certified technician, or accredited ~~v[V]~~eterinarian with an approved dose of RB51 ~~v[V]~~accine or other USDA approved agent while from 4 to 12 months of age in accordance with its labeling. These cattle must be properly identified by official tattoos and ear tag or registration tattoo and be reported on an official vaccination certificate (VS Form 4-24) within 30 days to the State Veterinarian.

(30) "Official eartag" means an identification tag approved by the Department that bears an official identification number for individual animals. The official eartag must be tamper-resistant and have a high retention rate in the animal.

(31) "Official eartag shield" means the shield-shaped graphic of the U.S. Route Shield with "U.S." or the State postal abbreviation or Tribal alpha code imprinted within the shield.

(32) "Official identification device or method" means a means approved by the Department of applying an official identification number to an animal of a specific species or associating an official identification number with an animal or group of animals of a specific species or otherwise officially identifying an animal or group of animals.

(33) "Official identification number" means a nationally unique number that is permanently associated with an animal or group of animals.

(34) "Officially identified" means identified by means of an official identification device or method approved by the Department.

(35)[O-] "Poultry" [-The term shall-] means domestic fowl (chickens, turkeys, ducks, geese, and guinea and pea fowl), pigeons and doves, pheasants and other gamebirds, [domestic fowl, waterfowl] and raites[gamebirds].

(36) "Premises identification number (PIN)" means a nationally unique number assigned by a State, Tribal, and/or Federal animal health authority to a premises that is, in the judgment of the State, Tribal, and/or Federal animal health authority a geographically distinct location from other premises.

(37)[P:] "Qualified Feedlot" means a~~[-A]~~ feedlot approved by the Utah Department of Agriculture and Food to handle heifers, cows or bulls which are either official calfhood vaccinated, or brucellosis unvaccinated animals confined to a drylot area which is used to upgrade or finish feeding animals going only to slaughter or another qualified feedlot. All such animals must be kept separate from other animals not destined for slaughter.

(38)[Q:] "Quarantine" means a~~[-A]~~ verbal or written restriction of movement of animals into or out of an area or premise, issued by a State Animal Health Official~~[representative of the Utah Department of Agriculture and Food under authority of the Commissioner of Agriculture]~~.

(39)[R:] "Reactor~~[Reportable Disease List]~~" means ~~[-A]~~ any animal that has been determined by a designated brucellosis epidemiologist to be infected with brucellosis based on test results, herd/flock history, and/or culture results~~[list of diseases and conditions that may affect the health and welfare of the animals or the public which are reportable to the state veterinarian]~~.

(40) "Suspect" means any animal that may be infected with a contagious, infectious, or communicable disease based on test results and/or herd/flock history.

(41)[S:] "Test Eligible Cattle and Bison" means a~~[-A]~~ll cattle or bison six months of age or older, except:

1. Steers, spayed heifers;
2. Official calfhood vaccinates of any breed under 24 months of age which are not parturient, springers, or post parturient~~;~~
- ~~3. Official calfhood vaccinates, dairy or beef breeds of any age, which are Utah Native origin.~~
4. Utah Native Bulls from non-infected herds].

(42) "United States Department of Agriculture (USDA) approved backtag" means a backtag issued by APHIS that provides a temporary unique identification for each animal.

(43) "Zoological animal" means an animal kept at a zoological garden (zoo) or other exhibition that is inspected on a regular basis by the United States Department of Agriculture.

R58-1-3. Official Identification Devices and Methods.

(1) Any State, Tribe, accredited veterinarian, or other person or entity who distributes official identification devices must maintain for 5 years a record of the names and addresses of anyone to whom the devices were distributed.

(2) An official identification number is a nationally unique number that is permanently associated with an animal or group of animals and that adheres to one of the following systems:

- (a) National Uniform Eartagging System (NUES).
- (b) Animal identification number (AIN).
- (c) Location-based number system.
- (d) Flock-based number system.
- (e) Any other numbering system approved by the animal health official of the state of origin for the official identification of animals.

(3) The Department has approved the following official identification devices or methods for the species listed.

(a) The Department may authorize the use of additional devices or methods for a specific species if the Department determines that such additional devices or methods will provide for adequate traceability.

(4) Cattle and bison that are required to be officially identified for interstate movement must be identified by means of:

~~(a) An official eartag; or~~

~~(b) Brands registered with a recognized brand inspection authority and accompanied by an official brand inspection certificate, when agreed to by the shipping and receiving State or Tribal animal health authorities; or~~

~~(c) Tattoos and other identification methods acceptable to a breed association for registration purposes, accompanied by a breed registration certificate, when agreed to by the shipping and receiving State or Tribal animal health authorities; or~~

~~(d) Group/lot identification when a group/lot identification number (GIN) may be used.~~

~~(5) Horses and other equine species that are required to be officially identified for interstate movement must be identified by one of the following methods:~~

~~(a) A description sufficient to identify the individual equine including, but not limited to, name, age, breed, color, gender, distinctive markings, and unique and permanent forms of identification when present (e.g., brands, tattoos, scars, cowlicks, blemishes or biometric measurements); or~~

~~(b) Electronic identification that complies with ISO 11784/11785; or~~

~~(c) Non-ISO electronic identification injected to the equine on or before June 30, 2013; or~~

~~(d) Digital photographs sufficient to identify the individual equine.~~

~~(6) Poultry that are required to be officially identified for interstate movement must be identified by one of the following methods:~~

~~(a) Sealed and numbered leg bands; or~~

~~(b) Group/lot identification when a group/lot identification number (GIN) may be used.~~

~~(7) Sheep and goats that are required to be officially identified for interstate movement must be identified by one of the following methods:~~

~~(a) Electronic implants when accompanied by a certificate or owner statement that includes the electronic implant numbers and the name of the chip manufacturer; or~~

~~(b) Official eartags, including tags approved for use in the Scrapie Flock Certification Program or APHIS-approved premises identification number eartags when combined with a unique animal identification number; or~~

~~(c) United States Department of Agriculture backtags or official premises identification backtags that include a unique animal identification number, when used on sheep or goats moving directly to slaughter and when applied within 3 inches of the poll on the dorsal surface of the head or neck; or~~

~~(d) Legible official registry tattoos that have been recorded in the book of record of a sheep or goat registry association when the animal is accompanied by either a registration certificate or a certificate of veterinary inspection.~~

~~(i) These tattoos may also be used as premises identification if they contain a unique premises prefix that has been linked in the National Scrapie Database with the assigned premises identification number of the flock of origin; or~~

~~(e) Premises identification eartags or tattoos, if the premises identification method includes a unique animal number or is combined with a flock eartag that has a unique animal number and the animal is accompanied by an owner statement; or~~

~~(f) Premises identification when premises identification is allowed and the animal is accompanied by an owner statement; or~~

~~(g) Any other official identification method or device approved by the animal health official of the state of origin.~~

~~(8) Swine that are required to be officially identified for interstate movement must be identified by one of the following methods:~~

~~(a) Official eartags; or~~

~~(b) United States Department of Agriculture backtags, when used on swine moving to slaughter; or~~

~~(c) Official swine tattoos, when used on swine moving to slaughter; or~~

~~(d) Ear notching when used on any swine, if the ear notching has been recorded in the book of record of a purebred registry association; or~~

~~(e) Tattoos on the ear or inner flank of any swine, if the tattoos have been recorded in the book of record of a swine registry association;~~

~~(f) For slaughter swine and feeder swine, an eartag or tattoo bearing the premises identification number assigned by the State animal health official to the premises on which the swine originated; or~~

~~(g) Any other official identification device or method that is approved by the animal health official of the state of origin; or~~

~~(h) Group/lot identification when a group/lot identification number (GIN) may be used.~~

~~(9) Captive cervids that are required to be officially identified for interstate movement must be identified by one of the following methods:~~

~~(a) Official eartag; and~~

~~(b) A tattoo that is placed peri-anally or inside the right ear and consist of a number assigned by the animal health official of the state of origin; or~~

~~(c) A microchip that has been placed in the right ear.~~

R58-1-4[3]. Intrastate Cattle Movement - Rules - Brucellosis.

~~(1)[A-] The State Veterinarian may require brucellosis testing of cattle, bison, and elk, moving intrastate as necessary to protect against potential disease threat or outbreak.~~

~~(2)[B-] Utah Department of Agriculture and Food Livestock Inspectors will help regulate [H]intrastate movement of cattle according to Brucellosis rules at the time of change of ownership inspection.~~

R58-1-5[4]. Interstate Importation Standards.

~~(1)[A-] No animal, poultry or bird of any species or other animal including wildlife, that is known to be affected with or has been exposed to a contagious, infectious or communicable disease, or that originates from a quarantined area, shall be shipped, transported or moved into the State of Utah until written permission for such entry is first obtained from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services Division, and the Utah Department of Agriculture and Food, State Veterinarian or Commissioner of Agriculture.~~

~~(a) Failure to obtain written permission may result in a citation.~~

~~(2)[B- Certificate of Veterinary Inspection.] An official Certificate of Veterinary Inspection issued by an accredited veterinarian is required for importation of all animals.~~

~~(3) A copy of the certificate shall be immediately forwarded to the Utah Department of Agriculture and Food by the issuing veterinarian or the animal health official of the state of origin within 7 calendar days from date on which the Certificate of Veterinary Inspection or other document is received or issued.~~

~~(4)[C-] Import p[P]ermits[-] for l[L]ivestock, poultry and other animals [import permits-] may be obtained[issued] by telephone or via the internet to the accredited veterinarian responsible for issuing a Certificate of Veterinary Inspection.~~

~~(5) Certificates of Veterinary Inspection are considered valid for 30 days from the date of inspection.~~

R58-1-6[5]. Cattle and Bison.

~~(1)[A-] A Certificate of Veterinary Inspection and an import permit must accompany all cattle and bison imported into the state.~~

~~(2)[B-] All cattle and bison must carry some form of individual identification as listed in R58-1-3(4).[-such as;~~

~~1. A brand registered with an official brand agency; or~~

~~2. An ear tag; or~~

~~3. A registration tattoo.]~~

~~(a)[4-] Individual identification must be listed on the Certificate of Veterinary Inspection.~~

~~(i) Official individual identification used for testing purposes must be shown on the Certificate of Veterinary Inspection; or~~

~~(ii) A copy of the official brucellosis or tuberculosis test sheets must be stapled to each copy of the Certificate of Veterinary Inspection.~~

~~(b)[5-] All cattle and bison imported into Utah from Canada, except those imported directly to slaughter, must be permanently branded with the letters CAN, not less than two (2) inches high nor more than three (3) inches high, placed high on the right hip.~~

~~(3)[C-] The import permit number must be listed on the Certificate of Veterinary Inspection.~~

~~(4)[D-] The following cattle are exempted from (1)[A-] above:~~

~~(a)[+ -] Cattle consigned directly to slaughter at an approved slaughter establishment; or[and]~~

~~(b)[2-] Cattle consigned directly to a State or Federal approved Auction Market.~~

~~(c)[3-] Movements under Subsections R58-1-5(4[Ð])(a[+]), and R58-1-5(4[Ð])(b[2]) must be in compliance with state and federal laws and regulations and must be accompanied by a weighbill, brand certificate, or similar document showing some form of positive identification, signed by the owner or shipper stating the origin, destination, number and description of animals and purpose of movement.~~

~~(d)[4-] Commuter cattle are exempt as outlined in Subsection R58-1-5(6[F]).~~

~~(5)[E-] A brand inspection certificate or proof of ownership, which indicates the intended destination, is required for cattle entering the state.~~

~~(6)[F-] Commuter cattle may enter Utah or return to Utah after grazing if the following conditions are met.~~

~~(a)[+ -] A commuter permit approved by the import state and the State of Utah must be obtained prior to movement into Utah. This will allow movements for grazing for the current season if the following conditions are met:~~

~~(i)[a-] All cattle shall meet testing requirements as to State classification for interstate movements as outlined in 9 CFR 1-78,~~

which is incorporated by reference; USDA, Animal and Plant Health Inspection Services, Brucellosis Eradication, Uniform Methods and Rules, October 1, 2003, and approved by cooperating States.

(ii)[b-] Commuter cattle shall not be mixed with quarantined, exposed, or suspect cattle nor change ownership during the grazing period.

(iii)[e-] All bulls used in the commuter herd must be tested annually for trichomoniasis as required by the S[s]tate of Utah.

(b)[2-] No quarantined, exposed or reactor cattle shall enter Utah.

(7)[G-] Prior to importation of cattle or bison into Utah the following health restrictions must be met.

(a)[1-] Bison and cattle[beef breed] heifers of vaccination age between four and 12 months must be officially calfhood vaccinated for brucellosis prior to entering Utah[~~—All female bison and beef breed cattle imported to Utah must have a legible brucellosis calfhood vaccination tattoo to be imported or sold into the State of Utah~~], unless:

- (i) going directly to slaughter, or
- (ii) qualified feedlot to be sold for slaughter, or
- (iii) to an approved livestock market to be sold for slaughter or for vaccination.

(iv)[a-] Bison and cattle[beef breed] heifers of vaccination age may be vaccinated upon arrival by special permit from the S[s]tate V[v]eterinarian.

(b) All female bison and cattle over 12 months of age imported to Utah must have evidence of a brucellosis calfhood vaccination tattoo to be imported or sold into the State of Utah, unless:

- (i) going directly to slaughter, or
- (ii) qualified feedlot to be sold for slaughter, or
- (iii) to an approved livestock market to be sold for slaughter, or
- (iv) tested negative for Brucella abortus within 30 days prior to entry.

~~[2- Test eligible cattle imported from states designated as brucellosis free, that are acquired directly from the farm of origin and moving directly to the farm of destination are not required to be tested for brucellosis prior to movement.~~

(c)[3-] Test eligible cattle imported from states designated as brucellosis free, but are coming from a designated brucellosis surveillance area within that state,~~[that are acquired through "trading channels", or any "non-farm of origin source"]~~ must be tested negative for brucellosis within 30 days prior to entry.

(i) Test eligible cattle may enter the state prior to testing with approval from the State Veterinarian but must be tested immediately upon arrival and the cattle must be kept isolated away from other cattle until tested negative.

(d)[4-] All test eligible cattle imported from states that have not been designated as brucellosis free must test negative for brucellosis within 30 days before movement into Utah.

(e)[5-] Exceptions to the above testing requirements include exhibition animals and t[F]est g[E]ligible c[E]attle imported to Utah and moving directly to:

- (i)[a-] an approved livestock market, or
- (ii)[b-] to a "qualified feedlot", or
- (iii)[e-] for immediate slaughter to an approved slaughter establishment.

(f)[6-] No reactor cattle, or cattle from herds under quarantine for brucellosis will be allowed to enter the state except

when consigned to an approved slaughter establishment. An import permit and a Veterinary Services Form 1-27 prior to shipment are also required.

(g)[7-] Entry of cattle which have been retattooed is not permitted unless they are moved for immediate slaughter to an approved slaughter establishment or to not more than one state or federal approved market for sale to a qualified feedlot or slaughtering establishment.

~~[8- Entry of cattle which have been adult vaccinated is not permitted unless they are for immediate slaughter to an approved slaughter establishment.~~

(h)[9-] A negative tuberculosis test is required within 60 days prior to shipment for all dairy cattle 2 months of age and older and bison 6 months of age and older.

(i)[10-] Breeding cattle originating within a quarantined area or from reactor or exposed herds and all cattle from an area which is not classified as Tuberculosis Free [~~according to 9 CFR, 77-~~] are required to be tested for tuberculosis within 60 days prior to entry to Utah.

(j)[11-] Rodeo bulls and roping steers must be tested annually during the calendar year for tuberculosis prior to entry to Utah.

(k)[12-] No cattle infested[affected] with, or exposed to scabies shall be moved into Utah. Cattle from a county where scabies has ~~ve~~ been diagnosed during the past 12 months must be officially treated within 10 days prior to shipment into Utah. The date of treating and products used must be shown on the Certificate of Veterinary Inspection.

(l)[13-] No cattle infested with ticks that can transmit splenic or tick fever, or exposed to tick infestations shall be imported into the State of Utah for any purpose.

(m)[14-] All bulls imported to Utah shall be in compliance with R58-21-3(A), which requires testing of all bulls over ~~twelve~~ ~~nine~~ months of age for t[F]richomoniasis prior to entry, with some exceptions which are for slaughter, rodeo, exhibition, and ~~[dairy]~~ bulls kept in confinement.

R58-1-7[6]. Horses, Mules, Asses, and Other Equidae.

(1)[A-] Equidae may be imported into the State of Utah when accompanied by an official Certificate of Veterinary Inspection.

(2)[B-] The Certificate of Veterinary Inspection must show a negative Equine Infectious Anemia (EIA)(Coggins - AGID or ELISA) test within one year previous to the time the certificate was issued.

(a)[1-] Entry of equidae into Utah shall not be allowed until the EIA test has been completed and reported negative.

(b)[2-] Equidae which test positive to the EIA test shall not be permitted entry into Utah, except by special written permission from the S[s]tate V[v]eterinarian.

(c)[3-] A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements.

(3)[C-] Utah horses returning to Utah as part of a commuter livestock shipment are exempted from the Certificate of Veterinary Inspection requirements; however, a valid Utah horse travel permit as outlined under Sections 4-24-22 or 4-24-23 and Section R58-9-4 is required for re-entering Utah.

(4)[D-] An import permit issued by the Department must accompany all stallions or semen.

(5) All stallions used for breeding that enter Utah or stallions whose semen will be shipped to Utah shall be tested for Equine Viral Arteritis (EVA) by an accredited veterinarian within 30 days prior to entry.

(a)[+]- Exceptions are stallions that have proof of negative EVA status prior to vaccination and proof of subsequent yearly vaccination.

(b)[2]- The EVA test or vaccination status must be recorded on the Certificate of Veterinary Inspection.

(c)[3]- Breeding stallions and semen infected with Equine Arteritis Virus must ~~[obtain a prior import permit and]~~ be handled only on an ~~a[A]~~ approved ~~f[F]~~ facility as required by R58-23.

R58-1-8[7]. Swine.

(1)[A]- Swine ~~[for stocking, breeding, feeding or exhibition]~~ may be shipped into the state if the following requirements are met:

(a)[+]- All swine must be accompanied by an approved Certificate of Veterinary Inspection stating they have not been fed raw garbage.

(i)[a]- The Certificate of Veterinary Inspection must show individual identification, ear tags, tattoos, registration numbers, micro[]chips or other permanent means.

(b)[2]- An import permit issued by the Department must accompany all swine imported into the state.

(c)[3]- All breeding and exhibition swine over the age of three months shipped into Utah shall be tested negative for brucellosis within 30 days prior to movement into the state or originate from a validated brucellosis free herd or brucellosis free state.

(i)[a]- A validated brucellosis free herd number and date of last test is required to be listed on the Certificate of Veterinary Inspection.

(ii)[b]- Swine from states with serious disease occurrences or known populations of feral or wild hogs may be required to be tested for Brucellosis prior to entry to Utah.

(d)[4]- All breeding, feeding and exhibition swine shall be tested negative for pseudorabies within thirty days unless they originate from a recognized qualified pseudorabies free herd or pseudorabies Stage V state.

(i)[a]- Swine that have been vaccinated with any pseudorabies vaccine shall not enter the state.

(ii)[b]- Swine which are infected or exposed to pseudorabies may not enter the state, except swine consigned to a slaughterhouse for immediate slaughter and must be moved in compliance with 9 CFR 71, which is incorporated by reference.

(iii)[e]- Swine from states with known populations of feral or wild hogs may be required to be tested for Pseudorabies prior to entry to Utah.

~~[B. Immediate Slaughter~~

~~1. Swine shipped into Utah for immediate slaughter must not have been fed raw garbage, must be shipped in for immediate slaughter with no diversions, and must be free from any infectious or contagious disease in compliance with 9 CFR 71, which is incorporated by reference.~~

(2)[C]- Prohibition of Non-domestic and Non-native Suidae and Tayassuidae

(a)[+]- Javelina or Peccary, and feral or wild hogs such as Eurasian or Russian wild hogs (*Sus scrofa*) are considered invasive species in Utah, capable of establishing wild reservoirs of disease such as brucellosis and pseudorabies.

(b)[2]- These animals are prohibited from entry to Utah except when approved by special application only for purposes of exhibition and after meeting the above testing requirements.

(c)[3]- Any person who imports Javelina, Peccary or feral or wild hogs such as Eurasian or Russian wild hogs (*Sus scrofa*) into Utah without prior approval by the Department shall be subject to citation and fines as prescribed by the ~~D[d]~~ department or may be called to appear before an administrative proceeding by the department.

R58-1-9[8]. Sheep.

(1)[A]- All sheep imported must be accompanied by a Certificate of Veterinary Inspection and an import permit.

(a)[+]- No sheep exhibiting clinical signs of blue tongue may enter Utah.

(b)[2]- Sheep must be thoroughly examined for evidence of foot rot and verified that they are free from foot rot.

(c)[3]- Sheep entering Utah must comply with federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(d)[4]- Sheep from scrapie infected, exposed, quarantined or source flocks may not be permitted to enter the state unless an official post-exposure flock eradication and control plan has been implemented.

(e)[5]- Breeding rams six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis free flock.

(i)[a]- Rams entering Utah for exhibition purposes only and returning immediately to their home state are exempt from the testing requirement.

R58-1-10[9]. Poultry.

(1) All poultry and hatching eggs being imported into Utah [the state shall comply with Title 4, Chapter 29 and R58-6 governing poultry which requires] must meet the following requirements:

(a) All poultry and hatching eggs must have an import permit from the Department.

(b) All poultry and hatching eggs entering Utah must have a Certificate of Veterinary Inspection or a National Poultry Improvement Plan VS Form 9-3.

(c) All poultry and hatching eggs shall originate from flocks or hatcheries that have a Pullorum-Typhoid Clean rating given by the official state agency of the National Poultry Improvement Plan (NPIP) of the state, or

(d) All poultry entering Utah from a flock or hatchery which does not have a clean rating through NPIP certification must have been tested negative for Pullorum-Typhoid within the last 30 days.

R58-1-11[0]. Goats and Camelids.

(1)[A]- Goats being imported into Utah must meet the following requirements:

(a)[+]- Dairy goats must have an import permit from the Department and an official Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and accredited tuberculosis free herd. Thereo; there must be no evidence of caseous lymphadenitis (abscesses).

(b)[2-] Meat type goats must have an import permit from the Department and an official[a] Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis (abscesses).

(c)[3-] Goats entering Utah must comply with F[f]ederal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

~~(d)[4-Exemption-]~~ Goats for slaughter may be shipped into Utah directly to an approved slaughter establishment or to an approved auction market without an official Certificate of Veterinary Inspection and an import permit but must comply with Federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(2)[B-] Camelids being imported into Utah must have an import permit from the Department and an official[a] Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and accredited tuberculosis free herd.

(3)[C-] Test eligible age for both brucellosis and tuberculosis shall be 6 months of age or older for both goats and camelids.

(4)[D-] Dairy goats and camelids entering Utah for exhibition purposes only and returning immediately to their home state are exempt from the testing requirement.

R58-1-12[4]. Psittacine and Passerine Birds and Raptors.

(1)[A-] No psittacine or passerine birds or raptors [~~offered for sale~~] shall be shipped into the State of Utah unless [~~an import permit is obtained from the Department prior to importation and~~] an official Certificate of Veterinary Inspection accompanies the birds.

~~1. Request for an import permit must be made by an accredited veterinarian certifying that the birds are free from any signs of any infectious, contagious or communicable disease.~~

(2)[-] The [~~request must state the~~]number and kinds of birds to be shipped into Utah, their origin, date to be shipped and destination[~~all~~]must be listed on the Certificate of Veterinary Inspection.

R58-1-13[2]. Dogs, ~~and~~ Cats, and Ferrets.

(1) All dogs, cats and ferrets [~~over three months of age~~] shall be accompanied by an official Certificate of Veterinary Inspection[~~showing vaccination against rabies~~].

(2) All dogs, cats and ferrets over three months of age must be currently vaccinated against rabies before entering Utah.

(a) The date of vaccination, name of product used, and expiration date must be written on the Certificate of Veterinary Inspection[given].

(3) No puppies or kittens less than 8 weeks of age shall be imported into the state unless accompanied by the mother.

R58-1-14. Exotic Animals.

(1) It is unlawful for any person to import into the State of Utah any species of exotic animal that is prohibited for importation or possession as listed in Utah Administrative Code R657-3.

(2) All exotic animals must be accompanied by an official Certificate of Veterinary Inspection.

R58-1-15[3]. Game and Fur-Bearing Animals.

(1)[A-] No game or fur bearing animals will be imported into Utah without an import permit being obtained from the Department.

(2)[B-] Each shipment shall be accompanied by an official Certificate of Veterinary Inspection.

(3)[C-] All mink entering Utah shall have originated on ranches where mink viral[us] enteritis has not been diagnosed or exposed to within the past three years.

R58-1-16[3a]. Captive Cervidae.

(1)[A-] All captive cervidae entering Utah must meet the following requirements:

(a)[+] No captive elk will be imported into Utah unless the destination premises is licensed with the Utah Department of Agriculture and Food.

(b)[2-] No captive caribou or fallow deer will be imported into Utah unless a Certificate of Registration (COR) has been obtained from the Utah Division of Wildlife Resources.

(c)[3-] No captive cervidae will be allowed to be imported into Utah that have originated from or have ever been east of the 100 degree meridian.

(d)[4-] All captive elk imported into Utah must meet the genetic purity requirement as referenced in Title 4, Chapter 39, Section 301, Utah Code Unannotated.

(e)[5-] All captive elk must meet the following Chronic Wasting Disease (CWD) requirements:

(i)[a-] Elk must come from a state with a USDA approved herd certification program[CWD free area].

(ii)[b-] Elk must originate from a herd that is not affected with or is a trace back or forward herd for CWD.

(iii)[e-] Elk must originate from a herd that has had a CWD herd surveillance program for 5 years prior to movement.

(f)[6-] All captive cervidae must be permanently identified using either a microchip or tattoo.

(g)[7-] All captive cervidae must have an import permit from the Department.

(h)[8-] All captive cervidae must have an official Certificate of Veterinary Inspection showing the following:

(i)[a-] A negative single cervical tuberculin test within 90 days of import.

(ii)[b-] Negative Brucella abortus test results from a single sample that has been tested by two USDA approved tests.

(iii)[e-] A[~~H~~]animal identification.

(iv)[d-] A statement that the animals listed on the certificate are not known to be infected with Johne's Disease (Paratuberculosis) or Malignant Catarrhal Fever and have never been east of the 100 degree meridian.

R58-1-17[4]. Zoological Animals.

(1)[A-] The entry of [~~common~~]zoological animals[~~such as monkeys, apes, baboons, rhinoceros, giraffes, zebras, elephants,~~] to be kept in zoological gardens, or shown at exhibitions is authorized when an import permit, subject to requirements established by the S[s]tate V[v]eterinarian, has been obtained from the Department and the animals are accompanied by an official Certificate of Veterinary Inspection.

(2) Movement of these animals must also be in compliance with the Federal Animal Welfare Act, 7 USC 2131-2159.

R58-1-18[5]. Wildlife.

(1)[A-] It is unlawful for any person to import into the State of Utah any species of live native or exotic wildlife except as provided in Title 23, Chapter 13 and Utah Administrative Code R657-3.

(2)[B-] All wildlife imports shall meet the same Department requirements as required for the importation of domestic animals.

R58-1-19[6]. Duties of Carriers.

Owners and operators of railroads, trucks, airplanes, and other conveyances are forbidden to move any livestock, poultry, or other animals into or within the State of Utah or through the State except in compliance with the provisions set forth in these rules.

(1)[A-] Sanitation. All railway cars, trucks, airplanes, and other conveyances used in the transportation of livestock, poultry or other animals shall be maintained in a clean, sanitary condition.

(2)[B-] Movement of Infected Animals. Owners and operators of railway cars, trucks, airplanes, and other conveyances that have been used for movement of any livestock, poultry, or other animals infected with or exposed to any infectious, contagious, or communicable disease as determined by the Department, shall be required to have cars, trucks, airplanes, and other conveyances thoroughly cleaned and disinfected under official supervision before further use is permissible for the transportation of livestock, poultry or other animals.

(3)[C-] Compliance with Laws and Rules. Owners and operators of railroad, trucks, airplanes, or other conveyances used for the transportation of livestock, poultry, or other animals are responsible to see that each consignment is prepared for shipment in keeping with the State and Federal laws and regulations. Certificate of Veterinary Inspection, brand certificates, and permits should be attached to the waybill accompanying the attendant in charge of the animals.

KEY: disease control, import requirements

Date of Enactment or Last Substantive Amendment: [~~March 24, 2011~~2013]

Notice of Continuation: January 18, 2012

Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(j)

Commerce, Occupational and
Professional Licensing
R156-67-306
Exemptions from Licensure

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37270

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Physicians Licensing Board

reviewed this rule and are proposing to delete a subsection in this section of the existing rule as it is unnecessary, confusing, and potentially beyond the Division's rulemaking authority.

SUMMARY OF THE RULE OR CHANGE: Subsection R156-67-306(2) is deleted and remaining subsections are renumbered. The concept covered in Subsection R156-67-306(2) is adequately addressed in Subsection 58-1-307(1)(c). The programs that are approved are addressed in the specific licensing statute and rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-67-101 and Subsection 58-1-106(1) and Subsection 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any printing and distribution costs incurred will be absorbed in the Division's current budget. The proposed amendment does not have compliance costs affiliated with it, but the deletion of the rule may cut costs for the Division. However, any potential cost savings for the Division cannot be estimated.

◆ LOCAL GOVERNMENTS: The proposed amendments only apply to licensed physicians/surgeons and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.

◆ SMALL BUSINESSES: The proposed amendments only apply to licensed physicians/surgeons and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only apply to licensed physicians/surgeons and applicants for licensure in that classification. The proposed amendments may affect some individuals that don't meet licensure requirements or approved residency program criteria. However, the Division is not able to determine potential costs to these individuals due to a wide range of varied circumstances.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed physicians/surgeons and applicants for licensure in that classification. The proposed amendments may affect some individuals that don't meet licensure requirements or approved residency program criteria. However, the Division is not able to determine potential costs to these individuals due to a wide range of varied circumstances.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this amendment is proposed to eliminate language that duplicates a statutory licensing exemption. No fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/08/2013

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-67. Utah Medical Practice Act Rule.

R156-67-306. Exemptions from Licensure.

In accordance with Subsection 58-1-307(1), exemptions from licensure as a physician and surgeon include the following:

(1) any physician exempted from licensure, who engages in prescribing, dispensing, or administering a controlled substance outside of a hospital, shall be required to apply for and obtain a Utah Controlled Substance License as a condition precedent to them administering, dispensing or prescribing a controlled substance;

(2) ~~any physician appointed to a graduate medical education or training program which is not accredited by the ACGME, for which exemption from licensure is requested under the provisions of Subsection 58-1-307(1)(e) shall apply for registration with and receive approval of the division and board as a condition precedent to that individual engaging in any activity included in the practice of medicine;~~

~~(3) any person engaged in a competent public screening program making measures of physiologic conditions including serum cholesterol, blood sugar and blood pressure, shall be exempt from licensure and shall not be considered to be engaged in the practice of medicine conditioned upon compliance with all of the following:~~

(a) all instruments or devices used in making measures are approved by the Food and Drug Administration of the U.S. Department of Health, to the extent an approval is required, and the instruments and devices are used in accordance with those approvals;

(b) the facilities and testing protocol meet any standards or personnel training requirements of the Utah Department of Health;

(c) unlicensed personnel shall not interpret results of measures or tests nor shall they make any recommendation with respect to treatment or the purchase of any product;

(d) licensed personnel shall act within the lawful scope of practice of their license classification;

(e) unlicensed personnel shall conform to the referral and follow-up protocol approved by the Utah Department of Health for each measure or test; and

(f) information provided to those persons measured or tested for the purpose of permitting them to interpret their own test results shall be only that approved by the Utah Department of Health;

([4]3) non-licensed public safety individuals not having emergency medical technician (EMT) certification who are designated by appropriate city, county, or state officials as responders may be issued and allowed to carry the Mark I automatic injector antidote kits and may administer the antidote to himself or his designated first response "buddy". Prior to being issued the kits, the designated responders must successfully complete a course on the use of auto-injectors. The kits may be issued to the responder only by his employing agency and procured through the Utah Department of Health.

KEY: physicians, licensing

Date of Enactment or Last Substantive Amendment: ~~[March 9, 2012]~~2013

Notice of Continuation: March 14, 2011

Authorizing, and Implemented or Interpreted Law: 58-67-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and
Professional Licensing
R156-68-306
Exemptions from Licensure

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37271

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division, Physicians Licensing Board, and Osteopathic Physician and Surgeon's Licensing Board reviewed this rule and are proposing to delete a subsection in this section of the existing rule as it is unnecessary, confusing, and potentially beyond the Division's rulemaking authority.

SUMMARY OF THE RULE OR CHANGE: Subsection R156-68-306(2) is deleted and remaining subsections are renumbered. The concept covered in Subsection R156-68-306(2) is adequately addressed in Subsection 58-1-307(1)(c). The programs that are approved are addressed in the specific licensing statute and rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-68-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any printing and distribution costs incurred will be absorbed in the Division's current budget. The proposed amendment does not have compliance costs affiliated with it, but the deletion of the rule may cut costs for the Division. However, any potential cost savings for the Division cannot be estimated.

◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed osteopathic physicians/surgeons and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed osteopathic physicians/surgeons and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to licensed osteopathic physicians/surgeons and applicants for licensure in that classification. The proposed amendments may affect some individuals that don't meet licensure requirements or approved residency program criteria. However, the Division is not able to determine potential costs to these individuals due to a wide range of varied circumstances.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed osteopathic physicians/surgeons and applicants for licensure in that classification. The proposed amendments may affect some individuals that don't meet licensure requirements or approved residency program criteria. However, the Division is not able to determine potential costs to these individuals due to a wide range of varied circumstances.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this amendment is proposed to eliminate language that duplicates a statutory licensing exemption. No fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/08/2013

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.**R156-68. Utah Osteopathic Medical Practice Act Rule.****R156-68-306. Exemptions From Licensure.**

In accordance with Subsection 58-1-307(1), exemptions from licensure as an osteopathic physician include the following:

(1) any physician exempted from licensure, who engages in prescribing, dispensing, or administering a controlled substance outside of a hospital, shall be required to apply for and obtain a Utah Controlled Substance License as a condition precedent to them administering, dispensing or prescribing a controlled substance;

(2) ~~any physician appointed to a graduate medical education or training program which is not accredited by the AOA or ACGME, for which exemption from licensure is requested under the provisions of Subsection 58-1-307(1)(c), shall apply for registration with and receive approval of the division and board as a condition precedent to that individual engaging in any activity included in the practice of osteopathic medicine;~~

~~(3) any person engaged in a competent public screening program making measures of physiologic conditions including serum cholesterol, blood sugar and blood pressure, shall be exempt from licensure and shall not be considered to be engaged in the practice of osteopathic medicine conditioned upon compliance with all of the following:~~

(a) all instruments or devices used in making measures are approved by the Food and Drug Administration of the U.S. Department of Health, to the extent approval is required, and the instruments and devices are used in accordance with those approvals;

(b) the facilities and testing protocol meet any standards or personnel training requirements of the Utah Department of Health;

(c) unlicensed personnel shall not interpret results of measures or tests nor shall they make any recommendation with respect to treatment or the purchase of any product;

(d) licensed personnel shall act within the lawful scope of practice of their license classification;

(e) unlicensed personnel shall conform to the referral and follow-up protocol approved by the Utah Department of Health for each measure or test; and

(f) information provided to those persons measured or tested for the purpose of permitting them to interpret their own test results shall be only that approved by the Utah Department of Health.

~~(4) non-licensed public officials not having emergency medical technician (EMT) certification who are designated by appropriate county officials as first responders may be issued and allowed to carry the Mark I automatic antidote injector kits and may administer the antidote to himself or his designated first response~~

"buddy". Prior to being issued the kits, the certified first responders would successfully complete the Army/FEMA course on the "Use of Auto-Injectors by Civilian Emergency Medical Personnel". The kits would be issued to the responder only by his employing government agency and procured through the Utah Division of Comprehensive Emergency Management. No other individuals, whether licensed or not, shall prescribe or issue these antidote kits.

KEY: osteopaths, licensing, osteopathic physician
Date of Enactment or Last Substantive Amendment: [~~March 9, 2012~~]**2013**
Notice of Continuation: March 27, 2008
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-68-101

Education, Administration **R277-445-3** Standards

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 37278
FILED: 02/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-445-3 is amended to remove Subsection R277-445-3(B) due to the Legislature determining that distributing a portion of the funds based on tax effort is inconsistent with Utah Code Section 53A-17a-109. The Legislature has a bill to sunset this section of the rule in the 2013 Legislative Session (see H.B. 256).

SUMMARY OF THE RULE OR CHANGE: Subsection R277-445-3(B) is removed from Rule R277-445 to meet the Legislature's concerns.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-17a-109(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Necessarily existent schools will continue to receive funding.
◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. Subsection R277-445-3(B) was not implemented so school districts with necessarily existent small schools will continue to receive funding as they did before Subsection R277-445-3(B) was added to the rule.
◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendment apply only to public schools and does not affect businesses.
◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than

small businesses, businesses, or local government entities. This rule and the amendment apply only to public schools and does not affect individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Subsection R277-445-3(B) is not a compliance issue.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-445. Classifying Small Schools as Necessarily Existent. R277-445-3. Standards.

A. A school may be classified as necessarily existent if it meets the following standards:

(1) the average daily membership for the school does not exceed:

- (a) 160 for elementary schools, including kindergarten at a weighting of .55 per average daily membership; or
- (b) 300 for one or two-year secondary schools; or
- (c) 450 for three-year secondary schools; or
- (d) 500 for four-year secondary schools; or
- (e) 600 for six-year secondary schools.

(2) the school meets the criteria of Subsection 3(A)(1) and one-way bus travel over Board approved bus routes for any student from the assigned school to the nearest school within the district of the same type requires:

- (a) students in kindergarten through grade six to travel more than 45 minutes;
- (b) students in grades seven through twelve to travel more than one hour and 15 minutes.

(3) the school meets the criteria of Subsection 3(A)(1) for grades K-6 if it is an elementary school or grades 7-12 if it is a secondary school except as provided below:

(a) schools with less than six grades are not recognized as necessarily existent small schools if it is feasible in terms of school plant to consolidate them into larger schools and if consolidated would not meet the criteria listed in Subsections 3(A)(1) and 3(A)(2) above;

(b) a secondary complex or attendance area which when analyzed on a 7-12 grade basis, meets the criteria of necessarily existent, shall not have its qualifying status invalidated by a reorganization pattern determined by a district;

(c) in unusual circumstances, where in the judgment of a panel of at least five USOE staff members designated by the Superintendent, the existing conditions warrant approval of a middle school, such a school may be designated by the Superintendent as a necessarily existent small school, provided it meets the criteria listed in Subsection 3(A)(1) above or 3(A)(4) below.

(4) the school meets the criteria of Subsection 3(A)(1), may not meet the criteria of Subsection 3(A)(2), but is in a district which has been consolidated to the maximum extent possible, and activities in cooperation with neighboring districts within or across county boundaries are appropriately combined;

(5) the school meets the criteria of Subsection 3(A)(1), does not meet the criteria of Subsections 3(A)(2), but there is evidence acceptable to the Superintendent of increased growth in the school sufficient to take it out of the small school classification within a period of three years.

(a) The school may be classified as necessarily existent until its ADM surpasses the size standard for small schools of the same type.

(b) The school's ADM shall be annually compared to the school's projected ADM to determine increases or decreases in enrollment.

(c) An increase in the school's ADM shall be 80 percent of the projected annual increase. If the assessment for the first or second year shows the increase in the ADM is less than 80 percent, the school shall no longer be classified as necessarily existent;

(6) the school meets both the criteria of Subsection 3(A)(1) and at least the accredited with comment level of Board accreditation standards (as provided in R277-410, R277-411, and R277-412), does not meet the criteria of Subsections 3(A)(2), 3(A)(3), 3(A)(4), or 3(A)(5), but there is evidence as determined by the Superintendent that consolidation may result in undesirable social, cultural, and economic changes in the community, and:

(a) the school has a safe and educationally adequate school facility with a life expectancy of at least ten years, as judged, at least every five years, by the USOE after consultation with the district; or

(b) the district shall incur construction costs by combining a school seeking necessarily existent small school status with an existing school and such construction and land costs exceed the insurance replacement value of the existing school by 30 percent. The existing school shall have a life expectancy of at least ten years. In the event that the ADM from the school seeking necessarily existent small school status when combined with the ADM at the existing school exceed criteria in R277-445-3A(1), the existing school would be disqualified.

(c) schools qualifying under standard (b) above shall be evaluated every five years.

(7) the school meets the criteria of Subsection 3(A)(1), does not meet the criteria of Subsections 3(A)(2), 3(A)(3), 3(A)(4), 3(A)(5), or 3(A)(6), and the removal of the necessarily existent status results in capital costs which the school district cannot meet within three years when utilizing all funds available from local, state, or federal sources or a combination of the sources.

~~[B. An amount not to exceed five percent of the total necessarily existent small schools funding shall be distributed on a formula that considers the tax effort of the local board of education.]~~

[C]B. Additional WPU funds allocated to school districts for necessarily existent small schools shall be utilized for programs at the school for which the units were allocated. The funds must supplement and not supplant other funds allocated to special schools by the local board of education.

[D]C. Schools shall be classified after consultation with the district and in accordance with applicable state statutes and Board standards.

KEY: school enrollment, educational facilities

Date of Enactment or Last Substantive Amendment: [October 9, 2012]2013

Notice of Continuation: August 14, 2012

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-109(1)

Education, Administration R277-498 Grant for Math Teaching Training

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37279

FILED: 02/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to award funds, consistent with S.B. 164, 2012 General Legislative Session, to institutions of higher education to support and encourage prospective educators to earn mathematics endorsements.

SUMMARY OF THE RULE OR CHANGE: This new rule provides definitions, procedures for distributing funds, criteria for awarding grants, and procedures for accountability and documentation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-6-901(2)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Funds are distributed by the state consistent with this rule.

- ◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Institutions of higher education receive funding consistent with this rule.
- ◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule applies to education and does not affect businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. This rule affects institutions of higher education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Eligible recipients that receive funding will maintain documentation consistent with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-498. Grant for Math Teaching Training.

R277-498-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file maintained on all licensed Utah educators. The file includes information such as:
 - (1) personal directory information;
 - (2) educational background;
 - (3) endorsements;
 - (4) employment history; and
 - (5) a record of disciplinary action taken against the educator.

C. "Endorsements in mathematics" means one or more endorsements in the mathematics teaching field that qualify an educator or prospective educator to teach a specific or specific level of mathematics course. A notation indicating the educator's competency is maintained on the educator's CACTUS record.

D. "Matching funds" means funds provided by the grant recipient in order to receive state funds under Section 53A-6-901.

E. "Teaching license" or "educator license" means an authorization issued by the Board which permits the holder to serve in a professional capacity in the public schools.

F. "USOE" means the Utah State Office of Education.

R277-498-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and by Section 53A-6-901(2) that directs the Board to write rules to provide criteria to award grant(s) to a higher education institution(s) to encourage prospective educators to earn mathematics endorsements.

B. The purpose of this rule is to award funds, consistent with 2012 legislation, to institution(s) of higher education to support and encourage prospective educators to earn mathematics endorsements.

R277-498-3. Board/USOE Procedures for Distributing Funds.

A. The USOE shall identify one or more institutions of higher education that meets the criteria of Section 53A-6-901 and the criteria of this rule from requests submitted by interested institutions of higher education.

B. The USOE shall notify selected institutions of their eligibility to receive funds under this program following review of the request and the assurance of matching funds.

C. The USOE may identify one eligible and qualified institution of higher education and establish a funding schedule to distribute funds or allow institutions to submit applications until March 30, 2013.

D. The USOE, under the direction of the Board, shall distribute the appropriation provided for in Section 53A-6-901, Section 2 by June 30 2013.

R277-498-4. Criteria for Awarding Grants.

A. The USOE shall consider the amount or percent of matching funds that an institution of higher education shall offer.

B. The USOE shall determine that the institution of higher education requesting funds under Section 53A-6-907 shall use the funds for teachers and training consistent with Section 53A-6-901(1).

R277-498-5. Accountability and Documentation.

A. The USOE shall maintain records of the distribution of funds to institution(s) of higher education that made requests for funds provided under Section 53A-6-901 and R277-498.

B. The recipient of funds under Section 53A-6-901 shall maintain documentation of the matching funds offered by the institution that established the institution's eligibility.

C. Both the USOE and the eligible institution(s) shall maintain documentation of the number of prospective educators and the relevant training received from funding provided in Section 53A-6-901.

KEY: grants, educators, math teaching training
Date of Enactment or Last Substantive Amendment: 2013
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401(3); 53A-6-901(2)

Education, Administration **R277-532**

Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees)

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37280

FILED: 02/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to direct public school districts to adopt policies for the evaluation, dismissal and compensation of non-licensed public education employees that satisfy the minimum standards of Sections 53A-8a-301 and 53A-8a-302 that requires school districts to have evaluation policies for non-licensed public education employees in place no later than the 2014-2015 school year.

SUMMARY OF THE RULE OR CHANGE: This new rule provides definitions and procedures for school districts to adopt policies for the evaluation, dismissal, and compensation of non-licensed public education employees.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-8a-301 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. This rule provides direction to school districts in developing policies.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government at this time. Policies are not required to be implemented until the 2014-2015 school year. The agency believes that policies can be implemented within existing budgets but will not be certain about costs until implementation.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This new rule applies to public schools and does not affect businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:**

There is no anticipated cost or savings to individuals. The rule applies to public school districts for implementation of policies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Public school districts have until the 2014-2015 school year to implement policies required under this rule. There will not be costs to individuals.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-532. Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees).

R277-532-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Non-licensed public education employee" means a school district employee who is working for a public education employer in a position that does not require a Utah educator license. School districts typically refer to non-licensed public education employees as classified employees.

R277-532-2. Authority and Purpose.

A. This Rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and by Section 53A-8a-301 which directs the Board to develop rules requiring that school districts evaluate non-licensed public education employees.

B. The purpose of this rule is to direct public school districts to adopt policies for the evaluation, dismissal and compensation of non-licensed public education employees that

satisfy the minimum standards of Sections 53A-8a-301 and 302, 53A-8a-501 through 506, and 53A-8a-601. The school district evaluation policies for non-licensed public education employees shall be consistent with Section 53A-8a-301 and in place no later than the 2014-2015 school year.

R277-532-3. School District Policies.

A. School districts shall adopt policies for non-licensed public education employee evaluation and dismissal consistent with minimum standards of Sections 53A-8a-301 and 302 and 53A-8a-501 through 506 and due process and the termination of non-licensed public education employees consistent with Section 53a-8a-501 through 504.

B. School district non-licensed public education employee evaluation policies shall include the following components:

(1) the annual evaluation of non-licensed public education employees;

(2) the use of appropriate tools for non-licensed public education employee evaluations;

(3) non-licensed public education employee evaluation criteria tied to specific non-licensed job descriptions or assignments;

(4) the administration of the evaluation by the school principal, an appropriate administrator or the principal's or administrator's designee; and

(5) an appeals process that allows non-licensed public education employees to appeal procedural violations of the evaluation process.

C. School district evaluation policies for non-licensed public education employees may include additional components.

D. School district non-licensed public education employee termination policies shall be developed as directed in Section 53A-8a-501 through 506.

E. School district non-licensed public education employee termination policies shall be consistent with Sections 53A-8a-501 through 504 and may include other components as determined locally.

F. School district policies may exclude temporary or part-time non-licensed public education employees from performance evaluations.

G. School districts shall fully implement evaluation policies for non-licensed public education employees consistent with Section 53A-8a-601.

KEY: policies, evaluations, non-licensed public education employee

Date of Enactment or Last Substantive Amendment: 2013

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401(3); 53A-8a-301

**Environmental Quality, Air Quality
R307-342
Adhesives and Sealants**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37275

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In 2006, EPA tightened the 24-hour PM2.5 national ambient air quality standard from 65 to 35 micrograms per cubic meter. Currently, seven Utah counties have been found by EPA to not meet this standard. The manufacturing and use of many adhesives and sealants emit volatile organic compounds (VOCs), which are precursors to the formation of PM2.5. This rule for the PM2.5 State Implementation Plan will lower VOCs that are emitted from these operations.

SUMMARY OF THE RULE OR CHANGE: This rule applies to any person who manufactures, sells, supplies, or applies any adhesive, sealant, adhesive primer or sealant primer in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, or Weber Counties. Table 1 of the rule establishes VOC limits for any person who manufactures, sells, supplies, or offers for sale adhesive, sealant, and adhesive primer products. Any person who applies products with a VOC content higher than the VOC limits established in Table 1 of the rule is required to use an add-on control device that has overall capture and control efficiency of at least 85%. The rule also contains recordkeeping requirements, product application requirements, and container labeling requirements.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule does not create any new costs to the state budget. Therefore, there are no costs or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** There are no requirements to local government in this rule; therefore, there are no anticipated costs or savings to local government.

◆ **SMALL BUSINESSES:** The Division of Air Quality (DAQ) currently estimates the cost to implement this rule to be approximately \$5,730 per ton of VOC removed. While these products are primarily produced at national manufacturing facilities outside the state, DAQ has identified one small business that may be subject to this rule. However, because this business does not currently have a permit, it is difficult to estimate the aggregate cost to implement this rule.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no requirements in this rule for persons other than small businesses, businesses, or local government entities; therefore, there are no anticipated costs or savings to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For manufacturers, the estimated compliance cost for this rule is \$5,730 per ton of VOC removed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: DAQ has identified one business in Utah that may manufacture products that are subject to this rule. DAQ's estimated fiscal impact for that business is \$5,730 per ton of VOC removed.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 03/13/2013 11:00 AM, Multi-State Office Building, 195 N 1950 W, Room No. 4100, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-342. Adhesives and Sealants.

R307-342-1. Purpose.

The purpose of this rule is to limit emissions of volatile organic compounds (VOCs) from adhesives, sealants, primers and cleaning solvents.

R307-342-2. Applicability.

R307-342 applies to any person who manufactures, sells, supplies, or applies any adhesive, sealant, adhesive primer or sealant primer in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah or Weber County, beginning September 1, 2014.

R307-342-3. Exemptions.

(1) The requirements of R307-342 do not apply to the following:

(a) Adhesives, sealants, adhesive primers or sealant primers being tested or evaluated in any research and development, quality assurance or analytical laboratory;

(b) Adhesives and sealants that contain less than 20 grams of VOC per liter of adhesive or sealant, less water, as applied;

(c) Cyanoacrylate adhesives;

(d) Adhesives, sealants, adhesive primers or sealant primers that are sold or supplied by the manufacturer or supplier in containers with a net volume of 16 fluid ounces or less or that have a net weight

of one pound or less, except plastic cement welding adhesives and contact adhesives;

(e) Contact adhesives that are sold or supplied by the manufacturer or supplier in containers with a net volume of one gallon or less; or

(f) Aerosol spray adhesive products.

(2) The requirements of R307-342 do not apply to the use of adhesives, sealants, adhesive primers, sealant primers, surface preparation and cleanup solvents in the following operations:

(a) Tire repair operations, provided the label of the adhesive states "for tire repair only;"

(b) In the assembly, repair and manufacture of aerospace and undersea-based weapon systems;

(c) In the manufacture of medical equipment; and

(d) Plaque laminating operations in which adhesives are used to bond clear, polyester acetate laminate to wood with lamination equipment installed prior to July 1, 1992.

(3) The requirements of R307-342 do not apply to commercial and industrial operations if the total VOC emissions from all adhesives, sealants, adhesive primers and sealant primers used at the source are less than 200 pounds per calendar year.

(4) Adhesive products and sealant products shipped, supplied or sold exclusively outside of the areas specified in R307-342-2 are exempt from the requirements of this rule.

(5) Any person claiming exemption pursuant to R307-342-3 shall record and maintain monthly operational records sufficient to demonstrate compliance.

(6) R307-342 shall not apply to any adhesive, sealant, adhesive primer or sealant primer products manufactured for shipment and use outside of the counties specified R307-342-2 as long as the manufacturer or distributor can demonstrate both that the product is intended for shipment and use outside of the applicable counties and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the product is not distributed to the applicable counties.

R307-342-4. Definitions.

The following additional definitions apply to R307-342:

"Acrylonitrile-butadiene-styrene (ABS) welding adhesive" means any adhesive intended by the manufacturer to weld acrylonitrile-butadiene-styrene pipe, which is made by reacting monomers of acrylonitrile, butadiene and styrene.

"Adhesive" means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

"Adhesive primer" means any product intended by the manufacturer for application to a substrate, prior to the application of an adhesive, to provide a bonding surface.

"Architectural sealant or primer" means any sealant or sealant primer intended by the manufacturer to be applied to stationary structures, including mobile homes and their appurtenances. Appurtenances to an architectural structure include, but are not limited to: hand railings, cabinets, bathroom and kitchen fixtures, fences, rain gutters and downspouts, and windows.

"Automotive glass adhesive primer" means an adhesive primer labeled by the manufacturer to be applied to automotive glass prior to installation of the glass using an adhesive or sealant.

"Ceramic tile installation adhesive" means any adhesive intended by the manufacturer for use in the installation of ceramic tiles.

"Chlorinated polyvinyl chloride plastic (CPVC) plastic" means a polymer of the vinyl chloride monomer that contains 67% chlorine and is typically identified with a CPVC marking.

"Chlorinated polyvinyl chloride (CPVC) welding adhesive" means an adhesive labeled for welding of chlorinated polyvinyl chloride plastic.

"Cleanup solvent" means a VOC-containing material used either to remove a loosely held uncured (i.e., not dry to the touch) adhesive or sealant from a substrate or to clean equipment used in applying a material.

"Computer diskette jacket manufacturing adhesive" means any adhesive intended by the manufacturer to glue the fold-over flaps to the body of a vinyl computer diskette jacket.

"Contact bond adhesive" means an adhesive that:

(1) is designed for application to both surfaces to be bonded together;

(2) is allowed to dry before the two surfaces are placed in contact with each other;

(3) forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other; and

(4) does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

"Contact adhesive" means an adhesive that feels dry to the touch and bonds instantly. Contact adhesives do not include rubber cements that are primarily intended for use on paper substrates and vulcanizing fluids that are designed and labeled for tire repair only.

"Cove base" means a flooring trim unit, generally made of vinyl or rubber, having a concave radius on one edge and a convex radius on the opposite edge that is used in forming a junction between the bottom wall course and the floor or to form an inside corner.

"Cove base installation adhesive" means any adhesive intended by the manufacturer to be used for the installation of cove base or wall base on a wall or vertical surface at floor level.

"Cyanoacrylate adhesive" means any adhesive with a cyanoacrylate content of at least 95% by weight.

"Enclosed cleaning system" means a cleaner consisting of a closed container with a door or top that can be opened and closed and fitted with cleaning connections. A spray gun is attached to the enclosed cleaning system by a connection, and solvent is pumped through the gun to clean it. The cleaning solvent falls back into the cleaning system's solvent reservoir for recirculation.

"Flexible vinyl" means non-rigid polyvinyl chloride plastic with a 5% by weight plasticizer content.

"Fiberglass" means a material consisting of extremely fine glass fibers.

"Indoor floor covering installation adhesive" means any adhesive intended by the manufacturer for use in the installation of wood flooring, carpet, resilient tile, vinyl tile, vinyl backed carpet, resilient sheet and roll or artificial grass. Adhesives used to install ceramic tile and perimeter bonded sheet flooring with vinyl backing onto a non-porous substrate, such as flexible vinyl, are excluded from this category.

"Laminate" means a product made by bonding together two or more layers of material.

"Marine deck sealant" or "marine deck sealant primer" means any sealant or sealant primer labeled for application to wooden marine decks.

"Medical equipment manufacturing" means the manufacture of medical devices, such as, but not limited to, catheters, heart valves, blood cardioplegia machines, tracheostomy tubes, blood oxygenators, and cardiatory reservoirs.

"Metal to urethane/rubber molding or casting adhesive" means any adhesive intended by the manufacturer to bond metal to high density or elastomeric urethane or molded rubber materials, in heater molding or casting processes, to fabricate products such as rollers for computer printers or other paper handling equipment.

"Multipurpose construction adhesive" means any adhesive intended by the manufacturer for use in the installation or repair of various construction materials, including but not limited to drywall, subfloor, panel, fiberglass reinforced plastic (FRP), ceiling tile and acoustical tile.

"Nonmembrane roof installation/repair adhesive" means any adhesive intended by the manufacturer for use in the installation or repair of nonmembrane roofs and that is not intended for the installation of prefabricated single-ply flexible roofing membrane, including, but not limited to, plastic or asphalt roof cement, asphalt roof coating and cold application cement.

"Outdoor floor covering installation adhesive" means any adhesive intended by the manufacturer for use in the installation of floor covering that is not in an enclosure and that is exposed to ambient weather conditions during normal use.

"Panel installation" means the installation of plywood, pre-decorated hardboard (or tileboard), fiberglass reinforced plastic, and similar pre-decorated or non-decorated panels to studs or solid surfaces using an adhesive formulated for that purpose.

"Perimeter bonded sheet flooring installation" means the installation of sheet flooring with vinyl backing onto a nonporous substrate using an adhesive designed to be applied only to a strip of up to four inches wide around the perimeter of the sheet flooring.

"Plastic cement welding adhesive" means any adhesive intended by the manufacturer for use to dissolve the surface of plastic to form a bond between mating surfaces.

"Plastic cement welding adhesive primer" means any primer intended by the manufacturer for use to prepare plastic substrates prior to bonding or welding.

"Plasticizer" means a material such as a high boiling point organic solvent that is incorporated into a vinyl to increase its flexibility, workability, or distensibility, as determined by ASTM Method E-260-96.

"Polyvinyl chloride (PVC) plastic" means a polymer of the chlorinated vinyl monomer that contains 57% chlorine.

"Polyvinyl chloride welding adhesive" or "PVC welding adhesive" means any adhesive intended by the manufacturer for use in the welding of PVC plastic pipe.

"Porous material" means a substance that has tiny openings, often microscopic, in which fluids may be absorbed or discharged, including, but not limited to, wood, paper and corrugated paperboard.

"Roadway sealant" means any sealant intended by the manufacturer for application to public streets, highways and other surfaces, including but not limited to curbs, berms, driveways and parking lots.

"Rubber" means any natural or manmade rubber substrate, including styrene-butadiene rubber, polychloroprene (neoprene), butyl rubber, nitrile rubber, chlorosulfonated polyethylene and ethylene propylene diene terpolymer.

"Sealant primer" means any product intended by the manufacturer for application to a substrate, prior to the application of a sealant, to enhance the bonding surface.

"Sealant" means any material with adhesive properties, including sealant primers and caulks, that is formulated primarily to fill, seal, waterproof or weatherproof gaps or joints between two surfaces.

"Sheet-applied rubber installation" means the process of applying sheet rubber liners by hand to metal or plastic substrates to protect the underlying substrate from corrosion or abrasion. These operations also include laminating sheet rubber to fabric by hand.

"Single-ply roof membrane" means a prefabricated single sheet of rubber, normally ethylene-propylenediene terpolymer, that is field applied to a building roof using one layer of membrane material.

"Single-ply roof membrane installation and repair adhesive" means any adhesive labeled for use in the installation or repair of single-ply roof membrane.

(1) Installation includes, as a minimum, attaching the edge of the membrane to the edge of the roof and applying flashings to vents, pipes and ducts that protrude through the membrane.

(2) Repair includes gluing the edges of torn membrane together, attaching a patch over a hole and reapplying flashings to vents, pipes or ducts installed through the membrane.

"Single-ply roof membrane adhesive primer" means any primer labeled for use to clean and promote adhesion of the single-ply roof membrane seams or splices prior to bonding.

"Single-ply roof membrane sealant" means any sealant labeled for application to single-ply roof membrane.

"Structural glazing adhesive" means any adhesive intended by the manufacturer to apply glass, ceramic, metal, stone or composite panels to exterior building frames.

"Subfloor installation" means the installation of subflooring material over floor joists, including the construction of any load bearing joists. Subflooring is covered by a finish surface material.

"Surface preparation solvent" means a solvent used to remove dirt, oil and other contaminants from a substrate prior to the application of a primer, adhesive or sealant.

"Thin metal laminating adhesive" means any adhesive intended by the manufacturer for use in bonding multiple layers of metal to metal or metal to plastic in the production of electronic or magnetic components in which the thickness of the bond line(s) is less than 0.25 mils.

"Tire repair" means a process that includes expanding a hole, tear, fissure or blemish in a tire casing by grinding or gouging, applying adhesive, and filling the hole or crevice with rubber.

"Traffic marking tape" means preformed reflective film intended by the manufacturer for application to public streets, highways and other surfaces, including curbs, berms, driveways and parking lots.

"Traffic marking tape adhesive primer" means any primer intended by the manufacturer for application to surfaces prior to installation of traffic marking tape.

"Undersea-based weapons systems components" means the fabrication of parts, assembly of parts or completed units of any portion of a missile launching system used on undersea ships.

"Waterproof resorcinol glue" means a two-part resorcinol-resin-based adhesive designed for applications where the bond line must be resistant to conditions of continuous immersion in fresh or salt water.

R307-342-5. Emission Standards.

(1) No person shall manufacturer, sell, supply or offer for sale any adhesive, sealant, adhesive primer or sealant primer with a VOC content in excess of the limits in Table 1.

(2) No person shall apply any adhesive, sealant, adhesive primer or sealant primer with a VOC content in excess of the limits in Table 1 unless that person uses an add-on control device as specified in R307-342-8.

TABLE 1

VOC Content Limits for Adhesives, Sealants, Adhesive Primers, Sealant Primers and Adhesives Applied to Particular Substrates (minus water and exempt compounds (compounds that are not defined as VOC), as applied

Adhesive, Sealant, Adhesive Primer Category	VOC Content Limit (grams VOC/liter)
Adhesives	
ABS welding	400
Ceramic tile installation	130
Computer diskette jacket manufacturing	850
Contact bond	250
Cove base installation	150
CPVC welding	490
Indoor floor covering installation	150
Metal to urethane/rubber molding or casting	850
Multipurpose construction	200
Nonmembrane roof installation/repair	300
Other plastic cement welding	510
Outdoor floor covering installation	250
PVC welding	510
Single-ply roof membrane installation/repair	250
Structural glazing	100
Thin metal laminating	780
Tire retread	100
Perimeter bonded sheet vinyl flooring installation	660
Waterproof resorcinol glue	170

Sheet-applied rubber installation	850
Sealants	
Architectural	250
Marine deck	760
Nonmembrane roof installation/repair	300
Roadway	250
Single-ply roof membrane	450
Other	420
Adhesive Primers	
Automotive glass	700
Plastic cement welding	650
Single-ply roof membrane	250
Traffic marking tape	150
Other	250
Sealant Primers	
Non-porous architectural	250
Porous architectural	775
Marine deck	760
Other	750
Adhesives Applied to the Listed Substrate	
Flexible vinyl	250
Fiberglass	200
Metal	30
Porous material	120
Rubber	250
Other substrates	250

R307-342-6. Application Equipment.

- (1) An operator shall only use the following equipment to apply adhesives and sealants:
 - (a) Electrostatic application;
 - (b) Flow coater;
 - (c) Roll coater;
 - (d) Dip coater;
 - (e) Hand application method;
 - (f) Airless spray;
 - (g) High volume, low pressure spray equipment operated in accordance with the manufacturers specifications; or
 - (h) Other methods having a minimum 65% transfer efficiency.
- (2) Removal of an adhesive, sealant, adhesive primer or sealant primer from the parts of spray application equipment shall be performed as follows:

- (a) In an enclosed cleaning system;
- (b) Using a solvent with a VOC content less than or equal to 70 grams of VOC per liter of material; or
- (c) Parts containing dried adhesive may be soaked in a solvent if the composite vapor pressure of the solvent, excluding water and exempt compounds, is less than or equal to 9.5 mm Hg at 20 degrees Celsius and the parts and solvent are in a closed container that remains closed except when adding parts to or removing parts from the container.

R307-342-7. Administrative Requirements.

- (1) Each person subject to this rule shall maintain records demonstrating compliance with this rule, including:
 - (a) A list of each adhesive, sealant, adhesive primer, sealant primer cleanup solvent and surface preparation solvent in use and in storage;
 - (b) A material data sheet for each adhesive, sealant, adhesive primer, sealant primer cleanup solvent and surface preparation solvent;
 - (c) A list of catalysts, reducers or other components used and the mix ratio;
 - (d) The VOC content or vapor pressure, as applied; and
 - (e) The monthly volume of each adhesive, sealant, adhesive primer, sealant primer cleanup solvent and surface preparation solvent used.
- (2) Except as provided in R307-342-6(2), no person shall use materials containing VOCs for the removal of adhesives, sealants, or adhesive or sealant primers from surfaces, other than spray application equipment, unless the composite vapor pressure of the solvent used is less than 45 mm Hg at 20 degrees Celsius.

R307-342-8. Optional Add-On Controls.

- (1) VOC emissions from the manufacturer or use of all adhesives, sealants, adhesive primers or sealant primers subject to this rule shall be reduced by an overall capture and control efficiency of at least 85% by weight.
- (2) The owner or operator of an emission control system shall provide documentation that the emissions control system will attain the requirements of R307-342-8.
- (3) The owner or operator of an emission control system shall maintain for a minimum of two years records of operating and maintenance sufficient to demonstrate that the equipment is being operated and maintained in accordance with the manufacturer recommendations.

R307-342-9. Container Labeling.

- Each manufacturer of an adhesive, sealant, adhesive primer or sealant primer subject to this rule shall display the following information on the product container or label:
 - (1) A statement of the manufacture's recommendation regarding thinning, reducing, or mixing of the product.
 - (a) R307-342-9 does not apply to the thinning of a product with water.
 - (b) If the thinning of the product prior to use is not necessary, the recommendation shall specify that the product is to be applied without thinning.
 - (2) The maximum or the actual VOC content of the product in accordance with Table 1, as supplied, displayed in grams of VOC per liter of product; and

(3) The maximum or the actual VOC content of the product in accordance with Table 1, which includes the manufacturer's maximum recommendation for thinning, as applied, displayed in grams of VOC per liter of product.

KEY: air pollution, adhesives, sealants, primers

Date of Enactment or Last Substantive Amendment: 2013

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

(a)

Environmental Quality, Air Quality **R307-357** Consumer Products

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37276

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In 2006, EPA tightened the 24-hour PM_{2.5} national ambient air quality standard from 65 to 35 micrograms per cubic meter. Currently, seven Utah counties have been found by EPA to not meet this standard. The manufacturing and use of many consumer products emits volatile organic compounds (VOCs), which are precursors to the formation of PM_{2.5}. This rule for the PM_{2.5} State Implementation Plan will lower the VOC content of many consumer products sold in the state.

SUMMARY OF THE RULE OR CHANGE: This rule applies to any person who sells, supplies, offers for sale, distributes for sale, or manufactures for sale consumer products in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber counties. The rule establishes VOC-content limits for several types of consumer products. The rule provides several exemptions from the VOC-content limit requirements, including, but not limited to, exemptions for consumer products manufactured for shipment and use outside of the areas specified in the applicability section of the rule, certain fragrances and colorants, certain deodorants, products that have been granted an innovative products exemption, manufacturers who have an approved alternative control plan or variance. The proposed rule also contains bans on several toxics and ozone depleting compounds that result in increased VOC reductions. The Air Quality Board is specifically seeking comment on the inclusion of these additional bans in the proposed rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-101

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This rule does not create any requirements that would result in any costs or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** This rule does not create any requirements that would result in any costs or savings to local government.

♦ **SMALL BUSINESSES:** The Division of Air Quality (DAQ) estimates that the cost for small businesses to implement this rule is approximately \$3,000 per ton of VOC removed. However, these products are primarily manufactured in facilities found outside of the state, and DAQ does not believe that any local manufacturers will be impacted by this rule; therefore, there are no significant costs or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Manufacturers are not expecting to add measurable costs to products as a result of this rule; therefore, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS:

Because there are no local manufacturers that this rule applies to, there are no anticipated compliance costs to them. Also, because manufacturers are not expecting to add measurable costs to products as a result of this rule there are no anticipated costs to consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:

These products are primarily manufactured in facilities found outside of the state, and DAQ does not believe that any local manufacturers will be impacted by this rule; therefore, there is no anticipated fiscal impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 03/13/2013 11:00 AM, Multi-State Office Building, 195 N 1950 W, Room No. 4100, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-357. Consumer Products.

R307-357-1. Purpose.

The purpose of this rule is to reduce volatile organic compound (VOC) emissions from consumer products.

R307-357-2. Applicability.

R307-357 applies to any person who sells, supplies, offers for sale, distributes for sale, or manufactures for sale consumer products on or after the effective date in Table 1 and is located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber counties.

R307-357-3. Definitions.

The following additional definitions apply to R307-357:

"Adhesive" means any product that is used to bond one surface to another by attachment.

(1) Adhesive does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate.

(2) For contact adhesive, construction panel, and floor covering adhesive and general purpose adhesive only, adhesive also does not include units of product, less packaging, which consist of more than one gallon. This limitation does not apply to aerosol adhesives.

"Adhesive remover" means a product designed exclusively for the removal of adhesives, caulk and other bonding materials from either a specific substrate or a variety of substrates.

"Aerosol adhesive" means an aerosol product in which the spray mechanism is permanently housed in a nonrefillable can designed for hand-held application without the need for ancillary hoses or spray equipment.

"Aerosol cooking spray" means any aerosol product designed to reduce sticking on cooking and baking surfaces and is applied on cooking surfaces, baking surfaces, or food.

"Aerosol Product" means a pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force but does not include pump sprays.

"Agricultural use" means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of any animal or plant crop.

(1) Agricultural use does not include the sale or use of pesticides in properly labeled packages or containers which are intended for:

(a) Home use;

(b) Use in structural pest control;

(c) Industrial; or

(d) Institutional use.

(2) For the purposes of this definition only:

(a) "Home use" means use in a household or its immediate environment.

(b) "Structural pest control" means a use requiring a license under state or federal pesticide licensing requirements.

(c) "Industrial use" means use for or in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites.

(d) "Institutional use" means use within the lines of, or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums, and office complexes.

"Air freshener" means any product, including, but not limited to, sprays, wicks, wipes, diffusers, powders, and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air.

(1) Air freshener does not include products that are used on the human body, products that function primarily as cleaning products as indicated on the product label, or odor remover/eliminator products.

"All other carbon containing compounds" means all other compounds which contain at least one carbon atom and are not a VOC defined compound or a LVP-VOC.

"All other forms" means all consumer product forms for which no form specific VOC standard is specified, and unless specified otherwise by the applicable VOC standard, all other forms include, but are not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

"Antimicrobial hand or body cleaner or soap" means a cleaner or soap which is designed to reduce the level of microorganisms on the skin through germicidal activity.

(1) Antimicrobial hand or body cleaner or soap includes, but is not limited to:

(a) Antimicrobial hand or body washes and cleaners;

(b) Foodhandler hand washes;

(c) Healthcare personnel hand washes;

(d) Pre-operative skin preparations; and

(e) Surgical scrubs.

(2) Antimicrobial hand or body cleaner or soap does not include prescription drug products, antiperspirants, astringent/toner, deodorant, facial cleaner or soap, general-use hand or body cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

"Antiperspirant" means any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20 percent in at least 50 percent of a target population.

"Anti-static product" means a product that is labeled to eliminate, prevent, or inhibit the accumulation of static electricity.

"Architectural coating" means a coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs.

"ASTM" means the American Society for Testing and Materials.

"Astringent/toner" means any product not regulated as a drug by the United States Food and Drug Administration (FDA) which is applied to the skin for the purpose of cleaning or tightening pores.

(1) This category also includes clarifiers and substrate-impregnated products.

(2) This category does not include any hand, face, or body cleaner or soap product, medicated astringent/medicated toner, cold cream, lotion, or antiperspirant.

"Automotive hard paste wax" means an automotive wax or polish that is:

(1) Designed to protect and improve the appearance of automotive paint surfaces;

(2) A solid at room temperature; and

(3) Contains 0% water by formulation.

"Automotive instant detailer" means a product designed for use in a pump spray that is applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.

"Automotive rubbing or polishing compound" means a product designed primarily to remove oxidation, old paint, scratches or "swirl marks," and other defects from the painted surfaces of motor vehicles without leaving a protective barrier.

"Automotive wax, polish, sealant or glaze" means a product designed to seal out moisture, increase gloss, or otherwise enhance a motor vehicle's painted surfaces.

(1) Automotive wax, polish, sealant or glaze includes, but is not limited to, products designed for use in autobody repair shops, drive-through car washes and products designed for the general public.

(2) Automotive wax, polish, sealant or glaze does not include automotive rubbing or polishing compounds, automotive wash and wax products, surfactant-containing car wash products, and products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

"Automotive windshield washer fluid" means any liquid designed for use in a motor vehicle windshield washer system either as an antifreeze or for the purpose of cleaning, washing, or wetting the windshield but does not include fluids placed by the manufacturer in a new vehicle.

"Bait station insecticide" means containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than 5% active ingredients.

"Bathroom and tile cleaner" means a product designed to clean tile or surfaces in bathrooms but does not include products specifically designed to clean toilet bowls or toilet tanks.

"Brake cleaner" means a cleaning product designed to remove oil, grease, brake fluid, brake pad material or dirt from motor vehicle brake mechanisms.

"Bug and tar remover" means a product designed to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish:

(1) Biological-type residues such as insect carcasses and tree sap; and

(2) Road grime, such as road tar, roadway paint markings, and asphalt.

"CARB" means the California Air Resources Board.

"Carburetor or fuel-injection air intake cleaners" means a product designed to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection system, or associated linkages but does not include products designed exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

"Carpet and upholstery cleaner" means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, the interior of motor vehicles, household furniture, or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics.

(1) Carpet and upholstery cleaner includes, but is not limited to, products that make fabric protectant claims.

(2) Carpet and upholstery cleaner does not include general purpose cleaners, spot removers, vinyl or leather cleaners, dry cleaning fluids, or products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

"Charcoal lighter material" means any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition.

"Colorant" means any pigment or coloring material used in a consumer product for an aesthetic effect, or to dramatize an ingredient.

"Construction, panel, and floor covering adhesive" means any one component adhesive that is designed exclusively for the installation, remodeling, maintenance, or repair of:

(1) Structural and building components that include, but are not limited to, beams, trusses, studs, paneling (drywall or drywall laminates, fiberglass reinforced plastic (FRP), plywood, particle board, insulation board, pre-decorated hardboard or tileboard, etc.), ceiling and acoustical tile, molding, fixtures, countertops or countertop laminates, cove or wall bases, and flooring or subflooring; or

(2) Floor or wall coverings that include, but are not limited to, wood or simulated wood covering, carpet, carpet pad or cushion, vinyl backed carpet, flexible flooring material, nonresilient flooring material, mirror tiles and other types of tiles, and artificial grass.

(3) Construction, panel, and floor covering adhesive does not include floor seam sealer.

"Consumer" means any person who purchases, or acquires any consumer product for personal, family, household, or institutional use, and persons acquiring a consumer product for resale are not consumers for that product.

"Consumer product" means a chemically formulated product used by household and institutional consumers including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products but does not include other paint products, furniture coatings, or architectural coatings.

"Contact adhesive" means a non-aerosol adhesive that:

(1) Is designed for application to both surfaces to be bonded together;

(2) Is allowed to dry before the two surfaces are placed in contact with each other;

(3) Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other; and

(4) Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

(5) Contact adhesive does not include rubber cements that are primarily intended for use on paper substrates.

(6) Contact adhesive does not include vulcanizing fluids that are designed and labeled for tire repair only.

"Container/packaging" means the part or parts of the consumer or institutional product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended and includes any article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed or attached.

"Crawling bug insecticide" means any insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including, but not limited to, mites, silverfish or spiders but does not include products designed to be used exclusively on humans or animals, or any house dust mite product.

(1) For the purposes of this definition only:

(a) "House dust mite product" means a product whose label, packaging, or accompanying literature states that the product is suitable for use against house dust mites, but does not indicate that the product is suitable for use against ants, cockroaches, or other household crawling arthropods.

(b) "House dust mite" means mites which feed primarily on skin cells shed in the home by humans and pets and which belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata, and the family Pyroglyphidae.

"Date-Code" means the day, month and year on which the consumer product was manufactured, filled, or packaged, or a code indicating such a date.

"Deodorant" means any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria which cause the decomposition of perspiration.

"Device" means any instrument or contrivance (other than a firearm) which is designed for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals) but does not include equipment used for the application of pesticides when sold separately therefrom.

"Disinfectant" means any product that is labeled as a disinfectant or is labeled as a product that destroys or irreversibly inactivates infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and whose label is registered as a disinfectant under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136, et seq.).

(1) Products that are labeled as both a "sanitizer" and a "disinfectant" are considered disinfectants.

(2) Disinfectant does not include any of the following:

(a) Products labeled as solely for use on human or animals;

(b) Products labeled as solely for agricultural use;

(c) Products labeled as solely for use in swimming pools, therapeutic tubs, or hot tubs;

(d) Products that are labeled to be used on heat sensitive critical or semi-critical medical devices or medical equipment surfaces;

(e) Products that are pre-moistened wipes or towelettes sold exclusively to medical, convalescent, or veterinary establishments;

(f) Products that are labeled to be applied to food-contact surfaces and are not required to be rinsed prior to contact with food; or

(g) Products labeled as bathroom and tile cleaners, glass cleaners, general purpose cleaners, metal polishes, carpet cleaners, or fabric refreshers that may also make disinfecting or antimicrobial claims on the label.

"Distributor" means any person to whom a consumer product is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.

"Double phase aerosol air freshener" means an aerosol air freshener with the liquid contents in two or more distinct phases that requires the product container be shaken before use to mix the phases, producing an emulsion.

"Dry cleaning fluid" means any non-aqueous liquid product designed and labeled exclusively for use on fabrics which are labeled for dry clean only, such as clothing or drapery or s-coded fabrics.

(1) Dry cleaning fluid includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer's residence or work place.

(2) Dry cleaning fluid does not include spot remover or carpet and upholstery cleaner.

"Dual purpose air freshener/disinfectant" means an aerosol product that is represented on the product container for use as both a disinfectant and an air freshener or is so represented on any sticker, label, packaging, or literature attached to the product container.

"Dusting aid" means a product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating but does not include products which consist entirely of compressed gases for use in electronic or other specialty areas.

"Electrical cleaner" means a product labeled as a product that removes heavy soils such as grease, grime, or oil from electrical equipment, including, but not limited to, electric motors, armatures, relays, electric panels, or generators.

(1) Electrical cleaner does not include general purpose cleaner, general purpose degreaser, dusting aid, electronic cleaner, energized electrical cleaner, pressurized gas duster, engine degreaser, anti-static product, or products designed to clean the casings or housings of electrical equipment.

"Electronic cleaner" means a product labeled as a product that removes dirt, moisture, dust, flux or oxide from the internal components of electronic or labeled as precision equipment such as circuit boards and the internal components of electronic devices, including, but not limited to, radios, compact disc players, digital video disc players, and computers.

"Engine degreaser" means a cleaning product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

"Fabric protectant" means a product labeled as a product to be applied to fabric substrates to protect the surface from soiling from dirt and other impurities or to reduce absorption of liquid into

the fabric's fibers but does not include waterproofers or products labeled for use solely on leather.

(1) Fabric protectant does not include pigmented products that are designed to be used primarily for coloring, products used for construction, reconstruction, modification, structural maintenance or repair of fabric substrates, or products that renew or restore fabric and qualifying as either clear coating or vinyl, fabric, leather, or polycarbonate coatings.

"Facial cleaner or soap" means a cleaner or soap designed primarily to clean the face.

(1) Facial cleaner or soap includes, but is not limited to, facial cleansing creams, gels, liquids, lotions, and substrate-impregnated forms.

(2) Facial cleaner or soap does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, general-use hand or body cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

"Flea and tick insecticide" means any insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs but does not include products that are designed to be used exclusively on humans or animals and their bedding.

"Flexible flooring material" means asphalt, cork, linoleum, no wax, rubber, seamless vinyl and vinyl composite flooring.

"Floor polish or wax" means a product designed or labeled as a product to polish, wax, condition, protect, temporarily seal or otherwise enhance floor surfaces by leaving a protective finish that is designed or labeled to be periodically replenished.

(1) Floor polish or wax does not include spray buff products, floor wax strippers, products designed or labeled for unfinished wood floors, or coatings subject to architectural coatings regulations.

(2) Floor polish or wax is divided into three categories: products for resilient flooring materials, products for nonresilient flooring materials, and wood floor wax. For the purposes of this section:

(a) "Resilient flooring material" means flexible flooring material, including but not limited to, asphalt, cork, linoleum, no wax, rubber, seamless vinyl, and vinyl composite flooring.

(b) "Nonresilient flooring material" means flooring of a mineral content that is not flexible, including, but not limited to, terrazzo, marble, slate, granite, brick, stone, ceramic tile, and concrete.

(c) "Wood floor wax" means wax-based products for use solely on wood floors.

"Floor seam sealer" means any product designed and labeled exclusively for bonding, fusing, or sealing (coating) seams between adjoining rolls of installed flexible sheet flooring.

"Floor wax stripper" means a product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax but does not include aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.

"Flying bug insecticide" means any insecticide product that is designed for use against flying insects or other flying arthropods, including but not limited to flies, mosquitoes, moths, or gnats.

(1) Flying bug insecticide does not include wasp and hornet insecticide, products that are designed to be used exclusively on humans or animals, or any moth-proofing product.

(2) For the purposes of this definition only, "moth-proofing product" means a product whose label, packaging, or accompanying literature indicates that the product is designed to protect fabrics from damage by moths, but does not indicate that the product is suitable for use against flying insects or other flying arthropods.

"Fragrance" means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of two millimeters of mercury (mm Hg) at 20 degrees Celcius, the sole purpose of which is to impart an odor or scent or to counteract a malodor.

"Furniture maintenance product" means a wax, polish, conditioner, or any other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors but does not include dusting aids, products designed solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers and lacquers.

"Furniture coating" means any paint designed for application to room furnishings including, but not limited to, cabinets (kitchen, bath and vanity), tables, chairs, beds, and sofas.

"Gel" means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

"General purpose adhesive" means any non-aerosol adhesive designed for use on a variety of substrates.

(1) General purpose adhesive does not include:

(a) Contact adhesives;

(b) Construction, panel, and floor covering adhesives;

(c) Adhesives designed exclusively for application on one specific category of substrates (i.e., substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls); or

(d) Adhesives designed exclusively for use on one specific category of articles (i.e., articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping, or carpets).

"General Purpose Cleaner" means a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations and includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces and does not include general purpose degreasers and electronic cleaners.

"General purpose degreaser" means any product labeled as a product that removes or dissolves grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts.

(1) General purpose degreaser does not include engine degreaser, general purpose cleaner, adhesive remover, electronic cleaner, electrical cleaner, metal polish/cleanser, oven or grill cleaner, products used exclusively in solvent cleaning tanks or related equipment, or products that are:

(a) Sold exclusively to establishments that manufacture or construct goods or commodities; and

(b) Labeled not for retail sale.

(2) Solvent cleaning tanks or related equipment includes, but is not limited to, cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

"General-use hand or body cleaner or soap" means a cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils.

(1) General-use hand or body cleaner or soap includes, but is not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps.

(2) General-use hand or body cleaner or soap does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, facial cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

"Glass cleaner" means a cleaning product designed primarily for cleaning surfaces made of glass but does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

"Hair mousse" means a hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

"Hair shine" means any product designed for the primary purpose of creating a shine when applied to the hair.

(1) Hair shine includes, but is not limited to, dual-use products designed primarily to impart a sheen to the hair.

(2) Hair shine does not include hair spray, hair mousse, hair styling gel or spray gel, or products whose primary purpose is to condition or hold the hair.

"Hair styling gel" means a high viscosity, often gelatinous, product that contains a resin and is designed for the application to hair to aid in styling and sculpting of the hair coiffure.

"Hair spray" means a consumer product designed primarily for the purpose of dispensing droplets of a resin on and into a hair coiffure which will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.

"Hair Styling Product" means a consumer product manufactured on or after January 1, 2009, that is designed or labeled as a product for the application to wet, damp or dry hair to aid in defining, shaping, lifting, styling or sculpting of the hair.

(1) Hair styling product includes, but is not limited to, hair balm, clay, cream, curl straightener, gel, liquid, lotion, paste, pomade, putty, root lifter, serum, spray gel, stick, temporary hair straightener, wax, spray products that aid in styling but do not provide finishing of a hairstyle, and leave-in volumizers, detanglers or conditioners that make styling claims.

(2) Hair styling product does not include hair mousse, hair shine, hair spray, or shampoos or conditioners that are rinsed from the hair prior to styling.

"Heavy-duty hand cleaner or soap" means a product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer's ink, paint, graphite, cement, carbon, asphalt, or adhesives from the hand with or without the use of water but does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, facial

cleaner or soap, general-use hand or body cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

"Herbicide" means a pesticide product designed to kill or retard a plant's growth, but excludes products that are:

(1) For agricultural use; or

(2) Restricted materials that require a permit for use and possession.

"High volatility organic compound (HVOC)" means any volatile organic compound that exerts a vapor pressure greater than 80 millimeters of Mercury (mm Hg) when measured at 20 degrees Celsius.

"Household product" means any consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.

"Insecticide" means a pesticide product that is designed for use against insects or other arthropods, but excluding products that are:

(1) For agricultural use;

(2) For a use which requires a structural pest control license under applicable state or federal laws or regulations; or

(3) Restricted materials that require a permit for use and possession.

"Insecticide fogger" means any insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.

"Institutional product" or "Industrial and institutional (I&I) product" means a consumer product that is designed for use in the maintenance or operation of an establishment that manufactures, transports, or sells goods or commodities, or provides services for profit or is engaged in the nonprofit promotion of a particular public, educational, or charitable cause.

(1) Establishments include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies.

(2) Institutional product does not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

"Label" means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

"Laundry prewash" means a product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents or provides specialized performance.

"Laundry starch product" means a product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric and includes, but is not limited to, fabric finish, sizing, and starch.

"Lawn and garden insecticide" means an insecticide product designed primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.

"Liquid" means a substance or mixture of substances which is capable of a visually detectable flow as determined under ASTM D 4359- 90 but does not include powders or other materials that are composed entirely of solid particles.

"Lubricant" means a product designed to reduce friction, heat, noise, or wear between moving parts or to loosen rusted or immovable parts or mechanisms.

(1) Lubricant does not include automotive power steering fluids; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two cycle oils or other products designed to be added to fuels; products for use on the human body or animals; or products that are:

(a) Sold exclusively to establishments that manufacture or construct goods or commodities; and

(b) Labeled not for retail sale.

"LVP content" means the total weight, in pounds, of LVP compounds in a product multiplied by 100 and divided by the product's total net weight (in pounds, excluding container and packaging), expressed to the nearest 0.1.

"LVP-VOC" means a chemical compound or mixture that contains at least one carbon atom and meets one of the following:

(1) Has a vapor pressure less than 0.1 mm Hg at 20 degrees Celsius, as determined by CARB Method 310;

(2) Is a chemical compound with more than 12 carbon atoms, or a chemical mixture comprised solely of compounds with more than 12 carbon atoms, and the vapor pressure is unknown;

(3) Is a chemical compound with a boiling point greater than 216 degrees Celsius, as determined by CARB Method 310; or

(4) Is the weight percent of a chemical mixture that boils above 216 degrees Celsius, as determined by CARB Method 310.

(5) For the purposes of the definition of LVP-VOC:

(a) "Chemical compound" means a molecule of definite chemical formula and isomeric structure; and

(b) "Chemical mixture" means a substrate comprised of two or more chemical compounds.

"Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages, or re-labels a consumer product.

"Medicated astringent/medicated toner" means any product regulated as a drug by the FDA which is applied to the skin for the purpose of cleaning or tightening pores.

(1) Medicated astringent/medicated toner includes, but is not limited to, clarifiers and substrate-impregnated products.

(2) Medicated astringent/medicated toner does not include hand, face, or body cleaner or soap products, astringent/toner, cold cream, lotion, antiperspirants, or products that must be purchased with a doctor's prescription.

"Medium volatility organic compound (MVOC)" means any volatile organic compound that exerts a vapor pressure greater than 20 mm Hg and less than or equal to 80 mm Hg when measured at 20 degrees Celsius.

"Metal polish/cleanser" means any product designed primarily to improve the appearance of finished metal, metallic, or metallized surfaces by physical or chemical action.

(1) To improve the appearance means to remove or reduce stains, impurities, or oxidation from surfaces or to make surfaces smooth and shiny.

(2) Metal polish/cleanser includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel and other ornamental metals.

(3) Metal polish/cleanser does not include automotive wax, polish, sealant or glaze, wheel cleaner, paint remover or stripper, products designed and labeled exclusively for automotive and marine detailing, or products designed for use in degreasing tanks.

"Mist spray adhesive" means any aerosol which is not a special purpose spray adhesive and which delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield a generally uniform and smooth application of adhesive to the substrate.

"Multi-purpose dry lubricant" means any lubricant that is:

(1) Designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide ("moly"), or polytetrafluoroethylene or closely related fluoropolymer ("teflon") on surfaces; and

(2) Designed for general purpose lubrication, or for use in a wide variety of applications.

"Multi-purpose lubricant" means any lubricant designed for general purpose lubrication or for use in a wide variety of applications but does not include multi-purpose dry lubricants, penetrants, or silicone-based multi-purpose lubricants.

"Multi-purpose solvent" means any organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing or dissolving other organic materials.

(1) Multi-purpose solvent includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories.

(2) Multi-purpose solvent does not include solvents used in cold cleaners, vapor degreasers, conveyORIZED degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment.

"Nail polish" means any clear or colored coating designed for application to the fingernails or toenails and including but not limited to, lacquers, enamels, acrylics, base coats and top coats.

"Nail polish remover" means a product designed to remove nail polish and coatings from fingernails or toenails.

"Non aerosol product" means any consumer product that is not dispensed by a pressurized spray system.

"Non carbon containing compound" means any compound which does not contain any carbon atoms.

"Non-selective terrestrial herbicide" means a terrestrial herbicide product that is toxic to plants without regard to species.

"Oven or grill cleaner" means a product labeled exclusively as a product to remove baked on grease or deposits from food preparation or cooking surfaces.

"Paint" means any pigmented liquid, liquefiable, or mastic composition designed for application to a substrate in a thin layer which is converted to an opaque solid film after application and is used for protection, decoration or identification, or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.

"Paint remover or stripper" means any product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate but does not include "Multi-purpose Solvents", paint brush cleaners, products designed and labeled exclusively to remove graffiti, and hand cleaner products that claim to remove paints and other related coatings from skin.

"Paint thinner" means a liquid that is added to paint to make it less thick or to remove paint from an applicator.

"Penetrant" means a lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes but does not include "Multi-purpose Lubricants" that claim to have penetrating qualities, but are not labeled primarily to loosen bonded parts.

"Pesticide" means and includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term "pesticide" will not include any substance, mixture of substances, or device which the United States Environmental Protection Agency does not consider to be a pesticide.

"Principal display panel or panels" means that part, or those parts of a label that are so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the "principal display panel" shall pertain to all such "principal display panels."

"Product category" means the applicable category which best describes the product as listed in Table 1. "Propellant" means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

"Pump spray" means a packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger or other actuator.

"Restricted materials" means pesticides established as restricted materials under applicable state or federal laws or regulations.

"Roll on product" means any antiperspirant or deodorant that dispenses active ingredients by rolling a wetted ball or wetted cylinder on the affected area.

"Rubber/vinyl protectant" means any product labeled as a product that protects, preserves or renews vinyl or rubber on vehicles, tires, luggage, furniture, or household products such as vinyl covers, clothing, or accessories. Rubber/vinyl protectant does not include products labeled to clean the wheel rim, such as aluminum or magnesium wheel cleaners, and tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.

"Sanitizer" means a product that is labeled as a sanitizer or labeled as a product to reduce, but not necessary eliminate, microorganisms in the air, on surfaces, or on inanimate objects and whose label is registered as a sanitizer under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. section 136 et seq.)

"Rubbing alcohol" means any product containing isopropyl alcohol (also called isopropanol) or denatured ethanol and labeled for topical use, usually to decrease germs in minor cuts and scrapes, to relieve minor muscle aches, as a rubefacient, and for massage.

"Sealant and caulking compound" means any product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces.

(1) Sealant and caulking compound does not include roof cements and roof sealants; insulating foams; removable caulking compounds; clear/paintable/water resistant caulking compounds; floor seam sealers; products designed exclusively for automotive uses; or sealers that are applied as continuous coatings.

(2) Sealant and caulking compound also does not include units of product, less packaging, which weigh more than one pound and consist of more than 16 fluid ounces.

(3) For the purposes of this definition only:

(a) "Removable caulking compounds" means a compound which temporarily seals windows or doors for three to six month time intervals; and

(b) "Clear/paintable/water resistant caulking compounds" means a compound which contains no appreciable level of opaque fillers or pigments; transmits most or all visible light through the caulk when cured; is paintable; and is immediately resistant to precipitation upon application.

"Semisolid" means a product that, at room temperature, will not pour, but will spread or deform easily, including gels, pastes, and greases.

"Shaving cream" means an aerosol product which dispenses a foam lather intended to be used with a blade, cartridge razor, or other wet shaving system in the removal of facial or other bodily hair.

"Shaving Gel" means an aerosol product that dispenses a post-foaming semisolid designed to be used with a blade, cartridge razor, or other shaving system in the removal of facial or other bodily hair.

"Silicone-based multi-purpose lubricant" means any lubricant which is:

(1) Designed and labeled to provide lubricity primarily through the use of silicone compounds including, but not limited to, polydimethylsiloxane; and

(2) Designed and labeled for general purpose lubrication, or for use in a wide variety of applications.

(3) Silicone-based multi-purpose lubricant does not include products designed and labeled exclusively to release manufactured products from molds.

"Single phase aerosol air freshener" means an aerosol air freshener with the liquid contents in a single homogeneous phase, and which does not require that the product container be shaken before use.

"Solid" means a substance or mixture of substances which, either whole or subdivided (such as the particles comprising a powder), is not capable of visually detectable flow as determined under ASTM D-4359-90.

"Special purpose spray adhesive" means an aerosol adhesive that meets any of the following definitions:

(1) "Mounting adhesive" means an aerosol adhesive designed to permanently mount photographs, artwork, and any other drawn or printed media to a backing (paper, board, cloth, etc.) without causing discoloration to the artwork.

(2) "Flexible vinyl adhesive" means an aerosol adhesive designed to bond flexible vinyl to substrates.

(a) "Flexible vinyl" means a nonrigid polyvinyl chloride plastic with at least five percent, by weight, of plasticizer content.

(b) "Plasticizer" means a material such as a high boiling point organic solvent that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM Method E260-91 or from product formulation data.

(3) "Polystyrene foam adhesive" means an aerosol adhesive designed to bond polystyrene foam to substrates.

(4) "Automobile headliner adhesive" means an aerosol adhesive designed to bond together layers in motor vehicle headliners.

(5) "Polyolefin adhesive" means an aerosol adhesive designed to bond polyolefins to substrates.

(6) "Laminate repair/edgebanding adhesive" means an aerosol adhesive designed for:

(a) The touch-up or repair of items laminated with high pressure laminates (e.g., lifted edges, delaminates, etc.); or

(b) The touch-up, repair, or attachment of edgebanding materials, including but not limited to, other laminates, synthetic marble, veneers, wood molding, and decorative metals.

(c) For the purposes of this definition, "high pressure laminate" means sheet materials that consist of paper, fabric, or other core material that have been laminated at temperatures exceeding 265 degrees Fahrenheit, and at pressures between 1,000 and 1,400 psi.

(7) "Automotive engine compartment adhesive" means an aerosol adhesive designed for use in motor vehicle under-the-hood applications which require oil and plasticizer resistance, as well as high shear strength, at temperatures of 200 to 275 degrees Fahrenheit.

"Spot remover" means any product designed to clean localized areas, or remove localized spots or stains on cloth or fabric such as drapes, carpets, upholstery, and clothing, that does not require subsequent laundering to achieve stain removal but does not include dry cleaning fluid, laundry prewash, carpet and upholstery cleaner, or multi-purpose solvent.

"Spray buff product" means a product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

"Stick product" means any antiperspirant or deodorant that contains active ingredients in a solid matrix form, and that dispenses the active ingredients by frictional action on the affected area.

"Structural waterproof adhesive" means an adhesive whose bond lines are resistant to conditions of continuous immersion in fresh or salt water, and that conforms with Federal Specification MMM-A-181 (Type I, Grade A), and MIL-A-4605 (Type A, Grade A and Grade C). This definition is as per the Federal Consumer Products Regulation 40 CFR 59 Subpart C.

"Terrestrial" means to live on or grow from land.

"Temporary hair color" means any product that applies color, glitter, or UV-active pigments to hair, wigs, or fur and is removable when washed.

"Tire sealant and inflation" means any pressurized product that is designed to temporarily inflate and seal a leaking tire.

"Type A propellant" means a compressed gas such as CO₂, N₂, N₂O, or compressed air which is used as a propellant, and is

either incorporated with the product or contained in a separate chamber within the product's packaging.

"Type B propellant" means any halocarbon which is used as a propellant including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).

"Type C propellant" means any propellant which is not a Type A or Type B propellant, including propane, isobutane, n butane, and dimethyl ether (also known as dimethyl oxide).

"Undercoating" means any aerosol product designed to impart a protective, non-paint layer to the undercarriage, trunk interior, or firewall of motor vehicles to prevent the formation of rust or to deaden sound and includes, but is not limited to, rubberized, mastic, or asphaltic products.

"VOC content" means the total weight of VOC in a product expressed as a percentage of the product weight (exclusive of the container or packaging).

"Wasp and hornet insecticide" means any insecticide product that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray from a distance a directed stream or burst at the intended insects, or their hiding place.

"Waterproofer" means a product designed and labeled exclusively to repel water from fabric or leather substrates.

"Waterproofer" does not include "Fabric Protectants".

"Wax" means a material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics) and includes, but is not limited to, substances derived from the secretions of plants and animals such as carnuba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

"Web spray adhesive" means any aerosol adhesive which is not a mist spray or special purpose spray adhesive.

"Wood cleaner" means a product labeled to clean wooden materials, including but not limited to, decking, fences, flooring, logs, cabinetry, and furniture.

"Wood floor wax" means wax based products for use solely on wood floors.

R307-357-4. Standards.

(1) Except as provided in R307-357-6, 7, 8 and 9, no person shall sell, supply, offer for sale, or manufacture for sale any consumer product manufactured on or after the effective date in Table 1 that contains VOCs in excess of the limits specified in Table 1.

TABLE 1
Table of Standards
(percent volatile organic compounds by weight)

CATEGORY	EFFECTIVE BEGINNING DATES		
	9/1/2014	1/1/2015	1/1/2016
Adhesive Removers:			
Floor and wall covering	5		
Gasket or thread locking	50		
General purpose	20		

<u>Specialty</u>	70	<u>Automotive windshield washer fluids</u>	35
<u>Adhesives:</u>		<u>Bathroom and Tile Cleaners:</u>	
<u>Aerosol mist spray</u>	65	<u>Aerosols</u>	7
<u>Aerosol web spray</u>	55	<u>All other forms</u>	5
<u>Special Purpose Spray Adhesives:</u>		<u>Brake cleaner</u>	10
<u>Mounting, automotive Engine compartment, and flexible vinyl</u>	70	<u>Bug and tar remover</u>	40
<u>Polystyrene foam and automotive headliner</u>	65	<u>Carburetor or fuel-injection air intake cleaners</u>	10
<u>Polyolefin and laminate repair/edgebanding</u>	60	<u>Carpet and Upholstery Cleaners:</u>	
<u>Construction, panel, and floor</u>	7	<u>Aerosols</u>	7
<u>Contact general purpose</u>	55	<u>Non-aerosols (dilutables)</u>	0.1
<u>Contact special purpose</u>	80	<u>Non-aerosols (ready-to-use)</u>	3.0
<u>General purpose</u>	80	<u>Cooking spray aerosols</u>	18
<u>Structural waterproof</u>	15	<u>Disinfectant:</u>	
<u>Air Fresheners:</u>		<u>Aerosol</u>	70
<u>Single-phase aerosols</u>	30	<u>non-aerosol</u>	1
<u>Double-phase aerosols</u>	25	<u>Deodorants:</u>	
<u>Dual-purpose air freshener/disinfectant aerosol</u>	60	<u>Aerosol</u>	0 HVOC 10 MVOC
<u>Liquids/pump sprays</u>	18	<u>Non-aerosol</u>	0 HVOC 0 MVOC
<u>Solids/semisolids</u>	3	<u>Dusting Aids:</u>	
<u>Antiperspirants:</u>		<u>Aerosols</u>	25
<u>Aerosol</u>	40 HVOC 10 MVOC	<u>All other forms</u>	7
<u>Non-aerosol</u>	0 HVOC 0 MVOC	<u>Electrical cleaner</u>	45
<u>Anti-static product:</u>		<u>Electronic cleaner</u>	75
<u>Non-aerosol</u>	11	<u>Engine Degreasers:</u>	
<u>Aerosol</u>	80	<u>Aerosol</u>	10
<u>Automotive rubbing or polishing compound</u>	17	<u>Non-aerosol</u>	5
<u>Automotive wax, polish, sealant or Glaze:</u>		<u>Fabric protectants</u>	60
<u>Hard paste waxes</u>	45	<u>Fabric refresher:</u>	
<u>Instant detailers</u>	3	<u>Aerosol</u>	15
<u>All other forms</u>	15	<u>Non-aerosol</u>	6
		<u>Floor Polishes or Waxes:</u>	
		<u>Resilient flooring materials</u>	1

<u>Nonresilient flooring materials</u>	1	<u>Flying bug (aerosol)</u>	25
<u>Wood floor wax</u>	90	<u>Flying bug (all other forms)</u>	35
<u>Footwear or leather care products:</u>		<u>Foggers</u>	45
<u>Aerosol</u>	75	<u>Lawn and garden (all other forms)</u>	20
<u>Solid</u>	55	<u>Lawn and garden (non-aerosol)</u>	3
<u>Other forms</u>	15	<u>Wasp and hornet</u>	40
<u>Furniture Maintenance Products:</u>		<u>Laundry Prewashes:</u>	
<u>Aerosols</u>	17	<u>Aerosols/solids</u>	22
<u>Non-aerosol (except solid or paste)</u>	3	<u>All other forms</u>	5
<u>General Purpose Cleaners:</u>		<u>Laundry starch products</u>	4.5
<u>Aerosols</u>	8	<u>Metal polishes/cleansers</u>	30
<u>Non-aerosols</u>	4	<u>Multi-Purpose lubricants (excluding solid or semi-solid products)</u>	50
<u>General Purpose Degreasers:</u>		<u>Multi-purpose Solvent</u>	3
<u>Aerosols</u>	10	<u>Nail Polish Removers</u>	1
<u>Non-aerosols</u>	4	<u>Non-selective terrestrial herbicides, non-aerosols</u>	3
<u>Glass Cleaners:</u>		<u>Oven or Grill Cleaners:</u>	
<u>Aerosols</u>	12	<u>Aerosols/pump sprays</u>	8
<u>Non-aerosols</u>	4	<u>Liquids</u>	5
<u>Graffiti Remover:</u>		<u>Non-aerosols</u>	4
<u>Aerosols</u>	50	<u>Paint remover or strippers</u>	50
<u>Non-aerosols</u>	30	<u>Paint Thinner</u>	3
<u>Hair mousses</u>	6	<u>Penetrants</u>	50
<u>Hair shines</u>	55	<u>Rubber and Vinyl Protectants:</u>	
<u>Hairsprays</u>	55	<u>Aerosols</u>	10
<u>Hair styling gels</u>	6	<u>Non-aerosols</u>	3
<u>Hair Styling Products:</u>		<u>Sanitizer:</u>	
<u>Aerosol and pump sprays</u>	6	<u>Aerosol</u>	70
<u>All other forms</u>	2	<u>Non-aerosols</u>	1
<u>Heavy-duty hand cleaners or soaps</u>	8	<u>Sealants and caulking compounds</u>	4
<u>Insecticides:</u>		<u>Shaving creams</u>	5
<u>Crawling bug (aerosol)</u>	15	<u>Shaving gel</u>	4
<u>Crawling bug (all other forms)</u>	20		
<u>Flea and tick</u>	25		

Silicone-based multi-purpose lubricants (excluding solid or semi-solid products) 60

Spot Removers:

Aerosols 25

Non-aerosols 8

Temporary hair color aerosol 55

Tire sealants and inflators 20

Toilet/urinal care:

Aerosols 10

Non-aerosol 3

Undercoatings, aerosols 40

Wood Cleaner:

Aerosol 17

Non-Aerosol 4

(2) For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in Table 1 shall apply to the product only after the minimum recommended dilution has taken place. For purposes of this subsection, "minimum recommended dilution" shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard to remove soils or stains.

(3) For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with any VOC solvent prior to use, the limits specified in Table 1 shall apply to the product only after the maximum recommended dilution has taken place.

(4) Effective September 1, 2016, no person shall sell, supply, offer for sale, or manufacture for use any aerosol adhesive, adhesive removers, and graffiti removers that contain methylene chloride, perchloroethylene, or trichloroethylene.

Sell-through products of aerosol adhesive, adhesive removers, and graffiti removers that contain methylene chloride, perchloroethylene, or trichloroethylene and were manufactured before January 1, 2016, may be sold, supplied, or offered for sale so long as the product container or package displays the date on which the product was manufactured.

(5) No person shall sell, supply, offer for sale, or manufacture any floor wax stripper unless the following requirements are met:

(a) The label of each non-aerosol floor wax stripper shall specify a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of 3% by weight or less.

(b) If a non-aerosol floor wax stripper is also intended to be used for removal of heavy build-up of polish, the label of that floor wax stripper shall specify a dilution ratio for heavy build-up of

polish that results in an as-used VOC concentration of 12% by weight or less.

(6) Products containing ozone-depleting compounds. For any consumer product for which standards are specified under R307-357-4, no person shall sell, supply, offer for sale, or manufacture for sale any consumer product that contains any of the following ozone-depleting compounds:

- (a) CFC 11 (trichlorofluoromethane);
- (b) CFC 12 (dichlorodifluoromethane);
- (c) CFC 113 (1,1,1 trichloro 2,2,2 trifluoroethane);
- (d) CFC 114 (1 chloro 1,1 difluoro 2 chloro 2,2 difluoroethane);
- (e) CFC 115 (chloropentafluoroethane);
- (f) Halon 1211 (bromochlorodifluoromethane);
- (g) Halon 1301 (bromotrifluoromethane);
- (h) Halon 2402 (dibromotetrafluoroethane);
- (i) HCFC 22 (chlorodifluoromethane);
- (j) HCFC 123 (2,2 dichloro 1,1,1 trifluoroethane);
- (k) HCFC 124 (2 chloro 1,1,1,2 tetrafluoroethane);
- (l) HCFC 141b (1,1 dichloro 1 fluoroethane);
- (m) HCFC 142b (1 chloro 1,1 difluoroethane);
- (n) 1,1,1 trichloroethane; and
- (o) Carbon tetrachloride.

(7) The requirements of R307-357-4(6) shall not apply to any existing product formulation that complies with Table 1 or any existing product formulation that is reformulated to meet the standards set in Table 1, provided the ozone-depleting compound content of the reformulated product does not increase.

(8) The requirements of R307-357-4(6) shall not apply to any ozone-depleting compounds that may be present as impurities in a consumer product in an amount equal to or less than 0.01% by weight of the product.

R307-357-5. Charcoal Lighter Material Products.

No person shall sell, supply, or offer for sale any charcoal lighter material products unless the product has been issued and conforms to the conditions in a currently effective certification issued by the CARB pursuant to the provisions of 17 CCR 94509(h) as of the effective date of R307-357. A copy of the CARB certification decision shall be submitted to the director upon request.

R307-357-6. Exemptions.

(1) R307-357 shall not apply to any consumer product manufactured for shipment and use outside of the counties specified in R307-357-2 as long as the manufacturer or distributor can demonstrate both that the consumer product is intended for shipment and use outside of the applicable counties and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed to the applicable counties.

(2) The medium volatility organic compound (MVOC) content standards specified in Table 1 for antiperspirants or deodorants shall not apply to ethanol.

(3) The VOC limits specified in Table 1 shall not apply to fragrances up to a combined level of 2% by weight contained in any consumer product and shall not apply to colorants up to a combined level of 2% by weight contained in any antiperspirant or deodorant.

(4) The requirements in Table 1 for antiperspirants or deodorants shall not apply to those VOCs that contain more than ten carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of two mm Hg or less at 20 degrees Celsius.

(5) The VOC limits specified in Table 1 shall not apply to any LVP-VOC.

(6) The requirements of R307-357-10 shall not apply to consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA; 7 U.S.C. Section 136/136y).

(7) The VOC limits specified in Table 1 shall not apply to air fresheners that are comprised entirely of fragrance, less compounds, not defined as VOCs or exempted under R307-357-6.

(8) The VOC limits specified in Table 1 shall not apply to air fresheners and insecticides containing at least 98% paradichlorobenzene.

(9) The VOC limits specified in Table 1 shall not apply to adhesives sold in containers of one fluid ounce or less.

(10) The VOC limits specified in Table 1 shall not apply to bait station insecticides.

R307-357-7. Innovative Products.

(1) Consumer products that have been granted an innovative products exemption by the CARB under provisions of 17 CCR 94511 as of the effective date of R307-357, shall be exempt from the VOC content limits in listed in Table 1 for the period of time that the innovative product exemption remains in effect.

(2) Any manufacturer claiming such an exemption shall submit to the director a copy of the CARB exemption decision, including all conditions established by CARB applicable to the exemption before the date that the product is first marketed in the applicable counties.

R307-357-8. Alternate Control Plan (ACP).

(1) Any manufacturer of consumer products who has been granted an ACP agreement by the CARB under provisions of 17 CCR 94540-945555 as of the effective date of R307-357 shall be exempt from complying with the VOC content limits established in Table 1 for the period of time that the ACP agreement remains in effect.

(2) Any manufacturer claiming an ACP agreement shall submit upon request to the director a copy of the ACP decision, including all conditions applicable to the exemption before the date that the product is first marketed in the applicable counties.

R307-357-9. Variances.

(1) Consumer products that have been granted a variance by the CARB under the provisions of 17 CCR 94511 as of the effective date of this rule shall be exempt from complying with the VOC content limits established in Table 1 for the period of time that the variance remains in effect.

(2) Any person claiming a variance shall submit a copy of the variance decision to the director, including all conditions applicable to the variance before the date that the product is first marketed in the applicable counties.

R307-357-10. Administrative Requirements.

(1) Product Dating. Each manufacturer of a consumer product subject to the standards established in Table 1 shall clearly display on each consumer product container or package, the day, month, and year on which the product was manufactured, or a code indicating such date.

(a) A manufacturer who uses the following code to indicate the date of manufacture shall not be subject to the requirements of R307-357-10(3)(a) if the code is represented separately from other codes on the product container so that it is easily recognizable:

YY DDD = year year day day day where:

"YY" = two digits representing the year in which the product was manufactured, and

"DDD" = three digits representing the day of the year on which the product was manufactured, with "001" representing the first day of the year, "002" representing the second day of the year, and so forth (i.e. the "Julian date").

(b) The date information shall be located on the container or inside the cover or cap so that it is readily observable or obtainable by simply removing the cap or cover without disassembling any part of the container or packaging.

(c) The date information shall be displayed on each consumer product container or package no later than twelve months prior to the effective date of the applicable standard specified in Table 1.

(d) No person shall erase, alter, deface or otherwise remove or make illegible any date from any regulated product container without the express authorization of the manufacturer.

(2) The requirements of this provision shall not apply to products containing no VOCs or to products containing VOCs at 0.10% by weight or less.

(3) If a manufacturer uses a code indicating the date of manufacture, for any consumer product subject to R307-357-4, an explanation of the date portion of the code shall be supplied to the director within 30 days of written request.

R307-357-11. Reporting Requirements.

(1) Upon 90 days written notice, the director may require any responsible party to report information for any consumer product or products the director may specify including, but not limited to, all or part of the following information:

(a) The name of the responsible party and the party's address, telephone number, and designated contact person;

(b) The product brand name for each consumer product subject to registration and the product label;

(c) The product category to which the consumer product belongs;

(d) The applicable product forms listed separately;

(e) An identification of each product brand name and form as a "household product," "I&I Product," or both;

(f) Separate sales applicable counties in pounds per year, to the nearest pound, and the method used to calculate the sales for each product form;

(g) For registrations submitted by two companies, an identification of the company that is submitting relevant data separate from that submitted by the responsible party;

_____ (h) For each product brand name and form, the net percent by weight of the total product, less container and packaging, comprised of the following, rounded to the nearest one tenth of a percent:

- _____ (i) Total non-VOC compounds.
- _____ (ii) Total LVP-VOCs that are not fragrances.
- _____ (iii) Total all other carbon containing compounds that are not fragrances.
- _____ (iv) Total all non-carbon containing compounds.
- _____ (v) Total fragrance.
- _____ (vi) For products containing greater than two% by weight fragrance:

_____ (A) The percent of fragrance that are LVP-VOCs; and
_____ (B) The percent of fragrance that are all other carbon containing compounds.

_____ (vii) Total paradichlorobenzene.
_____ (i) For each product brand name and form, the identity, including the specific chemical name and associated chemical abstract services (CAVES) number, of the following:

- _____ (i) Each non-VOC Compound; and
- _____ (ii) Each LVP-VOC that is not a fragrance.
- _____ (j) If applicable, the weight percent comprised of propellant for each product;
- _____ (k) If applicable, an identification of the type of propellant (Type A, Type B, Type C, or a blend of the different types).

_____ (2) In addition to the requirements of section R307-357-11(1), the responsible party shall report or shall arrange to have reported to the director the net percent by weight of each ozone-depleting compound which is:

- _____ (a) Listed in R307-357-4(6); and
- _____ (b) Contained in a product subject to registration under R307-357-11(1) in any amount greater than 0.1 percent by weight.

_____ (3) For the purpose of R307-357-11 "product form" means the applicable form which most accurately describes the product's dispensing form as follows:

- _____ A = Aerosol Product
- _____ S = Solid
- _____ P = Pump Spray
- _____ L = Liquid
- _____ SS = Semisolid
- _____ O = Other

R307-357-12. Special Reporting Requirements for Consumer Products that Contain Perchloroethylene or Methylene Chloride.

_____ (1) The requirements of R307-357-12 shall apply to all responsible parties for consumer products that are subject to the standards established in Table 1 and contain perchloroethylene or methylene chloride.

_____ (a) For the purposes of this subsection, a product contains perchloroethylene or methylene chloride if the product contains 1.0% or more by weight (exclusive of the container or packaging) of either perchloroethylene or methylene chloride.

_____ (2) For each consumer product that contains perchloroethylene or methylene chloride, upon request from the director, the responsible party shall report the following information for products sold in the applicable counties within 90 days written notice:

_____ (a) The product brand name and a copy of the product label with legible usage instructions;

_____ (b) The product category to which the consumer product belongs;

_____ (c) The applicable product forms (listed separately);

_____ (d) For each product form listed in R307-357-12(c), the total sales in the applicable counties during the calendar year, to the nearest pound (exclusive of the container or packaging), and the method used for calculating the sales; and

_____ (e) The weight percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the consumer product.

R307-357-13. Test Methods.

_____ Testing to determine compliance with the requirements of this regulation shall be performed using the CARB Method 310, Determination of Volatile Organic Compounds in Consumer Products, which is herein incorporated by reference.

R307-357-14. VOC Content Determinations Using Product Formulation and Records.

_____ (1) Testing to determine compliance with the requirements of R307-357 may also be demonstrated through calculation of the VOC content from records of the amounts of constituents used to make the product pursuant to the following criteria:

_____ (a) Compliance determinations based on these records may not be used unless the manufacturer of a consumer product keeps accurate records for each day of production of the amount and chemical composition of the individual product constituents, and these records must be kept for at least three years.

_____ (b) For the purposes of R307-357-13, the VOC content shall be calculated according to the following equation:

$$\text{VOC Content} = ((B-C)/A) \times 100$$

_____ where, A = total net weight of unit (excluding container and packaging)

_____ B = total weight of all VOCs, as defined in Table 1, per unit

_____ C = total weight of VOCs exempted under R307-357-6, per unit

_____ (c) If product records appear to demonstrate compliance with the VOC limits, but these records are contradicted by product testing performed using CARB Method 310, the results of CARB Method 310 shall take precedence over the product records and may be used to establish a violation of the requirements of this regulation.

R307-357-15. Determination of Liquid or Solid.

_____ Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359- 90 (2000).

KEY: air pollution, consumer products

Date of Enactment or Last Substantive Amendment: 2013

Authorizing, and Implemented or Interpreted Law: 19-2-101

Environmental Quality, Air Quality
R307-401-19
 Analysis of Alternatives

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 37268
 FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-401-19 is being removed from Rule R307-401 and is being added to Rule R307-403 as Section R307-403-10. Because the section applies only to major sources or major modifications that are located in a nonattainment area or impact a nonattainment area, this Analysis of Alternatives section is more appropriately located in Rule R307-403. (DAR NOTE: The proposed amendment to R307-403-10 is under DAR No. 37266 in this issue, March 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Section R307-401-19 is removed in its entirety. The section will be relocated to Rule R307-403 as Section R307-403-10 in Rule R307-403.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-108 and Subsection 19-2-104(3) (q)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Because this rule is being moved to another section of the Utah Air Quality Rules, there are no anticipated costs or savings to the state budget.
- ◆ LOCAL GOVERNMENTS: Because this rule is being moved to another section of the Utah Air Quality Rules, there are no anticipated costs or savings to local government.
- ◆ SMALL BUSINESSES: Because this rule is being moved to another section of the Utah Air Quality Rules, there are no anticipated costs or savings to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because this rule is being moved to another section of the Utah Air Quality Rules, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this rule is being moved to another section of the Utah Air Quality Rules, there are no anticipated costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because this rule is being moved to another section of the Utah Air Quality Rules, there is no anticipated fiscal impact on businesses.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.
R307-401. Permit: New and Modified Sources.
[R307-401-19. Analysis of Alternatives:

~~The owner or operator of a major new source or major modification to be located in a nonattainment or maintenance area or which would impact a nonattainment or maintenance area must, in addition to the requirements in R307-401, submit with the notice of intent an adequate analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. The director shall review the analysis. The analysis and the director's comments shall be subject to public comment as required by R307-401-7. The preceding shall also apply in Salt Lake and Davis Counties for new major sources or modifications which are considered major for precursors of ozone, including volatile organic compounds and nitrogen oxides.~~

KEY: air pollution, permits, approval orders, greenhouse gases
 Date of Enactment or Last Substantive Amendment: ~~[January 1, 2011]~~ 2013

Notice of Continuation: June 6, 2012

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

Environmental Quality, Air Quality
R307-401-20
 Relaxation of Limitations

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 37269
 FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-401-20 is being removed from Rule R307-401 and is being moved into Section R307-403-2 because the section applies only to major sources or major modifications that are located in a nonattainment area or impact a nonattainment area. Therefore, this Relaxation of Limitations section is more appropriately located in Section R307-403-2. (DAR NOTE: The proposed amendment to R307-403-2 is under DAR No. 37264 in this issue, March 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Section R307-401-20 is removed in its entirety from Rule R307-401, and the language, that more closely mirrors that of the CFR, is added to Section R307-403-2 as Subsection R307-403-2(5)(b).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-108 and Subsection 19-2-104(3) (q)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Because the requirements of this section will be continued on in Section R307-403-2, there are no anticipated costs or savings to the state budget.
- ◆ LOCAL GOVERNMENTS: Because the requirements of this section will be continued on in Section R307-403-2, there are no anticipated costs or savings to local government.
- ◆ SMALL BUSINESSES: Because the requirements of this section will be continued on in Section R307-403-2, there are no anticipated costs or savings to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because the requirements of this section will be continued on in Section R307-403-2, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the requirements of this section will be continued on in Section R307-403-2, there are no anticipated costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the requirements of this section will be continued on in Section R307-403-2, there are no anticipated fiscal impacts on businesses.

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

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 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-401. Permit: New and Modified Sources.

~~**R307-401-20. Relaxation of Limitations.**~~

~~At a time that a source or modification to be located in a nonattainment or maintenance area or which would impact a nonattainment or maintenance area becomes a major source or major modification because of a relaxation of any enforceable limitation which was established after August 7, 1980, on the capacity of a source or modification otherwise to emit a pollutant, such as a restriction on the hours of operation, then the preconstruction requirements shall apply to the source as though construction had not yet commenced on the source or modification.~~

]KEY: air pollution, permits, approval orders, greenhouse gases
Date of Enactment or Last Substantive Amendment: [January 1, 2011]2013

Notice of Continuation: June 6, 2012

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

Environmental Quality, Air Quality
R307-403-1
Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37263

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Environmental Protection Agency (EPA) has identified a number of issues with Utah's permitting rule for new or modified sources in nonattainment areas (Rule R307-403) that affected their ability to approve Utah's PM10 Maintenance Plan. These same issues will potentially affect EPA's approval of the PM2.5 State Implementation Plan (SIP). In addition, there have been a number of changes to the federal regulations, most notably NSR Reform and the PM2.5 implementation rule for new source review, that have not yet been incorporated into Utah's rule.

SUMMARY OF THE RULE OR CHANGE: This change updates the definitions section to also include the purpose of the rule. Language is added to this section of the rule to parallel the language in the Code of Federal Regulations.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds 40 CFR Part 51, published by National Archives and Records Administration's Office of the Federal Register, 07/01/2012

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no new requirements to the state; therefore, there are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** There are no new requirements to local governments; therefore, there are no anticipated costs or savings associated with this rule.
- ◆ **SMALL BUSINESSES:** This rule merely updates the language in the purpose and definitions section and does not create any new requirements for small businesses; therefore, there are no anticipated costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no new requirements for persons other than small businesses, businesses, or local government entities; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment updates the language for the purpose and definitions of the rule. No new compliance requirements are added; therefore there are no compliance costs for affected persons associated with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment updates the language for the purpose and definitions of the rule. No new compliance requirements are added; therefore we do not anticipate this rule having a fiscal impact on businesses.

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

ENVIRONMENTAL QUALITY
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FOURTH FLOOR
195 N 1950 W
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or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.

R307-403-1. Purpose and Definitions.

~~[The following additional definition applies to R307-403-1:
"Lowest Achievable Emission Rate (LAER)" means for any source, that rate of emissions which reflects:~~

- ~~(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or~~
- ~~(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.~~

~~In no event shall the application of this term permit a proposed new source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.](1) Purpose. This rule implements the federal nonattainment area permitting program for major sources as required by 40 CFR 51.165. In addition, the rule contains new source review provisions for some non-major sources in PM10 nonattainment areas. This rule supplements, but does not replace, the permitting requirements of R307-401.~~

~~(2) Unless otherwise specified, all references to 40 CFR in R307-403 shall mean the version that is in effect on July 1, 2012.~~

~~(3) Except as provided in R307-403-1(4), the definitions in 40 CFR 51.165(a)(1) are hereby incorporated by reference.~~

~~(4)(a) "Reviewing authority" means the director.~~

~~(b) In the definition of "regulated NSR pollutant" in 40 CFR 51.165(a)(1)(xxxvii) the following subparagraph is added to 51.165(a)(1)(xxvii)(4): "(i) Volatile organic compounds are precursors to PM2.5 and ammonia is not a precursor to PM2.5 in the Logan, Salt Lake City, and Provo PM2.5 nonattainment areas as defined in the July 1, 2010 version of 40 CFR 81.345."~~

~~(c) The following definitions or portions of definitions that apply to the equipment repair and replacement provisions are not incorporated because these provisions were vacated by the DC Circuit Court of Appeals on March 17, 2006:~~

~~(i) in the definition of "major modification" in 40 CFR 51.165(a)(1)(v)(C), the second sentence in subparagraph (1);~~

~~(ii) the definition of "process unit" in 40 CFR 51.165(a)(1)(xliv);~~

~~(iii) the definition of "functionally equivalent component" in 40 CFR 51.165(a)(1)(xlv);~~

~~(iv) the definition of "fixed capital cost" in 40 CFR 51.165(a)(1)(xlv); and~~

~~(v) the definition of "total capital investment" in 40 CFR 51.165(a)(1)(xlv).~~

KEY: air quality, nonattainment, offset

Date of Enactment or Last Substantive Amendment: ~~May 6, 1999~~2013

Notice of Continuation: June 6, 2012
Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-108

Environmental Quality, Air Quality **R307-403-2** Emission Limitations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37264

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Environmental Protection Agency (EPA) has identified a number of issues with Utah's permitting rule for new or modified sources in nonattainment areas (Rule R307-403) that affected their ability to approve Utah's PM10 Maintenance Plan. These same issues will potentially affect EPA's approval of the PM2.5 State Implementation Plan (SIP). In addition, there have been a number of changes to the federal regulations, most notably NSR Reform and the PM2.5 implementation rule for new source review, that have not yet been incorporated into Utah's rule.

SUMMARY OF THE RULE OR CHANGE: The title of the section is changed from "Emission Limitations" to "Applicability." Language is added to this section of the rule to mirror language of the Federal Code of Regulations. The language from Section R307-401-20 is moved from Rule R307-401 to Rule R307-403 as Subsection R307-403-2(5)(b). (DAR NOTE: The proposed amendment to R307-401-20 is under DAR No. 37269 in this issue, March 1, 2013, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds 40 CFR Part 51, published by National Archives and Records Administration's Office of the Federal Register, 07/01/2012

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no new requirements to the state; therefore, there are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** There are no new requirements to local governments; therefore, there are no anticipated costs or savings associated with this rule.
- ◆ **SMALL BUSINESSES:** This rule applies primarily to major sources. There are no changes to provisions that would apply to small businesses; therefore, there are no costs or savings to small business.

- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no new requirements for persons other than small businesses, businesses, or local government entities; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule incorporates EPA's NSR reform provisions that provide additional flexibility for major sources in nonattainment areas. This additional flexibility will provide cost savings for major sources. In addition, the applicability provisions will more closely match related provisions in Rule R307-405 that apply to attainment areas, simplifying the permitting process for major sources.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule incorporates EPA's NSR reform provisions that provide additional flexibility for major sources in nonattainment areas. This additional flexibility will provide cost savings for major sources. In addition, the applicability provisions will more closely match related provisions in Rule R307-405 that apply to attainment areas, simplifying the permitting process for major sources.

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DIRECT QUESTIONS REGARDING THIS RULE TO:

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.

R307-403-2. [Emission Limitations] Applicability.

[~~Any source constructed in an actual area of nonattainment, or in the Salt Lake City and Ogden maintenance areas for carbon monoxide, or in an area which will impact on an actual area of nonattainment or on the Salt Lake City and Ogden maintenance areas for carbon monoxide must meet all applicable emission requirements of R307 and the State Implementation Plan incorporated by reference under R307-110. A proposed source which is not a major source may be approved without further analysis provided such source meets all~~

such applicable emission limitations and offset requirements in R307-403-4, 5, and 6. The emission limitations shall be stated as a condition of the approval order.

(1) R307-403 applies to any new major stationary source or major modification that is major for the pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the Act, if the stationary source or modification would locate anywhere in the designated nonattainment area.

(a) Except as otherwise provided in paragraph R307-403(2), and consistent with the definition of major modification contained in 40 CFR 51.165(a)(1)(v)(A), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases--a significant emissions increase (as defined in 40 CFR 51.165(a)(1)(xxvii)), and a significant net emissions increase (as defined in 40 CFR 51.165(a)(1)(vi) and (x)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs R307-403-2(c) through (e). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in 40 CFR 51.165(a)(1)(vi). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(c) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in 40 CFR 51.165(a)(1)(xxviii)) and the baseline actual emissions (as defined in 40 CFR 51.165(a)(1)(xxv)(A) and (B), as applicable), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(d) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in 40 CFR 51.165(a)(1)(iii)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in 40 CFR 51.165(a)(1)(xxv)(C)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(e) Reserved.

(f) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in R307-403-2(1)(C) through (D) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(2) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under R307-403-11.

(3) Reserved.

(4) R307-403 does not apply to any source or modification that would be a major source or major modification only if fugitive emissions to the extent quantifiable are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the categories listed in R307-403-2(4)(a) through (aa).

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum ore reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or citric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(5)(a) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provision of the state implementation plan and any other requirements under local, state or federal law.

(b) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of regulations approved pursuant to this section shall apply to the source or modification as

though construction had not yet commenced on the source or modification:

(6) The provisions of R307-403-2(6)(a) through (f) apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs 40 CFR 51.165(a)(1)(xxviii)(B)(1) through (3) for calculating projected actual emissions.

(a) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under 40 CFR 51.165(a)(1)(xxviii)(B)(3) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in R307-403-2(6)(a) to the reviewing authority. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the reviewing authority before beginning actual construction.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in paragraph R307-403-2(6)(a)(ii); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

(d) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority within 60 days after the end of each year during which records must be generated under paragraph R307-403-2(6)(c) setting out the unit's annual emissions during the year that preceded submission of the report.

(e) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority if the annual emissions, in tons per year, from the project identified in paragraph R307-403-2(6)(a), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph R307-403-2(6)(c), by a significant amount (as defined in 40 CFR 51.165(a)(1)(x)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph R307-403-2(6)(c). Such report shall be submitted to the reviewing authority within 60 days after the end of such year. The report shall contain the following:

(i) The name, address and telephone number of the major stationary source;

(ii) The annual emissions as calculated pursuant to paragraph R307-403-2(6)(c); and

(iii) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

(f) A "reasonable possibility" under (R307-403-2(6) occurs when the owner or operator calculates the project to result in either:

(i) A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase," as defined in 40 CFR 51.165(a)(1)(xxvii)(without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

(ii) A projected actual emissions increase that, added to the amount of emissions excluded under 40 CFR 51.165(a)(1)(xxviii)(B)(3), sums to at least 50 percent of the amount that is a "significant emissions increase," as defined under paragraph 40 CFR 51.165(a)(1)(xxvii) without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this paragraph, and not also within the meaning of paragraph R307-403-2(6)(f)(i), then provisions R307-403-2(6)(b) through (e) do not apply to the project.

(7) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph R307-403-2(6) above available for review upon a request for inspection by the director or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(8) The requirements of R307-403 applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or in portions of an ozone transport region where the EPA Administrator has granted a nitrogen oxides waiver applying the standards set forth under section 182(f) of the Clean Air Act and the waiver continues to apply.

(9) Reserved.

(10) The requirements of R307-403 applicable to major stationary sources and major modifications of PM₁₀ shall also apply to major stationary sources and major modifications of PM₁₀ precursors, except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ ambient standards in the area.

(11) Reserved.

(12) R307-403 applies to any major source or major modification that is located outside a nonattainment area and is major for the pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the Clean Air Act and that causes the significant increments in R307-403-3(1) to be exceeded in the nonattainment area.

(12) R307-403-5 applies to any new or modified source in a PM₁₀ nonattainment area.

KEY: air quality, nonattainment[*], offset[*]

Date of Enactment or Last Substantive Amendment: ~~May 6, 1999~~ 2013

Notice of Continuation: June 6, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-108

Environmental Quality, Air Quality R307-403-10 Analysis of Alternatives

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37266

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section was Section R307-401-19 in Rule R307-401 and is now moved to Rule R307-403 as Section R307-403-10 because the section applies only to major sources or major modifications that are located in a nonattainment area or impact a nonattainment area. Therefore, this Analysis of Alternatives section is more appropriately located in Section Rule R307-403. (DAR NOTE: The proposed amendment to R307-401-19 is under DAR No. 37268 in this issue, March 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The "Analysis of Alternatives", Section R307-401-19, is moved from Rule R307-401 to Rule R307-403 as Section R307-403-10.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Because this regulation is already in the Utah Air Quality Rules, there are no anticipated costs or savings to the state budget.

♦ LOCAL GOVERNMENTS: Because this regulation is already in the Utah Air Quality Rules, there are no anticipated costs or savings to local government.

♦ SMALL BUSINESSES: Because this regulation is already in the Utah Air Quality Rules, there are no anticipated costs or savings to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because this regulation is already in the Utah Air Quality Rules, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this regulation is already in the Utah Air Quality Rules, there are no anticipated costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because this regulation is already in the Utah Air Quality Rules, this rule amendment will have no fiscal impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.

R307-403-10. Analysis of Alternatives.

The owner or operator of a major new source or major modification to be located in a nonattainment area or which would impact a nonattainment area must, in addition to the requirements in R307-403, submit with the notice of intent an adequate analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. The director shall review the analysis. The analysis and the director's comments shall be subject to public comment as required by R307-401-7. The preceding shall also apply in Salt Lake and Davis Counties for new major sources or modifications which are considered major for precursors of ozone, including volatile organic compounds and nitrogen oxides.

KEY: air quality, nonattainment[*], offset[*]

Date of Enactment or Last Substantive Amendment: ~~May 6, 1999~~ 2013

Notice of Continuation: June 6, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-108

Environmental Quality, Air Quality
R307-403-11
 Actuals PALs

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 37267
 FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change will implement a portion of EPA's NSR Reform provisions that were adopted in the federal regulations in 2002 and have not yet been incorporated into the Utah Air Quality Rules.

SUMMARY OF THE RULE OR CHANGE: Section R307-403-11 is added to the rule to incorporate by reference the provisions of 40 CFR 51.165(f)(1) through (14).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

MATERIALS INCORPORATED BY REFERENCES:
 ♦ Adds 40 CFR Part 51, published by National Archives and Records Administration's Office of the Federal Register, 07/01/2012

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** These NSR Reform provisions have been in federal regulations since 2002; therefore, there are no anticipated costs or savings to the state budget.
 ♦ **LOCAL GOVERNMENTS:** These NSR Reform provisions have been in federal regulations since 2002; therefore, there are no anticipated costs or savings to local government.
 ♦ **SMALL BUSINESSES:** Because this rule applies only to major sources, there are no anticipated costs or savings to small businesses.
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule applies only to major sources, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule incorporates EPA's NSR Reform provisions that provide additional flexibility for major sources in nonattainment areas. This additional flexibility will provide cost savings for major sources. In addition, the applicability provisions will more closely match related provisions in R307-405 that apply to attainment areas, simplifying the permitting process for major sources.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule incorporates EPA's NSR Reform provisions that provide additional flexibility for major sources in

nonattainment areas. This additional flexibility will provide cost savings for major sources. In addition, the applicability provisions will more closely match related provisions in R307-405 that apply to attainment areas, simplifying the permitting process for major sources.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.
R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.
R307-403-11. Actuals PALs.
The provisions of 40 CFR 51.165(f)(1) through (14) are hereby incorporated by reference.

KEY: air quality, nonattainment[[±]], offset[[±]]
Date of Enactment or Last Substantive Amendment: [~~May-6-1999~~]**2013**
Notice of Continuation: June 6, 2012
Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-108

Environmental Quality, Air Quality
R307-420
 Permits: Ozone Offset Requirements
 in Davis and Salt Lake Counties

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 37265
 FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change will ensure that the definitions

and applicability provisions in Rule R307-420 are consistent with related permitting Rules R307-403 and R307-405.

SUMMARY OF THE RULE OR CHANGE: The rule is modified to include the definitions and applicability provisions of Rule R307-403.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Because there are no new requirements to the state, there are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Because there are no new requirements for local government, there are no anticipated costs or savings.
- ◆ **SMALL BUSINESSES:** Because this rule applies only to major sources, there are no anticipated costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule applies only to major sources, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change incorporates EPA's NSR Reform provisions that provide additional flexibility for major sources in Salt Lake and Davis Counties. The additional flexibility will provide cost savings for major sources. In addition, the applicability provisions will more closely match related provisions in Rule R307-405 that apply to attainment areas, simplifying the permitting process for major sources.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change incorporates EPA's NSR Reform provisions that provide additional flexibility for major sources in Salt Lake and Davis Counties. The additional flexibility will provide cost savings for major sources. In addition, the applicability provisions will more closely match related provisions in Rule R307-405 that apply to attainment areas, simplifying the permitting process for major sources.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-420. Permits: Ozone Offset Requirements in Davis and Salt Lake Counties.

R307-420-1. Purpose.

The purpose of R307-420 is to maintain the offset provisions of the nonattainment area new source review permitting program in Salt Lake and Davis Counties after the area is redesignated to attainment for ozone. R307-420 also establishes more stringent offset requirements for nitrogen oxides that may be triggered as a contingency measure under the ozone maintenance plan.

R307-420-2. Definitions.

~~[The following additional definitions apply to R307-420:]~~ Except as provided in R307-420-2, the definitions in R307-403-1 apply to R307-420.

"Major Source" means:

- (1)(a) any stationary source of air pollutants which emits, or has the potential to emit, fifty tons per year or more of volatile organic compounds; or
- (b) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of nitrogen oxides; or
- (c) any physical change that would occur at a source not qualifying under (1)(a) or (b) as a major source, if the change would constitute a major source by itself.
- (2) The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:
 - (a) Coal cleaning plants (with thermal dryers);
 - (b) Kraft pulp mills;
 - (c) Portland cement plants;
 - (d) Primary zinc smelters;
 - (e) Iron and steel mills;
 - (f) Primary aluminum ore reduction plants;
 - (g) Primary copper smelters;
 - (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
 - (i) Hydrofluoric, sulfuric, or nitric acid plants;
 - (j) Petroleum refineries;
 - (k) Lime plants;
 - (l) Phosphate rock processing plants;
 - (m) Coke oven batteries;
 - (n) Sulfur recovery plants;
 - (o) Carbon black plants (furnace process);
 - (p) Primary lead smelters;
 - (q) Fuel conversion plants;
 - (r) Sintering plants;

- (s) Secondary metal production plants;
- (t) Chemical process plants;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under 42 U.S.C. 7411 or 7412 (section 111 or 112 of the federal Clean Air Act).

"Significant" means, for the purposes of determining what is a significant net emission increase and therefore a major modification, a rate of emissions that would equal or exceed any of the following rates:

- (1) for volatile organic compounds, 25 tons per year,
- (2) for nitrogen oxides, 40 tons per year.

R307-420-3. Applicability.

(1) Nitrogen Oxides. Effective August 18, 1997, any new major source or major modification of nitrogen oxides in Davis County or Salt Lake County shall offset the proposed increase in nitrogen oxide emissions by a ratio of 1.15:1 before the director may issue an approval order to construct, modify, or relocate under R307-401.

(2) Volatile Organic Compounds. Effective December 2, 1998 any new major source or major modification of volatile organic compounds in Davis County or Salt Lake County shall offset the proposed increase in volatile organic compound emissions by a ratio of 1.2:1 before the director may issue an approval order to construct, modify, or relocate under R307-401.

(3) The applicability provisions in R307-403-2(1)(a) through (f) and R307-403-2(2) through (7) apply in R307-420.

R307-420-4. General Requirements.

(1) All emission offsets shall meet the general requirements for calculating and banking emission offsets that are established in R307-403-4, R307-403-7 and R307-403-8.

(2) Emission offset credits generated in Davis County or Salt Lake County may be used in either county.

(3) Offsets may not be traded between volatile organic compounds and nitrogen oxides.

R307-420-5. Contingency Measure: Offsets for Oxides of Nitrogen.

If the nitrogen oxide offset contingency measure described in Section IX, Part D.2.h(3) of the state implementation plan is triggered, the following conditions shall apply in Davis County and Salt Lake County.

(1) Paragraph (1)(b) in the term "major source," which is defined in R307-420-2, shall be changed to read: any stationary source of air pollutants which emits, or has the potential to emit, fifty tons per year or more of nitrogen oxides.

(2) The nitrogen dioxide level that is included in the term "significant", which is defined in R307-420-2, shall be changed from 40 tons per year to 25 tons per year.

- (3) The emission offset ratio shall be 1.2:1 for nitrogen oxides.

KEY: air pollution, ozone, offset[*]

Date of Enactment or Last Substantive Amendment: [~~May 6, 1999~~]**2013**

Notice of Continuation: June 6, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-108

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37305

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-1. Utah Hazardous Waste Definitions and References.

R315-1-1. Definitions.

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

(b) For R315-1 through R315-101, the terms defined in 40 CFR 260.10, 264.18(a)(2), and 279.1, 2010 ed., are adopted and incorporated by reference with the following revisions:

(1) Substitute "~~Executive Secretary~~ Director of the Division of Solid and Hazardous Waste" for "Regional Administrator" or "Administrator," except in the following cases:

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

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

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

Amendments of 1984 (HSWA) as identified in Table 1 of 40 CFR 271.1."

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

(c) The terms defined in 40 CFR 261.1(c), 2010 ed., are adopted and incorporated by reference.

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

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

(2) "Director" or "State Director" means ~~["Executive Secretary,"]~~ the Director of the Division of Solid and Hazardous Waste, and

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

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

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

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

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

~~(2)~~ (3) "Division" means the Division of Solid and Hazardous Waste.

~~(3)~~ (4) "Hazard class" means:

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

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

~~(4)~~ (5) "Monitoring" means all procedures used to systematically inspect and collect data on operational parameters of the facility or on the quality of the air, ground water, surface water, or soils.

~~(5)~~ (6) "POHC's" means principle organic hazardous constituents.

~~(6)~~ (7) "Permittee" means any person who has received an approval of a hazardous waste operation plan under 19-6-108 and R315-3 or a Federal RCRA permit for a treatment, storage, or disposal facility.

~~(7)~~(8) "Precipitation run-off" means water generated from naturally occurring storm events. If the precipitation run-off has been in contact with a waste defined in R315-2-9, it qualifies as "precipitation run-off" if the water does not exhibit any of the characteristics identified in R315-2-9. If the precipitation run-off has been in contact with a waste listed in R315-2-10 or R315-2-11, then it qualifies as "precipitation run-off" when the water has been excluded under R315-2-16. Water containing any leachate does not qualify as "precipitation run-off".

~~(8)~~(9) "Spill" means the accidental discharging, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes, into or on any land or water.

~~(9)~~(10) "Waste management area" means the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

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

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

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

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

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

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

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

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

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

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

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

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

R315-1-2. References.

(a) For purposes of R315-1 through R315-101, the publication references of 40 CFR 260.11, 2006 ed., are adopted and incorporated by reference.

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

Note: The following materials are available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847; or for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

"APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, December 1981.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: ~~January 13, 2012~~ **2013**

Notice of Continuation: **July 13, 2011**

Authorizing, and Implemented or Interpreted Law: **19-6-105; 19-6-106**

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37306

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-2. General Requirements - Identification and Listing of Hazardous Waste.

R315-2-1. Purpose and Scope.

(a) This rule identifies those solid wastes which are subject to regulation as hazardous wastes under R315-3 through R315-9 and R315-13 of these rules and which are subject to the notification requirements of these rules.

(b)(1) The definition of solid waste contained in this rule applies only to wastes that also are hazardous for purposes of the rules implementing Chapter 6, Title 19. For example, it does not apply to materials such as non-hazardous scrap, paper, textiles, or rubber that are not otherwise hazardous wastes and that are recycled.

(2) This rule identifies only some of the materials which are solid wastes and hazardous wastes under the Utah Solid and Hazardous Waste Act. A material which is not defined as a solid waste in this rule, or is not a hazardous waste identified or listed in this rule, is still a solid waste and a hazardous waste for purposes of these sections if:

(i) In the case of section 19-6-109, the ~~Board~~ Director has reason to believe that the material may be a solid waste within the meaning of subsection 19-6-102(13) and a hazardous waste within the meaning of subsection 19-6-102(7) or

(ii) In the case of section 19-6-115, the material is presenting an imminent and substantial danger to human health or the environment.

R315-2-3. Definition of Hazardous Waste.

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

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

(2) It meets any of the following criteria:

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

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

(iii) RESERVED.

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

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

(B) One or more of the following spent solvents listed in R315-2-10(e), which incorporates by reference 40 CFR 261.31 - methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents - provided that the maximum total weekly usage of these solvents, other than the amounts that can be demonstrated not to be discharged to wastewater, divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed 25 parts per million; or

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

catalyst, EPA Hazardous Waste No. K171, and spent hydrorefining catalyst, EPA Hazardous Waste No. K172; or

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

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

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

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

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

(A) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are

processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

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

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

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

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

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

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

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

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

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

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

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

(C)(1) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in 40 CFR 260.10 (6), (7), and (13) of the definition for "Industrial Furnace" which R315-1-1(b) incorporates by reference), that are disposed in solid waste landfills regulated under R315-301 through R315-320, provided that these residues meet the generic exclusion levels identified below for all constituents, and exhibit no characteristics of hazardous waste. Testing requirements shall be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues shall be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming

this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

TABLE

Constituent Maximum for any single composite sample - TCLP (mg/l)

Generic exclusion levels for K061 and K062 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Generic exclusion levels for F006 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total)(mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

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

a false certification, including the possibility of fine and imprisonment."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R315-2-4. Exclusions.

(a) MATERIALS WHICH ARE NOT SOLID WASTES.

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

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

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

(3) Irrigation return flows.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12)(i) Oil-bearing hazardous secondary materials, i.e., sludges, byproducts, or spent materials, that are generated at a petroleum refinery, SIC code 2911, and are inserted into the petroleum refining process, SIC code 2911 - including distillation, catalytic cracking, fractionation, gasification (as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10), or thermal cracking units, i.e., cokers, unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste.

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

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

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

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

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

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

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

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

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

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

(ii) The spent material is not accumulated speculatively;

(iii) Except as provided in R315-2-4(a)(17)(iv), the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support, except smelter buildings may have partially earthen floors provided the secondary material is stored on the non-earthen portion, and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment as defined R315-1-1(b), which incorporates by reference 40 CFR 260.10, and be manufactured of a material suitable for containment of its contents; a

container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner/operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must be designed, constructed and operated to prevent significant releases to the environment of these materials.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Name of the transporter and date of the shipment;
- (2) Name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment; and
- (3) Type and quantity of excluded secondary material in each shipment.

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

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

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

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

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

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

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

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

- (i) The fertilizers meet the following contaminant limits:
 - (A) For metal contaminants:

TABLE

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

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

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

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

- (A) The dates and times product samples were taken, and the dates the samples were analyzed;
- (B) The names and qualifications of the person(s) taking the samples;
- (C) A description of the methods and equipment used to take the samples;

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

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

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

(22) Used cathode ray tubes (CRTs)

(i) Used, intact CRTs as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in R315-1-1(c), which incorporates by reference 40 CFR 261.1(c)(8), by CRT collectors or glass processors.

(ii) Used, intact CRTs as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, are not solid wastes when exported for recycling provided that they meet the requirements of R315-2-27, which incorporates by reference 40 CFR 261.40.

(iii) Used, broken CRTs as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, are not solid wastes provided that they meet the requirements of R315-2-27, which incorporates by reference 40 CFR 261.39.

(iv) Glass removed from CRTs is not a solid waste provided that it meets the requirements of R315-2-27, which incorporates by reference 40 CFR 261.39(c).

(b) SOLID WASTES WHICH ARE NOT HAZARDOUS WASTES.

The following solid wastes are not hazardous wastes:

(1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered, such as refuse-derived fuel or reused. "Household waste" means any material, including garbage, trash and sanitary wastes in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters,

campgrounds, picnic grounds and day-use recreation areas. A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if the facility:

- (i) Receives and burns only
 - (A) Household waste, from single and multiple dwellings, hotels, motels, and other residential sources and
 - (B) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
 - (ii) The facility does not accept hazardous wastes and the owner or operator of the facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in the facility.
- (2) Solid wastes generated by any of the following and which are returned to the soil as fertilizers:
 - (i) The growing and harvesting of agricultural crops.
 - (ii) The raising of animals, including animal manures.
 - (3) Mining overburden returned to the mine site.
 - (4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided by R315-14-7, which incorporates by reference 40 CFR 266.112, for facilities that burn or process hazardous waste.
 - (5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.
 - (6) The following additional solid wastes:
 - (i) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in sections R315-2-10 or R315-2-11 due to the presence of chromium, which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:
 - (A) The chromium in the waste is exclusively, or nearly exclusively, trivalent chromium; and
 - (B) The waste is generated from an industrial process which uses trivalent chromium exclusively, or nearly exclusively, and the process does not generate hexavalent chromium; and
 - (C) The waste is typically and frequently managed in non-oxidizing environments.
 - (ii) Specific wastes which meet the standard in paragraphs (b)(6)(i)(A),(B), and (C) of this section, so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic, are:
 - (A) Chrome blue trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
 - (B) Chrome blue shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
 - (C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome

tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

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

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

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

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

(H) Wastewater treatment sludges from the production of TiO₂ pigment using chromium-bearing ores by the chloride process.

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

(i) For purposes of R315-2-4(b)(7) beneficiation of ores and minerals is restricted to the following activities; crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting (and/or autoclaving and/or chlorination)/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching.

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

- (A) Slag from primary copper processing;
- (B) Slag from primary lead processing;
- (C) Red and brown muds from bauxite refining;
- (D) Phosphogypsum from phosphoric acid production;
- (E) Slag from elemental phosphorus production ;
- (F) Gasifier ash from coal gasification;
- (G) Process wastewater from coal gasification;
- (H) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- (I) Slag tailings from primary copper processing;
- (J) Fluorogypsum from hydrofluoric acid production;
- (K) Process wastewater from hydrofluoric acid production;
- (L) Air pollution control dust/sludge from iron blast furnaces;
- (M) Iron blast furnace slag;
- (N) Treated residue from roasting/leaching of chrome ore;

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

(P) Process wastewater from phosphoric acid production;

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

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

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

(T) Slag from primary zinc processing.

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

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

(B) Legitimately reclaims the secondary mineral processing materials.

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

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

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

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

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

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

(12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air

conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

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

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

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

(ii) Hot-draining and crushing;

(iii) Dismantling and hot-draining; or

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

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

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181 if these wastes had been generated after the effective date of the listing;

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

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

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

(v) As of February 13, 2001, leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K 178 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation, e.g., shutdown of wastewater treatment system, provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

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

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

(d) SAMPLES

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The quantity of the sample;

(4) The date of shipment; and

(5) A description of the sample.

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

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

(e) TREATABILITY STUDY SAMPLES.

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

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

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

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

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

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

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

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

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

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

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

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

(3) the quantity of the sample;

(4) the date of shipment; and

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

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

(v) the generator or sample collector maintains the following records for a period ending 3 years after completion of the treatability study:

(A) copies of the shipping documents;

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

(C) documentation showing:

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

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

(3) the date the shipment was made; and

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

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

(3) The ~~Executive Secretary~~ Director may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The ~~Executive Secretary~~ Director

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

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

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

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

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

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

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

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

(E) Such other information that the ~~[Executive Secretary]~~Director considers necessary.

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

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

limitations specified in (f)(1) through (11) of this section apply to the entire group of MTUs collectively as if the group were one MTU.

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

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

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

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

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

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

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

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

(ii) the date the shipment was received;

(iii) the quantity of waste accepted;

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

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

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

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

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

(9) The facility prepares and submits a report to the ~~[Executive Secretary]~~Director by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in

treatability studies during the current year, and includes the following information for the previous calendar year:

- (i) the name, address, and EPA identification number of the facility conducting the treatability studies;
- (ii) the types, by process, of treatability studies conducted;
- (iii) the names and addresses of persons for whom studies have been conducted, including their EPA identification numbers;
- (iv) the total quantity of waste in storage each day;
- (v) the quantity and types of waste subjected to treatability studies;
- (vi) when each treatability study was conducted; and
- (vii) the final disposition of residues and unused sample from each treatability study.

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

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

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

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

- (1) The term dredged material has the same meaning as defined in 40 CFR 232.2;
- (2) The term permit means:
 - (i) A permit issued by the U.S. Army Corps of Engineers (Corps) or the Utah State Division of Water Quality;
 - (ii) A permit issued by the Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or
 - (iii) In the case of Corps civil works projects, the administrative equivalent of the permits referred to in paragraphs R315-2-4(g)(2)(i) and (ii), as provided for in Corps regulations.

R315-2-9. Characteristics of Hazardous Waste.

(a) GENERAL.

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

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

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

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

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

- (i) A solid waste that exhibits the characteristic may:
 - (A) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
 - (B) Pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed of or otherwise managed; and
- (ii) The characteristic can be:
 - (A) Measured by an available standardized test method which is reasonably within the capability of generators of solid waste or private sector laboratories that are available to serve generators of solid waste; or
 - (B) Reasonably detected by generators of solid waste through their knowledge of their waste.

(c) CRITERIA FOR LISTING HAZARDOUS WASTE.

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

- (i) It exhibits any of the characteristics of hazardous waste identified in this section.
- (ii) It has been found to be fatal to humans in low doses, or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity, rat, of less than 50 milligrams per kilogram, an inhalation LC 50 toxicity, rat, of less than 50 milligrams per liter, or a dermal LD 50 toxicity, rabbit, of less than 200 milligrams per kilogram or is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible illness. Waste listed in accordance with these criteria will be designated Acute Hazardous Waste.
- (iii) It contains any of the toxic constituents listed in R315-50-10 and, after considering the following factors, the Board concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed:
 - (A) The nature of the toxicity presented by the constituent.
 - (B) The concentration of the constituent in the waste.
 - (C) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in paragraph (c)(1)(iii)(G) of this section.
 - (D) The persistence of the constituent or any toxic degradation product of the constituent.
 - (E) The potential for the constituent or any toxic degradation product of the constituent to degrade into non-harmful constituents and the rate of degradation.
 - (F) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems.
 - (G) The plausible types of improper management to which the waste could be subjected.
 - (H) The quantities of the waste generated at individual generation sites or on a regional or national basis.
 - (I) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent.
 - (J) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent.

(K) Other factors as may be appropriate.

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

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

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

(d) CHARACTERISTIC OF IGNITABILITY

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

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

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

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

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

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

(e) CHARACTERISTIC OF CORROSIVITY

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

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

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

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

(f) CHARACTERISTIC OF REACTIVITY

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

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

(ii) It reacts violently with water.

(iii) It forms potentially explosive mixtures with water.

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

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

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

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

(viii) It is a "forbidden explosive" as defined in 49 CFR 173.54, or a "Division 1.1, 1.2, or 1.3 explosive" as defined in 49 CFR 173.50 and 173.53, which are incorporated by reference.

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

(g) TOXICITY CHARACTERISTIC

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

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

R315-2-11. Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof.

The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in R315-2-11" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33. Where a manufacturing process waste is deemed to be hazardous waste because it contains a substance listed in paragraphs (e) or (f) of this section, that waste will be listed in Section R315-2-10,

which incorporates the lists of hazardous wastes in 40 CFR 261.31 and 261.32, or will be identified as a hazardous waste by the characteristics set forth in Section R315-2-9.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded as described in Subsection R315-2-2(a)(2)(i), when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use, or when, in lieu of their original intended use, they are produced for use as, or a component of a fuel, distributed for use as a fuel, or burned as a fuel.

(a) Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33.

(b) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33.

(c) Any residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33, unless the container is empty as defined in R315-2-7(b). Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, the ~~Board~~ Director considers the residue to be intended for discard and thus, a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.

(d) Any residue or contaminated soil, water or other debris resulting from the cleanup of a discharge, into or on any land or water, of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33, or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraph (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33. Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, the ~~Board~~ Director considers the residue to be intended for discard, and thus a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the

same commercial chemical product or manufacturing chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to the drum reconditioner who reconditions the drum but discards the residue.

(e) The listing of chemicals, found in 40 CFR 261.33(e), 1997 ed., is adopted and incorporated by reference, with the addition of the following waste:

(1) P999 Nerve, Military, and Chemical Agents (i.e., CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX.)

(f) The listing of chemicals, found in 40 CFR 261.33(f), 2010 ed., is adopted and incorporated by reference.

R315-2-12. Inspections.

Any duly authorized officer, employee or representative of the Department or the ~~Board~~ Director may, at any reasonable time and upon presentation of appropriate credentials and upon providing the opportunity to have a representative of the owner, operator, or agent in charge to be present, enter upon and inspect any property, premise, or place on or at which hazardous wastes are generated, transported, stored, treated or disposed of, and may have access to and the right to copy any records relating to these wastes for the purpose of ascertaining the compliance with R315-1 through R315-101. Those persons referred to in this section may also inspect any waste and obtain samples thereof, including samples from any vehicle in which wastes are being transported or samples of any containers or labels. Any person obtaining samples shall give to the owner, operator or agent a receipt describing the sample obtained and, if requested, a portion of each sample of waste equal in volume or weight to the portion retained. If any analysis is made of those samples, a copy of the results of that analysis shall be furnished promptly to the owner, operator, or agent in charge.

R315-2-13. Variances Authorized.

(a) Variances will be granted by the Board only to the extent allowed under State and Federal law.

(b) The Board may consider a variance request in accordance with the standard established in section 19-6-111.(c) The Board may, at its own instance, review any variance granted during the term for which a variance was granted.

(d) A person applying for a variance shall submit the application, in writing, to the ~~Executive Secretary~~ Director. The application shall provide the following:

(1) Citation of the statutory, regulatory, or permit requirement from which the variance is sought;

(2) For variances for which the Board promulgates or has promulgated specific rules, information meeting the requirements of those rules;

(3) Information demonstrating that application of or compliance with the requirement would cause undue or unreasonable hardship on the person applying for the variance;

(4) Proposed alternative requirements, if any;

(5) Information demonstrating that the variance will achieve the purpose and intent of the statutory, regulatory, or permit provision from which the variance is sought;

(6) Information demonstrating that any alternative requirement or requirements will adequately protect human health and the environment; and

(7) If no alternative requirement is proposed, information demonstrating that if the variance is granted, human health and the environment will be adequately protected.

(e) A person applying for a variance shall provide such additional information as the Board or the ~~[Executive Secretary]~~ Director requires.

(f) Nothing in R315-2-13(d) or (e) limits the authority of the Board to grant variances in accordance with the standard established in section 19-6-111. A person applying for a variance under R315-9-2 shall provide such information described under R315-2-13(d) as the ~~[Executive Secretary]~~ Director directs.

R315-2-15. Petitions for Equivalent Testing or Analytical Methods.

(a) Any person seeking to add a testing or analytical method to R315-2, R315-7, R315-8, or R315-50, which incorporates the testing and analytical methods of 40 CFR 261, may petition for a regulatory amendment under this section and R315-2-17. To be successful, the person shall demonstrate to the satisfaction of the Board that the proposed method is equal to or superior to the corresponding method prescribed in R315-2, R315-7, R315-8, or R315-50, in terms of its sensitivity, accuracy, and precision, i.e., reproducibility.

(b) Each petition shall include:

- (1) The petitioner's name and address;
- (2) A statement of the petitioner's interest in the proposed action;

(3) A description of the proposed action, including, where appropriate, suggested regulatory language;

(4) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information;

(5) A full description of the proposed method, including all procedural steps and equipment used in the method;

(6) A description of the types of wastes or waste matrices for which the proposed method may be used;

(7) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in R315-2, R315-7, R315-8, and R315-50;

(8) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and

(9) A description of the quality control procedures necessary to ensure the sensitivity, accuracy, and precision of the proposed method.

(c) After receiving a petition for an equivalent method, the Board may request any additional information on the proposed method which it may reasonably require to evaluate the method.

(d) The Board will consider any petitions in accordance with rulemaking procedures outlined in Section 63G-3-601.

(e) Petitioner may, alternatively, proceed under the provisions of 40 CFR 260.21 to have an alternative analytical method approved by EPA. In the event approval is granted, the petitioner shall so notify the Board and the Director and the decision of EPA will be binding upon the Board and the Director.

R315-2-16. Petitions to Amend This Rule to Exclude a Waste Produced at a Particular Facility.

(a) The requirements of 40 CFR 260.22, 1993 ed., as amended by 58 FR 46040, August 31, 1993, regarding petitions to

exclude a waste are adopted and incorporated by reference with the following amendments:

(1) Substitute "Board" for "Administrator;"

(2) Include the following paragraphs:

(i) The Board will consider any petitions in accordance with ~~[rulemaking procedures outlined in 63G-3, and in accordance with the procedures outlined in the Utah Administrative Procedures Act, 63G-4, and R315-12]~~ Section 19-1-301.5.

(ii) Petitioner may, alternatively, proceed under the provisions of 40 CFR 260.22 to have a particular waste delisted by EPA. In the event delisting is granted, the petitioner shall so notify the Board and the Director and the decision of EPA will be binding upon the Board and the Director unless, within 30 days after such notification, the Board specifically overrules the decision of EPA. In such event, the petitioner may petition the Board directly under this section for the relief sought.

R315-2-22. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis.

The provision regarding the regulation of certain hazardous waste recycling activities of 40 CFR 260.40, 1990 ed., is adopted and incorporated by reference with the following amendment:

Substitute "~~[Executive Secretary]~~ Director" for "Regional Administrator."

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

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

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

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

public comment period discussed under R315-4-1.11 and in any subsequent hearing.

R315-2-26. Exclusion of Comparable Fuel and Syngas Fuel.

The requirements of 40 CFR 261.38, 2010 ed., are adopted and incorporated by reference ~~with the following exception:~~

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

KEY: hazardous waste[s], administrative procedures

Date of Enactment or Last Substantive Amendment: [January 13, 2012]2013

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-105; 19-6-106; 63G-4-201 through 205; 63G-4-503

**Environmental Quality, Solid and
Hazardous Waste
R315-3**

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37307

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

DAR NOTE: The text of this filing is not included in this Bulletin because the Director of the Division of Administrative Rules has determined it is too long to print. The text is published by reference to the text on file and maintained by the Division of Administrative Rules. (Subsection 63G-3-402(1)(d))

**Environmental Quality, Solid and
Hazardous Waste
R315-4
Procedures for Decisionmaking**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37308

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

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- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-4. Procedures for Decisionmaking.

R315-4-1. General Program Requirements.

1.3 APPLICATION FOR A PERMIT

(a) If the [~~Executive Secretary~~]Director decides that a site visit is necessary for any reason in conjunction with the processing of an application, he shall notify the applicant and a reasonable date shall be scheduled.

(b) The effective date of an application is the date on which the [~~Executive Secretary~~]Director notifies the applicant that the application is complete as provided in R315-3-2.1(c).

(c) For each application from a major new hazardous waste management facility, the [~~Executive Secretary~~]Director shall no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. The schedule shall specify target dates by which the [~~Executive Secretary~~]Director intends to:

- (1) Prepare a draft permit;
- (2) Give public notice;
- (3) Complete the public comment period, including any public hearing; and
- (4) Issue a final permit.

1.5 MODIFICATION, REVOCATION AND REISSUANCE, OR TERMINATION OF PERMITS

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person, including the permittee, or upon the [~~Executive Secretary's~~]Director's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in R315-3-4.2 or R315-3-4.4. All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the [~~Executive Secretary~~]Director decides the request is not justified, he shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the [~~Executive~~

~~Secretary~~ Director may be appealed to the Board under R315-12-3 by filing a Request for Agency Action pursuant to R315-12-3.1.

(c)(1) If the ~~[Executive Secretary]~~ Director tentatively decides to modify or revoke and reissue a permit under R315-3-4.2 or R315-3-4.3, which incorporates by reference 40 CFR 270.42(c), he shall prepare a draft permit under R315-4-1.6 incorporating the proposed changes. The ~~[Executive Secretary]~~ Director may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the ~~[Executive Secretary]~~ Director shall require the submission of a new application.

(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(3) Classes 1 and 2 modifications, as defined in R315-3-4.3, which incorporates by reference 40 CFR 270.42(a) and (b), are not subject to the requirements of this section.

(d) If the ~~[Executive Secretary]~~ Director tentatively decides to terminate a permit under R315-3-4.4, he shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under R315-4-1.6.

1.6 DRAFT PERMIT

(a) Once an application is complete, the ~~[Executive Secretary]~~ Director shall tentatively decide whether to prepare a draft permit or to deny the application.

(b) If the ~~[Executive Secretary]~~ Director tentatively decides to deny the permit, he shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. If the ~~[Executive Secretary]~~ Director's final decision is that the tentative decision to deny the permit application was incorrect, he shall withdraw the notice of intent to deny and proceed to prepare a draft permit under R315-4-1.6(c).

(c) If the ~~[Executive Secretary]~~ Director decides to prepare a draft permit, he shall prepare a draft permit that contains the following information:

- (1) All conditions under R315-3-3.1 and R315-3-3.3;
- (2) All compliance schedules under R315-3-3.4;
- (3) All monitoring requirements under R315-3-3.2; and
- (4) Standards for treatment, storage, or disposal or all and other permit conditions under R315-3-3.1.

(d) All draft permits prepared by the ~~[Executive Secretary]~~ Director under this section shall be publicly noticed and made available for public comment. The ~~[Executive Secretary]~~ Director shall give notice of opportunity for a public hearing, issue a final decision, and respond to comments.

1.8 FACT SHEET REQUIRED

(a) A fact sheet shall be prepared by the ~~[Executive Secretary]~~ Director for every draft permit. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The ~~[Executive Secretary]~~ Director shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:

(1) A brief description of the type of facility or activity which is the subject of the draft permit.

(2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.

(3) A brief summary of the basis of the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references.

(4) Reasons why any requested variance or alternatives to required standards do or do not appear justified.

(5) A description of the procedures for reaching a final decision on the draft permit including:

(i) The beginning and ending dates of the comment period under R315-4-1.10 and the address where comments will be received;

(ii) Procedures for requesting a hearing and the nature of that hearing; and

(iii) Any other procedures by which the public may participate in the final decision.

(6) Name and telephone number of a person to contact for additional information.

1.10 PUBLIC NOTICE OF PERMIT ACTIONS AND PUBLIC COMMENT PERIOD

(a) Scope.

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

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

(ii) A draft permit has been prepared under R315-4-1.6(c) [-];

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

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

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

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

(b) Timing.

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

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

(c) Methods.

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

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

(i) The applicant;

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

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

(iv) Persons on a mailing list developed by:

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) Any additional information considered necessary or proper; and

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

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

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

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

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

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

1.11 PUBLIC COMMENTS AND REQUESTS FOR PUBLIC HEARINGS

During the public comment period provided under R315-4-1.10, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already

been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in R315-4-1.17.

1.12 PUBLIC HEARINGS

(a)(1) The ~~[Executive Secretary]~~Director shall hold a public hearing whenever he finds, on the basis of requests, a significant degree of public interest in a draft permit.

(2) The ~~[Executive Secretary]~~Director may also hold a public hearing at his discretion, whenever, for instance, a hearing might clarify one or more issues involved in the permit decision.

(3)(i) The ~~[Executive Secretary]~~Director shall hold a public hearing whenever he receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under R315-4-1.10(b).

(ii) Whenever possible the ~~[Executive Secretary]~~Director shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility.

(4) Public notice of the hearing shall be given as specified in R315-4-1.10.

(b) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under R315-4-1.10 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(c) A tape recording or written transcript of the hearing shall be made available to the public.

1.15 ISSUANCE AND EFFECTIVE DATE OF PERMIT

(a) After the close of the public comment period under R315-4-1.10 on a draft permit, the ~~[Executive Secretary]~~Director shall issue a final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under R315-3-2.20). The ~~[Executive Secretary]~~Director shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a hazardous waste permit or a decision to terminate a hazardous waste permit. For the purposes of R315-4-1.15, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under R315-3-2.20) shall become effective upon issuance unless:

(1) A later effective date is specified in the decision; or

(2) The permit decision is challenged under ~~[R315-12-3]~~R305-7, Part 2 and a stay of the decision is granted under R315-12-8.

1.17 RESPONSE TO COMMENTS

(a) At the time that any final permit decision is issued, the ~~[Executive Secretary]~~Director shall issue a response to comments. This response shall:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(2) Briefly describe and respond to all significant comments on the draft permit or permit application raised during the public comment period, or during any hearing.

(b) The response to comments shall be available to the public.

R315-4-2. Specific Procedures Applicable to Hazardous Waste Permits.

2.31 PRE-APPLICATION PUBLIC MEETING AND NOTICE

(a) **Applicability.** The requirements of this section shall apply to all part B applications seeking initial permits for hazardous waste management units. The requirements of this section shall also apply to part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations. For the purposes of this section, a "significant change" is any change that would qualify as a class 3 permit modification under R315-3-4.3, which incorporates by reference 40 CFR 270.42. The requirements of this section do not apply to permit modifications under R315-3-4.3, which incorporates by reference 40 CFR 270.42, or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Prior to the submission of a part B permit for a facility, the applicant shall hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under R315-4-2.31(b), and copies of any written comments or materials submitted at the meeting, to the ~~[Executive Secretary]~~Director as a part of the part B application in accordance with R315-3-2.5(b).

(d) The applicant shall provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant shall maintain, and provide to the Division upon request, documentation of the notice.

(1) The applicant shall provide public notice in all of the following forms:

(i) A newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in R315-4-2.31(d)(2), in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the ~~[Executive Secretary]~~Director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the ~~[Executive Secretary]~~Director determines that such publication is necessary to inform the affected public. The notice shall be published as a display advertisement.

(ii) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in 315-4-2.31(d)(2). If the applicant places the sign on the facility property, then the sign shall be large enough to be readable from the nearest point where the public would pass by the site.

(iii) A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in R315-4-2.31(d)(2), at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval from the ~~[Executive Secretary]~~Director.

(iv) A notice to the permitting agency. The applicant shall send a copy of the newspaper notice to the Division and local governments in accordance with R315-4-1.10(c)(1)(v).

(2) The notices required under R315-4-2.31(d)(1) shall include:

(i) The date, time, and location of the meeting;

(ii) A brief description of the purpose of the meeting;

(iii) A brief description of the facility and proposed operations, including the address or a map, e.g., a sketched or copied street map, of the facility location;

(iv) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(v) The name, address, and telephone number of a contact person for the applicant.

2.32 PUBLIC NOTICE REQUIREMENTS AT THE APPLICATION STAGE

(a) **Applicability.** The requirements of this section shall apply to all part B applications seeking initial permits for hazardous waste management units. The requirements of this section shall also apply to part B applications seeking renewal of permits for such units under R315-3-5.2(b) through (d). The requirements of this section do not apply to permit modifications under R315-3-4.3, which incorporates by reference 40 CFR 270.42, or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Notification at application submittal.

(1) The ~~[Executive Secretary]~~Director shall provide public notice as set forth in R315-4-1.10(c)(1)(iv), and notice to appropriate units of State and local government as set forth in R315-4-1.10(c)(1)(v), that a part B permit application has been submitted to the Division and is available for review.

(2) The notice shall be published within a reasonable period of time after the application is received by the ~~[Executive Secretary]~~Director. The notice shall include:

(i) The name and telephone number of the applicant's contact person;

(ii) The name and telephone number of the Division, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

(iii) An address to which people can write in order to be put on the facility mailing list;

(iv) The location where copies of the permit application and any supporting documents can be viewed and copied;

(v) A brief description of the facility and proposed operations, including the address or a map, e.g., a sketched or copied street map, of the facility location on the front page of the notice; and

(vi) The date that the application was submitted.

(c) Concurrent with the notice required under R315-4-2.32(b), the ~~[Executive Secretary]~~Director shall place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the Division's office.

2.33 INFORMATION REPOSITORY

(a) **Applicability.** The requirements of this section shall apply to all part B applications seeking initial permits for hazardous waste management units.

(b) The ~~[Executive Secretary]~~Director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the ~~[Executive Secretary]~~Director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity of the nearest copy of the administrative

record. If the ~~[Executive Secretary]~~Director determines, at any time after submittal of a permit application, that there is a need for a repository, then the ~~[Executive Secretary]~~Director shall notify the facility that it shall establish and maintain an information repository. See R315-3-3.1(m) for similar provisions relating to the information repository during the life of a permit.

(c) The information repository shall contain all documents, reports, data, and information deemed necessary by the ~~[Executive Secretary]~~Director to fulfill the purposes for which the repository is established. The ~~[Executive Secretary]~~Director shall have the discretion to limit the contents of the repository.

(d) The information repository shall be located and maintained at a site chosen by the facility. If the ~~[Executive Secretary]~~Director finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the ~~[Executive Secretary]~~Director shall specify a more appropriate site.

(e) The ~~[Executive Secretary]~~Director shall specify requirements for informing the public about the information repository. At a minimum, the ~~[Executive Secretary]~~Director shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

(f) The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the ~~[Executive Secretary]~~Director. The ~~[Executive Secretary]~~Director may close the repository at his or her discretion, based on the factors in R315-4-2.33(b).

R315-4-10. Public Participation.

In addition to hearings required under the State Administrative Procedures Act and proceedings otherwise outlined or referenced in these rules, the ~~[Executive Secretary]~~Director will investigate and provide written response to all citizen complaints duly submitted. In addition, the ~~[Executive Secretary]~~Director shall not oppose intervention in any civil or administrative proceeding by any citizen where permissive intervention may be authorized by statute, rule or regulation. The ~~[Executive Secretary]~~Director will publish notice of and provide at least 30 days for public comment on any proposed settlement of any enforcement action.

R315-4-11. Commercial Hazardous Waste Facility Siting Criteria.

(a) Applicability.

R315-4-11 applies to all permit applications for commercial facilities that have been submitted and that have not yet been approved, as well as all future applications.

(b) Land Use Compatibility and Location.

(1) Siting of commercial hazardous waste treatment, storage, and disposal facilities, including commercial hazardous waste incinerators, is prohibited within:

(i) national, state, and county parks, monuments, and recreation areas; designated wilderness and wilderness study areas; wild and scenic river areas;

(ii) ecologically and scientifically significant natural areas, including but not limited to, wildlife management areas and habitat for listed or proposed endangered species as designated pursuant to the Endangered Species Act of 1982;

(iii) 100 year floodplains, unless, for non-land based facilities only, the conditions found in subsection R315-8-2.9 are met to the satisfaction of the ~~[Executive Secretary]~~Director;

(iv) 200 ft. of Holocene faults;

(v) underground mines, salt domes and salt beds;

(vi) dam failure flood areas;

(vii) areas likely to be impacted by landslide, mudflow, or other earth movement;

(viii) farmlands 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;

(ix) areas above aquifers containing ground water which has a total dissolved solids (TDS) content of less than 500 mg/l and which does not exceed applicable ground water quality standards for any contaminant. Land disposal facilities are also prohibited above aquifers containing ground water which has a TDS content of less than 3000 mg/l and which does not exceed applicable ground water quality standards for any contaminant. Non-land-based facilities above aquifers containing ground water which has a TDS content of 500 to 3000 mg/l and all facilities above aquifers containing ground water which has a TDS content between 3000 and 10,000 mg/l are permitted only where the depth to ground water is greater than 100 ft. The applicant for the proposed facility will make the demonstration of ground water quality necessary to determine the appropriate aquifer classification;

(x) recharge zones of aquifers containing ground water which has a TDS content of less than 3000 mg/l. Land disposal facilities are also prohibited in recharge zones of aquifers containing ground water which has a TDS content of less than 10,000 mg/l;

(xi) designated drinking water source protection areas or, if no source protection area is designated, a distance to existing drinking water wells and watersheds for public water supplies of one year ground water travel time plus 1000 feet for non-land-based facilities and five years ground water travel time plus 1000 feet for land disposal facilities. This requirement does not include on-site facility operation wells. The applicant for the proposed facility will make the demonstration, acceptable to the ~~[Executive Secretary]~~Director, of hydraulic conductivity and other information necessary to determine the one or five year ground water travel distance as applicable. The facility operator may be required to conduct vadose zone or other near surface monitoring if determined to be necessary and appropriate by the ~~[Executive Secretary]~~Director;

(xii) five miles of existing permanent dwellings, residential areas, and other incompatible structures including, but not limited to, schools, churches, and historic structures;

(xiii) five miles of surface waters including intermittent streams, perennial streams, rivers, lakes, reservoirs, estuaries, and wetlands; and

(xiv) 1000 ft. of archeological sites to which adverse impacts cannot reasonably be mitigated.

(c) Emergency Response and Transportation Safety.

(1) An assessment of the availability and adequacy of emergency services, including medical and fire response, shall be included in the permit application. The application shall also contain evidence that emergency response plans have been coordinated with local and regional emergency response personnel. The permit may be delayed or denied if these services are deemed inadequate.

(2) Trained emergency response personnel and equipment are to be retained by the facility and be capable of responding to emergencies both at the site and involving wastes being transported to and from the facility within the state. Details of the proposed emergency response capability shall be given in the permit application and will be stipulated in the permit.

(3) Proposed routes of transport within the state shall be specified in the permit application. No hazardous waste shall be transported on roads where weight restrictions for the road or any bridge on the road will be exceeded in the selected route of travel. Prime consideration in the selection of routes shall be given to roads which bypass population centers. Route selection should consider residential and non-residential populations along the route; the width, condition, and types of roads used; roadside development along the route; seasonal and climatic factors; alternate emergency access to the facility site; the type, size, and configuration of vehicles expected to be hauling to the site; transportation restrictions along the proposed routes; and the transportation means and routes available to evacuate the population at risk in the event of a major accident, including spills and fires.

(d) Exemptions.

Exemptions from the criteria of this section may be granted upon application on a case by case basis by the Solid and Hazardous Waste Control Board after an appropriate public comment period and when the Board determines that there will be no adverse impacts to public health or the environment. The Board cannot grant exemptions which would conflict with applicable regulations and restrictions of other regulatory authorities.

(e) Completeness of Application.

The permit application shall not be considered complete until the applicant demonstrates compliance with the criteria given herein.

(f) Siting Authority.

It is recognized that Titles 10 and 17 of the Utah Code give cities and counties authority for local land use planning and zoning. Nothing in these rules precludes cities and counties from establishing additional requirements as provided by applicable state and federal law.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: [~~December 1, 2006~~2013]

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

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

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 37309
FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

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

1.10 PURPOSE, SCOPE, AND APPLICABILITY.

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

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

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

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

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

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

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

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

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

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

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

(i) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of R315-5-9, which incorporates by reference 40 CFR 262.200 - 262.216, are not subject to (for purposes of this paragraph, the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in 40 CFR 262.200):

(1) The requirements of R315-5-1.11 or R315-5-3.34, which incorporates by reference 40 CFR 262.34(c), for large quantity generators and small quantity generators, except as provided in R315-5-9, which incorporates by reference 40 CFR 262.200 - 216, and

(2) The conditions of R315-2-5, which incorporates by reference 40 CFR 261.5(b), for conditionally exempt small quantity generators, except as provided in R315-5-9, which incorporates by reference 40 CFR 262.200 - 216.

1.11 HAZARDOUS WASTE DETERMINATION

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

Substitute "[~~Board~~Director]" for all federal regulation references made to "Administrator".

1.12 EPA IDENTIFICATION NUMBERS

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

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

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

R315-5-2. The Manifest.

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

2.20 GENERAL REQUIREMENTS

(a) A generator who transports, or offers for transportation, a hazardous waste for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility who offers for transport a rejected hazardous waste load shall prepare a Manifest OMB control number 2050-0039 on EPA form 8700-22, and, if necessary, EPA form 8700-22A, according to the instructions included in 40 CFR 262, Appendix, 2009 ed. The requirements of 40 CFR 262, Appendix, 2009 ed., are adopted and incorporated by reference with the following exception: substitute ["~~Executive Secretary~~"]Director of the Division

of Solid and Hazardous Waste" for all federal regulation references made to "Regional Administrator."

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

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

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

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

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

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

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

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

(f) The requirements of R315-5-2 and R315-5-3.32(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding R315-6-1.10(a), the generator or transporter shall comply with the requirements for transporters set forth in R315-9-1 and R315-9-3 in the event of a discharge of hazardous waste on a public or private right-of-way.

2.21 MANIFEST TRACKING NUMBERS, MANIFEST PRINTING, AND OBTAINING MANIFESTS

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

2.22 NUMBER OF COPIES

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

2.23 USE OF THE MANIFEST

(a) The generator shall:

(1) Sign the manifest certification by hand; and

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

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

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

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

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

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

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

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

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

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

(g) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility, following the procedures of R315-7-12.3(f) or R315-8-5. 4(f), the generator shall:

(1) Sign either:

(i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or

(ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;

(2) Provide the transporter a copy of the manifest;

(3) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and

(4) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.

2.27 WASTE MINIMIZATION CERTIFICATION

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

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

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

R315-5-3. Pre-Transport Requirements.

3.30 PACKAGING

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

3.31 LABELING

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

3.32 MARKING

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

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

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

Generator's Name and Address
Generator's EPA Identification Number
Manifest Tracking Number

3.33 PLACARDING

Prior to transporting hazardous waste or offering hazardous waste for transporting off-site, a generator shall placard or offer the initial transporter the appropriate placards according to the Department of Transportation regulations for the movement of hazardous materials under 49 CFR 172, subpart F.

3.34 ACCUMULATION TIME

(a) These requirements as found in 40 CFR 262.34, 2010 ed., are adopted and incorporated by reference with the following addition.

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

R315-5-4. Recordkeeping and Reporting.

4.40 RECORDKEEPING

(a) A generator shall keep a copy of each manifest signed in accordance with R315-5-2.23(a) for three years or until a signed copy is received from the designated facility which received the waste. The signed copy shall be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

(b) A generator shall keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report.

(c) Records maintained in accordance with this section and any other records which the ~~[Board or Executive Secretary]~~ Director deems necessary to determine quantities and disposition of hazardous waste or other determinations, test results, or waste analyses made in accordance with R315-5-1.11, which incorporates by reference 40 CFR 262.11, shall be available for inspection by any duly authorized officer, employee or representative of the Department or the ~~[Board]~~ Director as provided in R315-2-12 for a period of at least three years from the date the waste was last sent to on-site or off-site treatment, storage, or disposal facilities.

(d) The periods of retention referred to in this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the ~~[Board]~~ Director or ~~[his]~~ the Director's duly appointed representative.

4.41 BIENNIAL REPORTING

(a) A generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit a single copy of a biennial report to the ~~[Executive~~

~~Secretary]~~ Director by March 1 of each even numbered year. The biennial report shall be submitted on EPA Form 8700-13A and must cover generator activities during the previous calendar year, and must include the following information:

(1) The EPA identification number, name, and address of the generator;

(2) The calendar year covered by the report;

(3) The EPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;

(4) The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facility within the United States;

(5) A description, EPA hazardous waste number, from R315-2-9, R315-2-10, or R315-2-11, DOT hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage, or disposal facility within the United States. This information must be listed by EPA Identification number of each off-site facility to which waste was shipped;

(6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent the information is available for years prior to 1984;

(8) The certification signed by the generator or authorized representative.

(b) Any generator who treats, stores, or disposes of hazardous waste on-site shall submit a biennial report covering those wastes in accordance with the provisions of R315-3, R315-7, and R315-8. Reporting for exports of hazardous waste is not required on the Biennial Report form. A separate annual report requirement is set forth in R315-5-5, which incorporates by reference 40 CFR 262.56.

4.42 EXCEPTION REPORTING

(a)(1) A generator of greater than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated treatment, storage or disposal facility within 35 days of the date the waste was accepted by the initial transporter shall contact the transporter or the owner or operator of the designated facility to determine the status of the hazardous waste.

(2) A generator of greater than 1000 kilograms of hazardous waste in a calendar month shall submit an Exception Report to the ~~[Executive Secretary]~~ Director if he has not received a signed copy of the manifest from the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report shall consist of a legible copy of the manifest for which the generator does not have confirmation of delivery and a cover letter signed by the generator or his authorized representative explaining the efforts taken by the generator to locate the hazardous waste, and the results of those efforts.

(b) A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the ~~[Executive Secretary]~~ Director. The submission to the ~~[Executive Secretary]~~ Director need

only be a hand written or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

(c) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of R315-8-5.4(e)(1) through (6) or R315-7-12.3(e)(1) through (6)), the generator must comply with the requirements of paragraph (a) or (b) of this section, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of paragraph (a) or (b) of this section for a shipment forwarding such waste to an alternate facility by a designated facility:

(1) The copy of the manifest received by the generator must have the hand written signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility, and

(2) The 35/45/60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

Note to paragraph (c): The submission to the ~~[Executive Secretary]~~ Director need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

4.43 ADDITIONAL REPORTING

The ~~[Board or Executive Secretary]~~ Director ~~[as is deemed necessary pursuant to these rules,]~~ may require generators to furnish additional reports concerning the quantities and disposition of hazardous wastes identified or listed in Section R315-2-9, R315-2-10, or R315-2-11.

4.44 SPECIAL REQUIREMENTS FOR GENERATORS OF BETWEEN 100 AND 1000 KG/MO

A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month is subject only to the following requirements in R315-5-4:

- (a) R315-5-4.40(a), (c), and (d);
- (b) R315-5-4.42(b); and
- (c) R315-5-4.43.

R315-5-5. Exports of Hazardous Waste.

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

(a) Other than in 40 CFR 262.53 and 262.54(e), substitute ~~["Executive Secretary"]~~ "Director of the Division of Solid and Hazardous Waste" for all references to "EPA" or "Regional Administrator".

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

Any person who exports or imports hazardous waste as identified in 40 CFR 262.80(a) and is subject to the manifesting requirements of R315-5-2, or subject to the universal waste management standards as found in R315-16, to or from the countries listed in 40 CFR 262.58(a)(1), which R315-5-5 incorporates by reference, for recovery shall comply with R315-5-8, which incorporates by reference 40 CFR 262 subpart H. The requirements of subparts E and F do not apply.

R315-5-9. Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities.

The requirements of 40 CFR 262 subpart K, 262.200 - 262.216, 2011 ed., are adopted and incorporated by reference with the following exception: substitute ~~["Executive Secretary"]~~ "Director of the Division of Solid and Hazardous Waste" for all references made to "Regional Administrator."

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: ~~[January 13, 2012]~~ 2013

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37310

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-6. Hazardous Waste Transporter Requirements.

R315-6-1. General.

1.10 SCOPE

(a) These hazardous waste transporter requirements establish standards which apply only to persons transporting hazardous waste within the State of Utah if the transportation requires a manifest as specified under R315-5.

(b) These rules do not apply to persons that transport hazardous waste on-site if they are either a hazardous waste generator or are owners or operators of an approved hazardous waste management facility.

(c) A transporter shall also comply with R315-5, if he:

- (1) Transports hazardous waste from abroad into the State;
- (2) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.

(d) A transporter of hazardous waste subject to the manifesting requirements of R315-5, or subject to the waste management standards of R315-16, that is being imported from or exported to any of the countries listed in 40 CFR 262.58(a)(1), which R315-5-5 incorporates by reference, for purposes of recovery is subject to R315-6-1 and to all other relevant requirements of R315-5-8, which incorporates by reference 40 CFR 262 subpart H, including 40 CFR 262.84 for tracking documents.

1.11 IDENTIFICATION NUMBER

(a) A transporter shall not transport hazardous wastes without having received an EPA identification number from the [~~Executive Secretary~~]Director.

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

1.12 TRANSFER FACILITY REQUIREMENTS

A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of R315-5-3.30 at a transfer facility for a period of ten days or less is not subject to regulation under R315-3, R315-7, R315-8, and R315-13, which incorporates by reference 40 CFR 268, with respect to the storage of those wastes.

R315-6-2. Compliance With the Manifest System and Recordkeeping.

2.20 THE MANIFEST SYSTEM

(a)(1) Manifest Requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the requirements of R315-5-2.23.

(2) Exports. In the case of exports other than those subject to R315-5-8, which incorporates by reference 40 CFR 262 subpart H, a transporter may not accept hazardous waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator as provided in R315-6-2.20, the transporter shall also be provided with an EPA Acknowledgment of Consent which, except for shipments by rail, is attached to the manifest, or shipping paper for exports by water (bulk shipment). For exports of hazardous waste subject to the requirements of R315-5-8, which incorporates by reference 40 CFR 262 subpart H, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84, which R315-5-8 incorporates by reference.

(b) Before transporting the hazardous waste, the transporter shall hand sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter shall return a signed copy to the generator before leaving the generator's property.

(c) The transporter shall ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter shall ensure that a copy of the EPA Acknowledgment of Consent also accompanies the hazardous waste.

(d) A transporter who delivers a hazardous waste to another transporter or to the designated facility shall:

(1) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest; and

(2) Retain one copy of the manifest in accordance with R315-6-5; and

(3) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(e) The requirements of R315-6-2.10(c), (d), and (f) do not apply to water (bulk shipment) transporters if:

(1) The hazardous waste is delivered by water (bulk shipment) to the designated facility; and

(2) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generators certification, and signatures) and, for exports, an EPA Acknowledgment of Consent accompanies the hazardous waste; and

(3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and

(4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the manifested facility; and

(5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with R315-6-2.22.

(f) For shipments involving rail transportation, the requirements of R315-6-2.20(c), (d) and (e) do not apply and the following requirements do apply:

(1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter shall:

(i) Sign and date the manifest acknowledging acceptance of the hazardous waste;

(ii) Return a signed copy of the manifest to the non-rail transporter;

(iii) Forward at least three copies of the manifest to:

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

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States.

(iv) Retain one copy of the manifest and rail shipping paper in accordance with R315-6-2.22.

(2) Rail transporters shall ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports, an EPA Acknowledgment of Consent accompanies the hazardous waste at all times.

(3) When delivering hazardous waste to the designated facility, a rail transporter shall:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper, if the manifest has not been received by the facility; and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with R315-6-2.22.

(4) When delivering hazardous waste to a non-rail transporter a rail transporter shall:

(i) Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with R315-6-2.22.

(5) Before accepting hazardous waste from a rail transporter, a non-rail transporter shall sign and date the manifest and provide a copy to the rail transporter.

(g) Transporters who transport hazardous waste out of the United States shall:

(1) Sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States;

(2) Retain one copy as specified in R315-6-2.22(d);

(3) Return a signed copy of the manifest to the generator; and

(4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

(h) A transporter transporting hazardous waste from a generator who generates greater than 100 kilograms of hazardous waste in a calendar month need not comply with the requirements of R315-6-2.20 or those of R315-6-2.22 provided that:

(1) The waste is being transported pursuant to a reclamation agreement as provided for in R315-5-2.20(e);

(2) The transporter records, on a log or shipping paper, the following information for each shipment:

(i) The name, address, and U.S. EPA Identification Number of the generator of the waste;

(ii) The quantity of waste accepted;

(iii) All DOT-required shipping information;

(iv) The date the waste is accepted; and

(3) The transporter carries this record when transporting waste to the reclamation facility; and

(4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(i) A transporter shall not transport hazardous waste not properly labeled or hazardous waste containers which are leaking or appear to be damaged, since those packages become the transporter's responsibility during transport.

2.21 COMPLIANCE WITH THE MANIFEST

(a) The transporter shall deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:

(1) The designated facility listed on the manifest; or

(2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(3) The next designated transporter; or

(4) The place outside the United States designated by the generator.

(b)(1) If the hazardous waste cannot be delivered in accordance with R315-6-2.21(a) because of an emergency condition other than rejection of the waste by the designated facility, then the transporter shall contact the generator for further directions and shall revise the manifest according to the generator's instructions.

(2) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter shall obtain the following:

(i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of

the partial rejection or container residue in the discrepancy block of the original manifest. The transporter shall retain a copy of this manifest in accordance with R315-6-2.22, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter shall obtain a new manifest to accompany the shipment, and the new manifest shall include all of the information required in R315-8-5.4(e)(1) through (6) or (f)(1) through (6) or R315-7-12.3(e)(1) through (6) or (f)(1) through (6).

(ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment shall be delivered. The transporter shall retain a copy of the manifest in accordance with R315-6-2.22, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter shall obtain a new manifest for the shipment and comply with R315-8-5.4(e)(1) through (6) or R315-7-12.3(e)(1) through (6).

2.22 RECORDKEEPING

(a) A transporter of hazardous waste shall keep a copy of the manifest signed by the generator, himself, and the next designated transporter of the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(b) For shipments delivered to the designated facility by water (bulk shipment), each water (bulk shipment) transporter shall retain a copy of the shipping paper containing all the information required in R315-6-2.20(e)(2) for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(c) For shipments of hazardous waste by rail within the United States:

(1) The initial rail transporter shall keep a copy of the manifest and shipping paper with all the information required in R315-6-2.20(f)(2) for a period of three years from the date the hazardous waste was accepted by the initial transporter; and

(2) The final rail transporter shall keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(d) A transporter who transports hazardous waste out of the United States shall keep a copy of the manifest indicating that the hazardous waste left the United States for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(e) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the ~~[Executive Secretary]~~Director.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: ~~January 13, 2012~~2013

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Solid and Hazardous Waste **R315-7** Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37311

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this

amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-7. Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities.

R315-7-9. General Facility Standards.

9.1 APPLICABILITY

The rules in this section apply to the owners and operators of all hazardous waste management facilities, except as provided otherwise in R315-7-8.1.

9.2 IDENTIFICATION NUMBER

Every facility owner or operator shall apply for an EPA identification number in accordance with Section 3010 of RCRA. Facility owners or operators who did not obtain an EPA Identification Number for their facilities through the notification process shall obtain one. Information on obtaining this number can be acquired by contacting the Utah Division of Solid and Hazardous Waste Management.

9.3 REQUIRED NOTICES

(a)(1) An owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall notify the [Board]Director in writing at least four weeks in advance of the expected date of arrival of these shipments at the facility. A notice of subsequent shipments of the same waste from the same foreign sources is not required.

(2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to R315-5-15, which incorporates by reference 40 CFR 262, subpart H, shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Division of Solid and Hazardous Waste, P.O. Box 144880, Salt Lake City, Utah, 84114-4880; Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the competent authorities of

all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document must be maintained at the facility for at least three years.

(b) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of R315-7 and R315-3. An owner's or operator's failure to notify the new owner or operator of the requirements of R315-7 in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

9.4 GENERAL WASTE ANALYSIS

The requirements of 40 CFR 265.13, 1996 ed., are adopted and incorporated by reference.

9.5 SECURITY

(a) A facility owner or operator shall prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of his facility; unless

(1) Physical contact with the waste, structures, or equipment within the active portion of the facility will not injure unknowing or unauthorized persons or livestock which may enter the active portion of a facility; and

(2) Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility will not cause a violation of the requirements of R315-7.

(b) Unless exempt under R315-7-9.5(a)(1) and (a)(2), facilities shall have;

(1) A 24-hour surveillance system, e.g., television monitoring or surveillance by guards or facility personnel, which continuously monitors and controls entry onto the active portion of the facility; or

(2)(i) An artificial or natural barrier or both, e.g. a fence in good repair or a cliff, which completely surrounds the active portion of the facility; and

(ii) A means to control entry at all times through the gates or other entrances to the active portion of the facility, e.g., an attendant, television monitors, locked entrance, or controlled roadway access to the facility.

The requirements of R315-7-9.5(b) are satisfied if the facility or plant within which the active portion is located itself has a surveillance system or a barrier and a means to control entry which complies with the requirements of R315-7-9.5(b)(1) and (2).

(c) Unless exempt under R315-7-9.5(a)(1) and (a)(2), a sign with the legend, "Danger -Unauthorized Personnel Keep Out", shall be posted at each entrance to the active portion of a facility and at other locations, in sufficient numbers to be seen from any approach to the active portion. The legend shall be written in English and any other language predominant in the area surrounding the facility and shall be legible from a distance of at least twenty-five feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion is potentially dangerous.

Owners or operators are encouraged to also describe on the sign the type of hazard, e.g., hazardous waste, flammable wastes, etc., contained within the active portion of the facility. See R315-7-14.7(b) for discussion of security requirements at disposal facilities during the post-closure care period.

9.6 GENERAL INSPECTION REQUIREMENTS

(a) Facility owners or operators shall inspect their facilities for malfunctions and deterioration, operator errors, and discharges, which may be causing or may lead to (1) release of hazardous waste constituents to the environment or (2) a threat to human health. These inspections shall be conducted frequently enough to identify problems in time to correct them before they harm human health or the environment.

(b)(1) Facility owners or operators shall develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment, e.g., dikes and sump pumps, that are important to preventing, detecting, or responding to environmental or human health hazards.

(2) The schedule shall be kept at the facility.

(3) The schedule shall identify the types of problems, e.g., malfunctions or deterioration, which are to be looked for during the inspection, e.g., inoperative sump pump, leaking fitting, eroding dike, etc.

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas shall be inspected daily when in use. At a minimum, the inspection schedule shall include the items and frequencies called for in R315-7-16.5, R315-7-17, which incorporates by reference 40 CFR 265.190 - 265.201, R315-7-18.5, R315-7-19.12, R315-7-20.5, R315-7-21.12, R315-7-22.4, R315-7-23.4, R315-7-24.4, R315-7-26, which incorporates by reference 40 CFR 265.1033, R315-7-27, which incorporates by reference 40 CFR 265.1052, 265.1053, and 265.1058 and R315-7-30, which incorporates by reference 40 CFR 265.1084 through 265.1090.

(c) The owner or operator shall remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.

(d) The owner or operator shall keep records of inspections in an inspection log or summary. These records shall be retained for at least three years. At a minimum, these records shall include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs made or remedial actions taken.

9.7 PERSONNEL TRAINING

(a)(1) Facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of R315-7, and that includes all the elements described in R315-7-9.7(d)(3).

(2) This program shall be directed by a person trained in hazardous waste management procedures, and shall include instruction supplementing the facility personnel's existing job knowledge, which teaches facility personnel hazardous waste management procedures, including contingency plan implementation, relevant to the positions in which they are employed.

(3) At a minimum, the training program shall be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures,

emergency equipment, and emergency systems, including, but not necessarily limited to, the following, where applicable:

(i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(ii) Key parameters for automatic waste feed cut-off systems;

(iii) Communications or alarm systems or both;

(iv) Response to fires or explosions;

(v) Response to groundwater contamination incidents; and

(vi) Shutdown of operations.

(b) Facility personnel shall successfully complete the program required in R315-7-9.7(a) within six months after the effective date of these rules or six months after the date of employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these rules shall not work in unsupervised positions until they have completed the training requirements of R315-7-9.7(a).

(c) Facility personnel shall take part in an annual review of their initial training in R315-7-9.7(a).

(d) Owners or operators of facilities shall maintain the following documents and records at their facilities and make them available to the ~~Board or its~~ Director or the Director's duly appointed representative upon request:

(1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(2) A written job description for each position listed under R315-7-9.7(d)(1). This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but shall include the requisite skill, education, or other qualifications and duties of facility personnel assigned to each position;

(3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under R315-7-9.7(d)(1); and

(4) Records that document that the training or job experience required under paragraphs R315-7-9.7(a), (b), and (c) has been given to, and completed by, facility personnel.

(e) Training records on current personnel shall be maintained until closure of the facility; training records on former employees shall be maintained for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

9.8 GENERAL REQUIREMENTS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTES

(a) The owner or operator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste shall be separated and protected from sources of ignition or reaction including but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks, static, electrical, or mechanical, spontaneous ignition, e.g., from heat-producing chemical reactions, and radiant heat. While ignitable or reactive waste is being handled, the owner or operator shall confine smoking and open flames to specially designated locations. "No Smoking" signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by R315-7, the treatment, storage, or disposal of ignitable or reactive waste and the mixture or

commingling of incompatible wastes, or incompatible wastes and materials, shall be conducted so that it does not:

- (1) Generate uncontrolled extreme heat or pressure, fire or explosion, or violent reaction;
- (2) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;
- (3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosion;
- (4) Damage the structural integrity of the device or facility containing the waste; or
- (5) Through other like means threaten human health or the environment.

9.9 LOCATION STANDARDS

The placement of any hazardous waste in a salt dome, salt bed formation, underground mine or cave is prohibited, except for the Department of Energy Waste Isolation Pilot Project in New Mexico.

9.10 CONSTRUCTION QUALITY ASSURANCE PROGRAM

(a) CQA program. (1) A construction quality assurance, CQA, program is required for all surface impoundment, waste pile, and landfill units that are required to comply with R315-7-18.9(a), R315-7-19.9, and R315-7-21.10(a). The program shall ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program shall be developed and implemented under the direction of a CQA officer who is a registered professional engineer.

(2) The CQA program shall address the following physical components, where applicable:

- (i) Foundations;
- (ii) Dikes;
- (iii) Low-permeability soil liners;
- (iv) Geomembranes, flexible membrane liners;
- (v) Leachate collection and removal systems and leak detection systems; and
- (vi) Final cover systems.

(b) Written CQA plan. Before construction begins on a unit subject to the CQA program under R315-7-9.10(a), the owner or operator shall develop a written CQA plan. The plan shall identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan shall include:

- (1) Identification of applicable units, and a description of how they will be constructed.
- (2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.
- (3) A description of inspection and sampling activities for all unit components identified in R315-7-9.10(a)(2), including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description shall cover: Sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded and retained in the operating record under R315-7-12.4.

(c) Contents of program. (1) The CQA program shall include observations, inspections, tests, and measurements sufficient to ensure:

(i) Structural stability and integrity of all components of the unit identified in R315-7-9.10(a)(2);

(ii) Proper construction of all components of the liners, leachate collection and removal system, leak detection system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components, e.g., pipes, according to design specifications;

(iii) Conformity of all materials used with design and other material specifications under R315-8-11.2, R315-8-12.2, and R315-8-14.2.

(2) The CQA program shall include test fills for compacted soil liners, using the same compaction methods as in the full-scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of R315-8-11.2(c)(1), R315-8-12.2(c)(1), and R315-8-14.2(c)(1) in the field. Compliance with the hydraulic conductivity requirements shall be verified by using in-situ testing on the constructed test fill. The test fill requirement is waived where data are sufficient to show that a constructed soil liner meets the hydraulic conductivity requirements of R315-8-11.2(c)(1), R315-8-12.2(c)(1), and R315-8-14.2(c)(1) in the field.

(d) Certification. The owner or operator of units subject to R315-7-9.10 shall submit to the ~~[Executive Secretary]~~Director by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the CQA officer that the CQA plan has been successfully carried out and that the unit meets the requirements of R315-8-11.2(a), R315-8-12.2, or R315-8-14.2(a). The owner or operator may receive waste in the unit after 30 days from the ~~[Executive Secretary's]~~Director's receipt of the CQA certification unless the ~~[Executive Secretary]~~Director determines in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the CQA officer's certification shall be furnished to the ~~[Executive Secretary]~~Director upon request.

R315-7-11. Contingency Plan and Emergency Procedures.

11.1 APPLICABILITY

The rules in this section apply to the owners and operators of all hazardous waste management facilities, except as provided otherwise in R315-7-8.1.

11.2 PURPOSE AND IMPLEMENTATION OF CONTINGENCY PLAN

(a) Each owner or operator shall have a contingency plan for his facility designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden discharge of hazardous waste or hazardous waste constituents to air, soil, or surface water.

(b) The provisions of the plan shall be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten the environment or human health.

11.3 CONTENT OF CONTINGENCY PLAN

(a) The contingency plan shall describe the actions facility personnel shall take to comply with R315-7-11.2 and R315-7-11.7 in response to fires, explosions, or any unplanned sudden or non-sudden discharge of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

(b) If a facility owner or operator already has prepared a Spill Prevention, Control and Countermeasures (SPCC) Plan in accordance with 40 CFR 112, or some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions sufficient to comply with the requirements of R315-7.

(c) The plan shall describe arrangements agreed to by local law enforcement agencies, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services, in accordance with R315-7-10.7.

(d) The plan shall list names, addresses, phone numbers, office and home, of all persons qualified to act as facility emergency coordinator, see R315-7-11.6, and this list shall be kept up-to-date. Where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates.

(e) The plan shall include a list of all emergency equipment at the facility, such as fire extinguishing systems, discharge control equipment, communications and alarm systems, internal and external, and decontamination equipment, where this equipment is required. This list shall be kept up-to-date. In addition, the plan shall include the location and physical description of each item on the list, and a brief outline of its capabilities.

(f) The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes, in cases where the primary routes could be blocked by discharges of hazardous waste or fires.

11.4 COPIES OF CONTINGENCY PLAN

A copy of the contingency plan and all revisions to the plan shall be:

(a) Maintained at the facility;

(b) Made available to the ~~[Board or its]~~ Director or the Director's duly appointed representative upon request; and

(c) Submitted to all local law enforcement agencies, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

11.5 AMENDMENT OF CONTINGENCY PLAN

The contingency plan shall be reviewed, and immediately amended, if necessary, under any of the following circumstances:

(a) Revisions to applicable regulations;

(b) Failure of the plan in an emergency;

(c) Changes in the facility design, construction, operation, maintenance, or other circumstances that materially increase the potential for discharges of hazardous waste or hazardous waste constituents, or change the response necessary in an emergency;

(d) Changes in the list of emergency coordinators; or

(e) Changes in the list of emergency equipment.

11.6 EMERGENCY COORDINATOR

At all times, there shall be at least one employee either on the facility premises or on call, i.e., available to respond to an emergency by reaching the facility within a short period of time, with the responsibility for coordinating all emergency response measures. This facility emergency coordinator shall be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location of all records within the facility, and the facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan. The

emergency coordinator's responsibilities are more fully spelled out in R315-7-11.7. Applicable responsibilities for the emergency coordinator vary depending on factors such as type and variety of waste(s) handled by the facility, and type and complexity of the facility.

11.7 EMERGENCY PROCEDURES

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator, or his designee when the emergency coordinator is on call, shall immediately:

(1) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(2) Notify appropriate state or local agencies with designated response roles whenever their assistance is needed.

(b) In the event of a discharge, fire, or explosion, the facility's emergency coordinator shall immediately identify the character, exact source, amount, and areal extent of any discharged materials. He may do this by observation or review of facility records or manifests, and, if necessary, by chemical analysis.

(c) Concurrently, the facility's emergency coordinator shall immediately assess possible hazards to the environment or human health that may result from the discharge, fire, or explosion. This assessment shall consider both direct and indirect effects of the discharge, fire, or explosion, e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions.

(d) If the emergency coordinator determines that the facility has had a discharge, fire, or explosion which could threaten human health or the environment, outside the facility, he shall report his findings as follows:

(1) If his assessment indicates that evacuation of local areas may be advisable, he shall immediately notify appropriate local authorities. He shall be available to assist appropriate officials in making the decision whether local areas should be evacuated; and

(2) He shall immediately notify both the Utah State Department of Environmental Quality as specified in R315-9 and the government officials designated as the on-scene coordinator for that geographical area, or the National Response Center, 800/424-8802. The report shall include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident, e.g., discharge, fire;

(iv) Name and quantity of material(s) involved, to the extent available;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health, or the environment, outside the facility.

(e) During an emergency, the facility's emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions, and discharges do not occur, recur, or spread to other hazardous waste at the facility. These measures shall include, where applicable, stopping processes and operations, collecting and containing discharged waste, and removing or isolating containers.

(f) If the facility stops operations in response to a discharge, fire, or explosion, the facility's emergency coordinator shall monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(g) Immediately after an emergency, the facility's emergency coordinator shall provide for treating, storing, or disposing

of recovered waste, contaminated soil or surface water, or any other material that results from a discharge, fire, or explosion at the facility.

Unless the owner or operator can demonstrate, in accordance with R315-2-3(c) or (d), that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with all applicable requirements in R315-4, R315-5, R315-7, and R315-8.

(h) The facility's emergency coordinator shall ensure that, in the affected area(s) of the facility:

(1) No waste that may be incompatible with the discharged material is treated, stored, or disposed of until cleanup procedures are completed; and

(2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(i) The facility owner or operator shall notify the [Board]Director and other appropriate state and local authorities, that the facility is in compliance with R315-7-11.7(h) before operations are resumed in the affected area(s) of the facility.

(j) The facility owner or operator shall record in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he shall submit a written report on the incident to the [Board]Director. The report shall include:

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

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

(3) Date, time, and type of incident, e.g., fire, discharge;

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

(5) The extent of injuries, if any;

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

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

R315-7-12. Manifest System, Recordkeeping, and Reporting.

12.1 APPLICABILITY

The rules in R315-7-12 apply to owners and operators of both on-site and off-site facilities, except as provided otherwise in R315-7-8.1. R315-7-12.2, R315-7-12.3, and R315-7-12.7 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, nor to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 40 CFR 266.203(a).

12.2 USE OF MANIFEST SYSTEM

(a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or his agent, shall sign and date the manifest as indicated in R315-7-12.2(a)(2) to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his agent shall:

(i) Sign and date, by hand, each copy of the manifest;

(ii) Note any significant discrepancies in the manifest, as defined in R315-7-12.3, on each copy of the manifest;

(iii) Immediately give the transporter at least one copy of the manifest;

(iv) Within 30 days of delivery, send a copy of the manifest to the generator; and

(v) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility shall mail a copy of the manifest to the following addresses within 30 days of delivery: International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460 and Utah Division of Solid and Hazardous Waste, P O Box 144880, Salt Lake City, Utah 84114-4880.

(b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures) the owner or operator, or his agent, shall:

(1) Sign and date each copy of the manifest or shipping paper, if the manifest has not been received, to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies, as defined in R315-7-12.3(a), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper;

(3) Immediately give the rail or water, bulk shipment, transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator; and

(5) Retain at the facility a copy of the manifest and shipping paper, if signed in lieu of the manifest at the time of delivery for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of R315-5.

The provisions of R315-5-9.1 are applicable to the on-site accumulation of hazardous wastes by generators and only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

(d) Within three working days of the receipt of a shipment subject to R315-5-15, which incorporates by reference 40 CFR 262 subpart H, the owner or operator of the facility shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Division of Solid and Hazardous Waste, P.O. Box 144880, Salt Lake City, Utah, 84114-4880; Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to competent authorities of all other concerned countries. The original copy of the tracking document shall be maintained at the facility for at least three years from the date of signature.

(e) A facility shall determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under its state hazardous waste program. Facilities shall also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

12.3 MANIFEST DISCREPANCIES

(a) Manifest discrepancies are:

(1) Significant discrepancies as defined by R315-7-12.3(b) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in R315-2-7(b).

(b) Significant discrepancies in quantity are: For bulk waste, variations greater than ten percent in weight; for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant discrepancies in quantity or type, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter, e.g., with telephone conversations. If the discrepancy is not resolved within 15 days of receipt of the waste, the owner or operator shall immediately submit to the ~~[Executive Secretary]~~Director a letter describing the discrepancy, and attempts to reconcile it, including a copy of the manifest or shipping paper at issue.

(d)(1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in R315-2-7(b), the facility shall consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility shall send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under R315-7-12.3, it must ensure that either the delivering transporter retains custody of the waste, or, the facility shall provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under R315-7-12.3(e) or (f).

(e) Except as provided in R315-7-12.3(e)(7), for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with R315-5-2.20(a) and the following instructions:

(1) Write the generator's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked, and labeled and is in proper condition for transportation and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

(7) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility shall retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility shall use a new manifest and comply with R315-7-12.3(e)(1), (2), (3), (4), (5), and (6).

(f) Except as provided in R315-7-12.3(f)(7), for rejected wastes and residues that shall be sent back to the generator, the facility is required to prepare a new manifest in accordance with R315-5-2.20(a) and the following instructions:

(1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site address, then write the facility's site address in the designated space for Item 5 of the new manifest.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked, and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility shall retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility shall use a new manifest and comply with R315-7-12.3(f)(1), (2), (3), (4), (5), (6), and (8).

(8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in R315-5-4.42(a)(1).

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set for in R315-2-7(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility shall amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility shall also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and shall re-sign and date the manifest to certify to the information as amended. The facility shall retain the amended manifest for at least three years from the date of amendment, and shall within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

12.4 OPERATING RECORD

The requirements as found in 40 CFR 265.73, 1997 ed., as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference.

12.5 AVAILABILITY, RETENTION, AND DISPOSITION OF RECORDS

(a) All records, including plans, required under R315-7 shall be furnished upon written request, and made available at all reasonable times for inspection.

(b) The retention period for all records required under R315-7 is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the [Board]Director.

(c) A copy of records of waste disposal locations required to be maintained under R315-7-12.4, which incorporates by reference 40 CFR 265.73, shall be turned over to the [Board]Director and the local land authority upon closure of the facility, see R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120.

12.6 BIENNIAL REPORT

Owners or operators of facilities that treat, store, or dispose of hazardous waste shall prepare and submit a single copy of a biennial report to the [Board]Director by March 1 of each even numbered year. The biennial report shall be submitted on EPA form 8700-13B. The biennial report shall cover facility activities during the previous calendar year and shall include the following information:

(a) The EPA identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA identification number of each hazardous waste generator from which a hazardous waste was received during the year; for imported shipments, the name and address of the foreign generator shall be given;

(d) A description and the quantity of each hazardous waste received by the facility during the year. For off-site facilities, this information shall be listed by EPA identification number of each generator;

(e) The method(s) of treatment, storage, or disposal for each hazardous waste;

(f) Monitoring data, where required under R315-7-13.5(a)(2)(ii) and (iii) and (b)(2) where required;

(g) The most recent closure cost estimate under R315-7-15, which incorporates by reference 40 CFR 265.140 - 265.150, and for disposal facilities, the most recent post-closure cost estimate under R315-7-15, which incorporates by reference 40 CFR 265.144;

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(i) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent the information is available for the years prior to 1984; and

(j) The certification signed by the owner or operator of the facility or his authorized representative.

12.7 UNMANIFESTED WASTE REPORT

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in R315-6-2.20(e), and if the waste is not excluded from the manifest requirements of R315, then the owner or operator shall prepare and submit a single copy of a report to the [Board]Director within 15 days after receiving the waste. These reports shall be designated "Unmanifested Waste Report" and include the following information:

(1) The EPA identification number, name, and address of the facility;

(2) The date the facility received the waste;

(3) The EPA identification number, name, and address of the generator and the transporter, if available;

(4) A description and the quantity of each unmanifested hazardous waste the facility received;

(5) The method of treatment, storage, or disposal for each hazardous waste;

(6) The certification signed by the owner or operator of the facility or his authorized representative; and

(7) A brief explanation of why the waste was unmanifested, if known.

12.8 ADDITIONAL REPORTS

In addition to the biennial and unmanifested waste reporting requirements described in R315-7-12.6, and R315-7-12.7, a facility owner or operator shall also report to the [Board]Director:

(a) Discharges, fires, and explosions as specified in R315-7-11.7(j);

(b) Groundwater contamination and monitoring data as specified in R315-7-13.4 and R315-7-13.5;

(c) Facility closure as specified in R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120;

(d) Upon its request, all information as the [Board]Director may deem necessary to determine compliance with the requirements of R315-7;

(e) As otherwise required by R315-7-26, which incorporates by reference 40 CFR 265.1030 - 265.1035, R315-7-27, which incorporate by reference 40 CFR 265.1050 - 265.1064 and R315-7-30, which incorporates by reference 40 CFR 265.1080 - 265.1091.

R315-7-13. Groundwater Monitoring.

13.1 APPLICABILITY

(a) The owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste shall implement a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility, except as R315-7-8.1 and R315-7-13.1(c) provide otherwise.

(b) Except as R315-7-13.1(c) and (d) provide otherwise, the owner or operator shall install, operate, and maintain a groundwater monitoring system which meets the requirements of R315-7-13.2, and shall comply with R315-7-13.3 - R315-7-13.5. This groundwater monitoring program shall be carried out during the active life of the facility, and for disposal facilities, during the post-closure care period as well.

(c) All or part of the groundwater monitoring sampling and analysis requirements of this section may be waived if the owner or operator can demonstrate that there is a low potential for migration of hazardous waste or hazardous waste constituents from the facility via the uppermost aquifer to water supply wells, domestic, industrial, or agricultural, or to surface water. This demonstration shall be in writing, and shall be kept at the facility. This demonstration shall be certified by a qualified geologist or geotechnical engineer and shall establish the following:

(1) The potential for migration of hazardous waste or hazardous waste constituents from the facility to the uppermost aquifer, by an evaluation of:

(i) A water balance of precipitation, evapotranspiration, runoff, and infiltration; and

(ii) Unsaturated zone characteristics, i.e., geologic materials, physical properties, and depth to groundwater; and

(2) The potential for hazardous waste or hazardous waste constituents which enter the uppermost aquifer to migrate to a water supply well or surface water, by an evaluation of:

(i) Saturated zone characteristics, i.e., geologic materials, physical properties, and rate of groundwater flow; and

(ii) The proximity of the facility to water supply wells or surface water.

(d) If an owner or operator assumes, or knows, that groundwater monitoring of indicator parameters in accordance with R315-7-13.2 and R315-7-13.3 would show statistically significant increases, or decreases in the case of pH, when evaluated under R315-7-13.4(b), he may install, operate, and maintain an alternate groundwater monitoring system, other than the one described in R315-7-13.2 and R315-7-13.3. If the owner or operator decides to use an alternate groundwater monitoring system he shall:

(1) Submit to the ~~[Board]~~Director a specific plan, certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of R315-7-13.4(d)(3) for an alternate groundwater monitoring system;

(2) Initiate the determinations specified in R315-7-13.4(d)(4);

(3) Prepare and submit a written report in accordance with R315-7-13.4(d)(5);

(4) Continue to make the determinations specified in R315-7-13.4(d)(4) on a quarterly basis until final closure of the facility; and

(5) Comply with the recordkeeping and reporting requirements in R315-7-13.5(d).

(e) The groundwater monitoring requirements of this section may be waived with respect to any surface impoundment that (1) is used to neutralize wastes which are hazardous solely because they exhibit the corrosivity characteristics under R315-2-9 or are listed as hazardous wastes in R315-2-10 only for this reason, and (2) contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of hazardous wastes from the impoundment. The demonstration must be

established, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity characteristic before they can migrate out of the impoundment. The demonstration must be in writing and must be certified by a qualified professional.

(f) The ~~[Executive Secretary]~~Director may replace all or part of the requirements of R315-7-13 applying to a regulated unit, as defined in R315-8-6, with alternative requirements developed for groundwater monitoring set out in an approved closure or post-closure plan or in an enforceable document, as defined in R315-3-1.1(e)(7), where the ~~[Executive Secretary]~~Director determines that:

(1) A regulated unit is situated among solid waste management units, or areas of concern, a release has occurred, and both the regulated unit and one or more solid waste management unit(s), or areas of concern, are likely to have contributed to the release; and

(2) It is not necessary to apply the requirements of R315-7-13 because the alternative requirements will protect human health and the environment. The alternative standards for the regulated unit must meet the requirements of R315-8-6.12(a).

13.2 GROUNDWATER MONITORING SYSTEM

(a) A groundwater monitoring system shall be capable of yielding groundwater samples for analysis and shall consist of:

(1) Monitoring wells, at least one, installed hydraulically upgradient, i.e., in the direction of increasing static head from the limit of the waste management area. Their number, locations, and depths shall be sufficient to yield groundwater samples that are:

(i) Representative of background groundwater quality in the uppermost aquifer near the facility; and

(ii) Not affected by the facility.

(2) Monitoring wells, at least three, installed hydraulically downgradient, i.e., in the direction of decreasing static head, at the limit of the waste management area. Their number, locations, and depths shall ensure that they immediately detect any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate from the waste management area to the uppermost aquifer.

(3) The facility owner or operator may demonstrate that an alternate hydraulically downgradient monitoring well location will meet the criteria outlined below. The demonstration must be in writing and kept at the facility. The demonstration must be certified by a qualified ground-water scientist and establish that:

(i) An existing physical obstacle prevents monitoring well installation at the hydraulically downgradient limit of the waste management area; and

(ii) The selected alternate downgradient location is as close to the limit of the waste management area as practical; and

(iii) The location ensures detection that, given the alternate location, is as early as possible of any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate from the waste management area to the uppermost aquifer.

(iv) Lateral expansion, new, or replacement units are not eligible for an alternate downgradient location under this paragraph.

(b) Separate monitoring systems for each waste management component of the facility are not required provided that provisions for sampling upgradient and downgradient water quality will detect any discharge from the waste management area.

(1) In the case of a facility consisting of only one surface impoundment, landfill, or land treatment area, the waste management area is described by the waste boundary perimeter.

(2) In the case of a facility consisting of more than one surface impoundment, landfill, or land treatment area, the waste management area is described by an imaginary boundary line which circumscribes the several waste management components.

(c) All monitoring wells shall be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing shall be screened or perforated, and packed with gravel or sand where necessary to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space, i.e., the space between the bore hole and well casing above the sampling depth shall be sealed with a suitable material, e.g., cement grout or bentonite slurry, to prevent contamination of samples and the ground water.

13.3 SAMPLING AND ANALYSIS

(a) The owner or operator shall obtain and analyze samples from the installed groundwater monitoring system. The owner or operator shall develop and follow a groundwater sampling and analysis plan. He shall keep this plan at the facility. The plan shall include procedures and techniques for:

- (1) Sample collection;
- (2) Sample preservation and shipment;
- (3) Analytical procedures; and
- (4) Chain of custody control.

See "Procedures Manual for Groundwater Monitoring at Solid Waste Disposal Facilities," EPA-530/SW-611, August 1977 and "Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, March 1979 for discussions of sampling and analysis procedures.

(b) The owner or operator shall determine the concentration or value of the following parameters in groundwater samples in accordance with R315-7-13.3(c) and (d):

(1) Parameters characterizing the suitability of the groundwater as a drinking water supply, as specified in R315-50-3, which incorporates by reference 40 CFR 265, Appendix III.

- (2) Parameters establishing groundwater quality:
 - (i) Chloride
 - (ii) Iron
 - (iii) Manganese
 - (iv) Phenols
 - (v) Sodium
 - (vi) Sulfate

These parameters are to be used as a basis for comparison in the event a groundwater quality assessment is required under R315-7-13.4(d).

(3) Parameters used as indicators of groundwater contamination:

- (i) pH
- (ii) Specific Conductance
- (iii) Total Organic Carbon
- (iv) Total Organic Halogen

(c)(1) For all monitoring wells, the owner or operator shall establish initial background concentrations or values of all parameters specified in R315-7-13.3(b). He shall do this quarterly for one year.

(2) For each of the indicator parameters specified in R315-7-13.3(b)(3), at least four replicate measurements shall be obtained for each sample and the initial background arithmetic mean and variance shall be determined by pooling the replicate measurements for the

respective parameter concentrations or values in samples obtained from upgradient wells during the first year.

(d) After the first year, all monitoring wells shall be sampled and the samples analyzed with the following frequencies:

(1) Samples collected to establish groundwater quality shall be obtained and analyzed for the parameters specified in R315-7-13.3(b)(2) at least annually.

(2) Samples collected to indicate groundwater contamination shall be obtained and analyzed for the parameters specified in R315-7-13.3(b)(3) at least semiannually.

(e) Elevation of the groundwater surface at each monitoring well shall be determined each time a sample is obtained.

13.4 PREPARATION, EVALUATION, AND RESPONSE

(a) The owner or operator shall prepare an outline of a groundwater quality assessment program. The outline shall describe a more comprehensive groundwater monitoring program, than that described in R315-7-13.2 and R315-7-13.3, capable of determining:

(1) Whether hazardous waste or hazardous waste constituents have entered the groundwater;

(2) The rate and extent of migration of hazardous waste or hazardous waste constituents in the groundwater; and

(3) The concentrations of hazardous waste or hazardous waste constituents in the groundwater.

(b) For each indicator parameter specified in R315-7-13.3(b)(3), the owner or operator shall calculate the arithmetic mean and variance, based on at least four replicate measurements on each sample, for each well monitored in accordance with R315-7-13.3(d)(2) and compare these results with its initial background arithmetic mean. The comparison shall consider individually each of the wells in the monitoring system, and shall use the Students t-test at the 0.01 level of significance, see R315-50-4, to determine statistically significant increases, and decreases, in the case of pH, over initial background.

(c)(1) If the comparisons for the upgradient wells made under R315-7-13.4(b) show a significant increase, or pH decrease, the owner or operator shall submit this information in accordance with R315-7-13.5(a)(2)(ii).

(2) If the comparisons for downgradient wells made under R315-7-13.4(b) show a significant increase, or pH decrease, the owner or operator shall then immediately obtain additional groundwater samples from those downgradient wells where a significant difference was detected, split the samples in two, and expeditiously obtain analyses of all additional samples to determine whether the significant difference was a result of laboratory error.

(d)(1) If the analyses performed under R315-7-13.4(c)(2) confirm the significant increase, or pH decrease, the owner or operator shall provide written notice to the [Board]Director--within seven days of the date of the confirmation--that the facility may be affecting groundwater quality.

(2) Within 15 days after the notification under R315-7-13.4(d)(1), the owner or operator shall develop and submit to the [Board]Director a specific plan, based on the outline required under R315-7-13.4(a) and certified by a qualified geologist or geotechnical engineer, for a groundwater quality assessment program at the facility.

(3) The plan to be submitted under R315-7-13.1(d)(1) or R315-7-13.4(d)(2) shall specify:

(i) The number, location, and depth of wells;

(ii) Sampling and analytical methods for those hazardous wastes or hazardous waste constituents in the facility;

(iii) Evaluation procedures, including any use of previously-gathered groundwater quality information; and

(iv) A schedule of implementation.

(4) The owner or operator shall implement the groundwater quality assessment plan which satisfies the requirements of R315-7-13.4(d)(3), and, at a minimum, determine:

(i) The rate and extent of migration of the hazardous waste or hazardous waste constituents in the groundwater; and

(ii) The concentrations of the hazardous waste or hazardous waste constituents in the groundwater.

(5) The owner or operator shall make his first determination under R315-7-13.4(d)(4) as soon as technically feasible, and, within 15 days after that determination submit to the [Board]Director a written report containing an assessment of the groundwater quality.

(6) If the owner or operator determines, based on the results of the first determination under R315-7-13.4(d)(4), that no hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he may reinstate the indicator evaluation program described in R315-7-13.3 and R315-7-13.4(b). If the owner or operator reinstates the indicator evaluation program, he shall so notify the [Board]Director in the report submitted under R315-7-13.4(d)(5).

(7) If the owner or operator determines, based on the first determination under R315-7-13.4(d)(4), that hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he:

(i) Must continue to make the determinations required under R315-7-13.4(d)(4) on a quarterly basis until final closure of the facility, if the groundwater quality assessment plan was implemented prior to final closure of the facility; or

(ii) May cease to make the determinations required under R315-7-13.4(d)(4), if the groundwater quality assessment plan was implemented during the post-closure care period.

(e) Notwithstanding any other provision of R315-7-13, any groundwater quality assessment to satisfy the requirements of R315-7-13.4(d)(4) which is initiated prior to final closure of the facility shall be completed and reported in accordance with R315-7-13.4(d)(5).

(f) Unless the groundwater is monitored to satisfy the requirements of R315-7-13.4(d)(4), at least annually the owner or operator shall evaluate the data on groundwater surface elevations obtained under R315-7-13.3(e) to determine whether the requirements under R315-7-13.2(a) for locating the monitoring wells continues to be satisfied. If the evaluation shows that R315-7-13.2(a) is no longer satisfied, the owner or operator shall immediately modify the number, location, or depth of the monitoring wells to bring the groundwater monitoring system into compliance with this requirement.

13.5 RECORDKEEPING AND REPORTING

(a) Unless the groundwater is monitored to satisfy the requirements of R315-7-13.4(d)(4), the owner or operator shall:

(1) Keep records of the analyses required in R315-7-13.3(c) and (d), the associated groundwater surface elevations required in R315-7-13.3(e), and the evaluations required in R315-7-13.4(b) throughout the active life of the facility, and, for disposal facilities, throughout the post-closure care period as well; and

(2) Report the following groundwater monitoring information to the [Board]Director:

(i) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters listed in R315-7-13.3(b)(1) for each

groundwater monitoring well within 15 days after completing each quarterly analysis. The owner or operator shall separately identify for each monitoring well any parameters whose concentration or value has been found to exceed the maximum contaminant levels listed in 40 CFR 265, Appendix III.

(ii) Annually: concentrations or values of the parameters listed in R315-7-13.3(b)(3) for each groundwater monitoring well, along with the required evaluations for these parameters under R315-7-13.4(b). The owner or operator shall separately identify any significant differences from initial background found in the upgradient wells, in accordance with R315-7-13.4(c)(1). During the active life of the facility, this information shall be submitted no later than March 1 following each calendar year.

(iii) No later than March 1 following each calendar year: results of the evaluation of groundwater surface elevations under R315-7-13.4(f), and a description of the response to that evaluation, where applicable.

(b) If the groundwater is monitored to satisfy the requirements of R315-7-13.4(d)(4), the owner or operator shall:

(1) Keep records of the analyses and evaluations specified in the plan, which satisfies the requirements of R315-7-13.4(d)(3), throughout the active life of the facility, and, for disposal facilities, throughout the post-closure care period as well; and

(2) Annually, until final closure of the facility, submit to the [Board]Director a report containing the results of his groundwater quality assessment program which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the groundwater during the reporting period. This report shall be submitted no later than March 1, following each calendar year.

R315-7-14. Closure and Post-Closure.

The requirements as found in 40 CFR 265 subpart G (265.110 - 265.121), 1998 ed., as amended by 63 FR 56710, October 22, 1998, are adopted and incorporated by reference with the following exceptions:

(a) Substitute "[Board]Director" for all references to "Administrator" or "Regional Administrator".

(b) Substitute the word "appointee" for "employee."

(c) Substitute "[Board]Director" for "Agency."

(d) Substitute 19-6 for references to RCRA.

R315-7-15. Financial Requirements.

The requirements as found in 40 CFR 265 subpart H (265.140 - 265.150), 1998 ed., as amended by 63 FR 56710, October 22, 1998, are adopted and incorporated by reference with the following exceptions:

(a) substitute [~~Executive Secretary~~]Director of the Division of Solid and Hazardous Waste" for all references to "Administrator" or "Regional Administrator."

(b) substitute "[Board]Director" for all references to "Agency" or "EPA".

(c) substitute "The Utah Solid and Hazardous Waste Act" for all references to "the Resource Conservation and Recovery Act" or "RCRA."

R315-7-17. Tanks.

The requirements as found in 40 CFR 265 subpart J, 265.190-265.202, 1996 ed., as amended by 61 FR 59931, November

25, 1996, are adopted and incorporated by reference with the following exceptions:

(a) Substitute ~~["Executive Secretary"]~~ "Director of the Division of Solid and Hazardous Waste" for all references to "Regional Administrator" found in 40 CFR 265 subpart J with the exception of 40 CFR 265.193(g) and (h)(5), which will replace "Regional Administrator" with ~~"[Board]Director"~~.

(b) Add, following January 12, 1988, in 40 CFR 265.191(a), "or by December 16, 1988, for non-HSWA existing tank systems."

(c) Replace 40 CFR 265.193(a)(2) to (4) with the following corresponding paragraphs:

(1) For all HSWA existing tank systems used to store or treat EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1987, or within two years after December 16, 1988, for non-HSWA existing tank systems;

(2) For those HSWA existing tank systems of known and documented age, within two years after January 12, 1987, or within two years after December 16, 1988, for non-HSWA existing tank systems, or when the tank system has reached 15 years of age, whichever comes later;

(3) For those HSWA existing tank systems for which the age cannot be documented, within eight years of January 12, 1987, or within eight years of December 16, 1988, for non-HSWA existing tank systems; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1987, or within two years of December 16, 1988, for non-HSWA existing tank systems, whichever comes later; and

(d) Add, following the last January 12, 1987, in 40 CFR 265.193(a)(5), "or December 16, 1988, for non-HSWA tank systems."

R315-7-18. Surface Impoundments.

18.1 APPLICABILITY

The rules in this section apply to the owners and operators of facilities that use surface impoundments for the treatment, storage, or disposal of hazardous waste, except as provided otherwise in R315-7-8.1.

18.2 ACTION LEAKAGE RATE

(a) The owner or operator of surface impoundment units subject to R315-7-18.9(a) must submit a proposed action leakage rate to the ~~[Executive Secretary]~~ Director when submitting the notice required under R315-7-18.9(b). Within 60 days of receipt of the notification, the ~~[Executive Secretary]~~ Director will: Establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this section; or extend the review period for up to 30 days. If no action is taken by the ~~[Executive Secretary]~~ Director before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator.

(b) The ~~[Executive Secretary]~~ Director shall approve an action leakage rate for surface impoundment units subject to R315-7-18.9(a). The action leakage rate is the maximum design flow rate that the leak detection system, LDS, can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate shall include an adequate safety margin to allow for uncertainties in the design, e.g., slope, hydraulic conductivity, thickness of drainage material, construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions, e.g., the action leakage rate shall consider decreases in the flow capacity of the system

over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.

(c) To determine if the action leakage rate has been exceeded, the owner or operator shall convert the weekly or monthly flow rate from the monitoring data obtained under R315-7-18.5(b), to an average daily flow rate, gallons per acre per day, for each sump. Unless the ~~[Executive Secretary]~~ Director approves a different calculation, the average daily flow rate for each sump shall be calculated weekly during the active life and closure period, and if the unit closes in accordance with R315-7-18.6, which incorporates by reference 40 CFR 265.228(a)(2), monthly during the post-closure care period when monthly monitoring is required under R315-7-18.5(b).

18.3 CONTAINMENT SYSTEM

All earthen dikes shall have a protective cover, such as grass, shale, or rock, to minimize wind and water erosion and to preserve their structural integrity.

18.4 WASTE ANALYSIS AND TRIAL TESTS

In addition to the waste analyses required by R315-7-9.4, which incorporates by reference 40 CFR 265.13, whenever a surface impoundment is used to:

(1) Chemically treat a hazardous waste which is substantially different from waste previously treated in that impoundment; or

(2) Chemically treat hazardous waste with a substantially different process than any previously used in that impoundment; the owner or operator shall, before treating the different waste or using the different process:

(i) Conduct waste analyses and trial treatment tests, e.g., bench scale or pilot plant scale tests; or

(ii) Obtain written, documented information on similar treatment of similar waste under similar operating conditions; to show that this treatment will comply with R315-7-9.8(b).

The owner or operator shall record the results from each waste analysis and trial test in the operating record of the facility, see R315-7-12.4, which incorporates by reference 40 CFR 265.73.

18.5 MONITORING AND INSPECTIONS

(a) The owner or operator shall inspect:

(1) The freeboard level at least once each operating day to ensure compliance with R315-7-18.2, and

(2) The surface impoundment, including dikes and vegetation surrounding the dike, at least once a week to detect any leads, deterioration, or failures in the impoundment.

(b)(1) An owner or operator required to have a leak detection system under R315-7-18.9(a) shall record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(2) After the final cover is installed, the amount of liquids removed from each leak detection system sump shall be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps shall be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps shall be recorded at least semi-annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semi-annual recording schedules, the owner or operator shall return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(3) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the ~~[Executive Secretary]~~ Director based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump. The timing for submission and approval of the proposed "pump operating level" will be in accordance with R315-7-18.2(a).

The owner or operator shall remedy any deterioration or malfunction he finds.

18.6 CLOSURE AND POST-CLOSURE

The requirements as found in 40 CFR 265.228, 1992 ed., are adopted and incorporated by reference.

18.7 SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE

Ignitable or reactive waste shall not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of R315-13, which incorporates by reference 40 CFR 268, and:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under R315-2-9(d) and (f); and

(2) R315-7-9.8(b) is complied with; or

(b)(1) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; and

(2) Maintain and monitor the leak detection system in accordance with R315-8-11.2(c)(2)(iv) and (3) and R315-7-18.5(b) and comply with all other applicable leak detection system requirements of R315-7;

(3) The owner or operator obtains a certification from a qualified chemist or engineer that, to the best of his knowledge and opinion, the design features or operating plans of the facility will prevent ignition or reaction; and

(4) The certification and the basis for it are maintained at the facility; or

(c) The surface impoundment is used solely for emergencies.

18.8 SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES

Incompatible wastes or incompatible wastes and materials, see 40 CFR 265, Appendix V for examples, shall not be placed in the same surface impoundment, unless they will not generate heat, fumes, fires, or explosive reactions that could damage the structural integrity of the impoundment, or otherwise threaten human health or the environment.

18.9 DESIGN REQUIREMENTS

(a) The owner or operator of each new surface impoundment unit on which construction commences after January 29, 1992, each lateral expansion of a surface impoundment unit on which construction commences after July 29, 1992, and each replacement of an existing surface impoundment unit that is to commence reuse after July 29, 1992 must install two or more liners and a leachate collection and removal system between such liners, and operate the leachate collection and removal system, in accordance with R315-7-18.9(c), unless exempted under R315-7-18.9(d), (e), or (f). "Construction commences" is as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, under "existing facility."

(b) The owner or operator of each unit referred to in paragraph (a) of this section shall notify the ~~[Board]~~ Director at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a part B application within six months of the receipt of the notice.

(c) The owner or operator of any replacement surface impoundment unit is exempt from R315-7-18.9(a) if:

(1) The existing unit was constructed in compliance with the design standards of Section 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act; and

(2) There is no reason to believe that the liner is not functioning as designed.

(d) The double liner requirement set forth in R315-7-18.9(a) may be waived by the ~~[Board]~~ Director for any monofill, if:

(1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and these wastes do not contain constituents which would render the wastes hazardous for reasons other than the Toxicity Characteristic in R315-2-9(g) with EPA Hazardous Waste Numbers D004 through D017; and

(2)(i)(A) The monofill has at least one liner for which there is no evidence that the liner is leaking. For the purposes of this paragraph the term "liner" means a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, groundwater, or surface water at any time during the active life of the facility. In the case of any surface impoundment which has been exempted from the requirements of R315-7-18.9(a) on the basis of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of the impoundment the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable given the specific site conditions and the nature and extent of contamination. If all contaminated soil is not removed or decontaminated, the owner or operator of the impoundment must comply with appropriate post-closure requirements, including but not limited to groundwater monitoring and corrective action.

(B) The monofill is located more than one-quarter mile from an underground source of drinking water, as that term is defined in 40 CFR; 144.3; and

(C) The monofill is in compliance with applicable groundwater monitoring requirements for facilities with permits; or

(ii) The owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.

(e) In the case of any unit in which the liner and leachate collection system has been installed pursuant to the requirements of R315-7-18.9(a) and in good faith compliance with R315-7-18.9(a) and with guidance documents governing liners and leachate collection systems under R315-7-18.9(a), no liner or leachate collection system which is different from that which was so installed pursuant to R315-7-18.9(a) will be required for the unit by the ~~[Board]~~ Director when issuing the first permit to the facility, except that the ~~[Board]~~ Director will not be precluded from requiring installation of a new liner when

the ~~[Board]~~Director has reason to believe that any liner installed pursuant to the requirements of R315-7-18.9(a) is leaking.

(f) A surface impoundment shall maintain enough freeboard to prevent overtopping of the dike by overfilling, wave action, or a storm. Except as provided in R315-7-18.2(b), there shall be at least 60 centimeters, two feet, of freeboard.

(g) A freeboard level less than 60 centimeters, two feet, shall be maintained if the owner or operator obtains certification by a qualified engineer that alternate design features or operating plans will, to the best of his knowledge and opinion, prevent overtopping of the dike. The certification, along with written identification of alternate design features or operating plans preventing overtopping, shall be maintained at the facility.

(h) Surface impoundments that are newly subject to R315-7-18 due to the promulgation of additional listings or characteristics for the identification of hazardous waste must be in compliance with R315-7-18.9(a), (c) and (d) not later than 48 months after the promulgation of the additional listing or characteristic. This compliance period shall not be cut short as the result of the promulgation of land disposal prohibitions under R315-13, which incorporates by Reference 40 CFR 268, or the granting of an extension to the effective date of a prohibition pursuant to 40 CFR 268.5, within this 48-month period.

18.10 RESPONSE ACTIONS

(a) The owner or operator of surface impoundment units subject to R315-7-18.9(a) shall submit a response action plan to the ~~[Executive Secretary]~~Director when submitting the proposed action leakage rate under R315-7-18.2. The response action plan shall set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in R315-7-18.10(b).

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator shall:

(1) Notify the ~~[Executive Secretary]~~Director in writing of the exceedence within seven days of the determination;

(2) Submit a preliminary written assessment to the ~~[Executive Secretary]~~Director within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(3) Determine to the extent practicable the location, size, and cause of any leak;

(4) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the ~~[Executive Secretary]~~Director the results of the analyses specified in R315-7-18.10(b)(3)-(5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the ~~[Executive Secretary]~~Director a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak and/or remediation determinations in R315-7-18.10(b)(3)-(5), the owner or operator shall:

(1)(i) Assess the source of liquids and amounts of liquids by source,

(ii) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(iii) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(2) Document why such assessments are not needed.

18.11 AIR EMISSION STANDARDS

The owner or operator shall manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of R315-7-27, which incorporates by reference 40 CFR subpart BB, and R315-7-30, which incorporates by reference 40 CFR subpart CC.

R315-7-19. Waste Piles.

19.1 APPLICABILITY

The rules in this section apply to the owners and operators of facilities that treat or store hazardous waste in piles, except as provided otherwise in R315-7-8.1. Alternatively, a pile of hazardous waste may be managed as a landfill under R315-7-21.

19.2 PROTECTION FROM WIND

The owners or operators of a pile containing hazardous waste which could be subject to dispersal by wind shall cover or otherwise manage the pile so that the wind dispersal is controlled.

19.3 WASTE ANALYSIS

In addition to the waste analyses required by R315-7-9.4, owners or operators shall analyze a representative sample from each incoming shipment of waste before adding the waste to any existing pile, unless the only wastes the facility receives which are amenable to piling are compatible with each other, or the waste received is compatible with the waste in the pile to which it is to be added. The analysis conducted shall be capable of differentiating between the types of hazardous waste which are placed in piles, so that mixing of incompatible waste does not inadvertently occur. The analysis shall include a visual comparison of color and texture. The results of these analyses shall be placed in the operating record.

19.4 CONTAINMENT

If leachate or run-off from a pile is a hazardous waste, then either:

(a)(1) The pile shall be placed on an impermeable base that is compatible with the waste under the conditions of treatment or storage;

(2) The owner or operator shall design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm;

(3) The owner or operator shall design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm; and

(4) Collection and holding facilities, e.g., tanks or basins, associated with run-on and run-off control systems shall be emptied or otherwise managed expeditiously to maintain design capacity of the system; or

(b)(1) The pile shall be protected from precipitation and run-on by some other means; and

(2) No liquids or wastes containing free liquids may be placed in the pile.

19.5 SPECIAL REQUIREMENTS FOR IGNITABLE WASTE

Ignitable waste shall not be placed in a pile unless the waste and waste pile satisfy all applicable requirements of R315-13, which incorporates by reference 40 CFR 268, and:

(a) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of ignitable waste under R315-2-9(d), and complies with R315-7-9.8; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to react.

19.6 REQUIREMENTS FOR REACTIVE WASTE

Reactive waste shall not be placed in a pile unless the waste and pile satisfy all applicable requirements of R315-13, which incorporates by reference 40 CFR 268, and:

(a) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of reactive waste under R315-2-9(f) and complies with R315-7-9.8; or

(b) The waste is managed in such a way that it is protected from any material or condition which may cause it to react.

19.7 SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTE

(a) Incompatible waste, or incompatible wastes and materials, see 40 CFR 265, Appendix V for examples, shall not be placed in the same pile unless, R315-7-9.8(b) is complied with.

(b) A pile of hazardous waste that is incompatible with any waste or other material stored nearby in other containers, piles, open tanks, or surface impoundments shall be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device. The purpose of this is to prevent gaseous emissions, fires, explosions, leaching or other discharge of hazardous waste or hazardous waste constituents which could result from the contact or mixing of incompatible wastes or materials.

(c) Hazardous waste shall not be piled on the same area where incompatible wastes or materials were previously piled, unless that area has been decontaminated sufficiently to ensure compliance with R315-7-9.8(b).

19.8 CLOSURE AND POST-CLOSURE CARE

(a) At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components, liners, etc., contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless R315-2-3(d) applies; or

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in R315-7-19.8(a), the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills, R315-7-21.4.

19.9 DESIGN AND OPERATING REQUIREMENTS

The owner or operator of each new waste pile on which construction commences after January 29, 1992, each lateral expansion of a waste pile unit on which construction commences after July 29, 1992, and each such replacement of an existing waste pile unit that is to commence reuse after July 29, 1992 shall install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal systems, in accordance with R315-8-12.2(c), unless exempted under R315-8-12.2(d), (e), or (f); and must comply with the procedures of R315-7-18.9(b). "Construction commences" is as defined in R315-1-1(b),

which incorporates by reference 40 CFR 260.10, under "existing facility".

19.10 ACTION LEAKAGE RATES

(a) The owner or operator of waste pile units subject to R315-7-19.9 shall submit a proposed action leakage rate to the ~~[Executive Secretary]~~Director when submitting the notice required under R315-7-19.9. Within 60 days of receipt of the notification, the ~~[Executive Secretary]~~Director will: Establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this section; or extend the review period for up to 30 days. If no action is taken by the ~~[Executive Secretary]~~Director before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator.

(b) The ~~[Executive Secretary]~~Director shall approve an action leakage rate for surface impoundment units subject to R315-7-19.9. The action leakage rate is the maximum design flow rate that the leak detection system, LDS, can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate shall include an adequate safety margin to allow for uncertainties in the design, e.g., slope, hydraulic conductivity, thickness of drainage material, construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions, e.g., the action leakage rate shall consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.

(c) To determine if the action leakage rate has been exceeded, the owner or operator shall convert the weekly flow rate from the monitoring data obtained under R315-7-19.12, to an average daily flow rate, gallons per acre per day, for each sump. Unless the ~~[Executive Secretary]~~Director approves a different calculation, the average daily flow rate for each sump shall be calculated weekly during the active life and closure period.

19.11 RESPONSE ACTIONS

(a) The owner or operator of waste pile units subject to R315-7-19.9 shall submit a response action plan to the ~~[Executive Secretary]~~Director when submitting the proposed action leakage rate under R315-7-19.10. The response action plan shall set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan shall describe the actions specified in R315-7-19.11(b).

(b) If the flow rate into the leak determination system exceeds the action leakage rate for any sump, the owner or operator shall:

(1) Notify the ~~[Executive Secretary]~~Director in writing of the exceedence within seven days of the determination;

(2) Submit a preliminary written assessment to the ~~[Executive Secretary]~~Director within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(3) Determine to the extent practicable the location, size, and cause of any leak;

(4) Determine whether waste receipts should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the ~~[Executive Secretary]~~Director the results of the analyses specified in R315-7-19.11(b)(3)-(5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator shall submit to the ~~[Executive Secretary]~~Director a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak and/or remediation determinations in R315-7-19.11(b)(3)-(5), the owner or operator shall:

(1)(i) Assess the source of liquids and amounts of liquids by source,

(ii) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(iii) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(2) Document why such assessments are not needed.

19.12 MONITORING AND INSPECTION

An owner or operator required to have a leak detection system under R315-7-19.9 shall record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

R315-7-20. Land Treatment.

20.1 APPLICABILITY

The rules in this section apply to owners and operators of hazardous waste land treatment facilities, except as provided otherwise in R315-7-8.1.

20.2 GENERAL OPERATING REQUIREMENTS

(a) Hazardous waste shall not be placed in or on a land treatment facility unless the waste can be made less hazardous or non-hazardous by degradation, transformation, or immobilization processes occurring in or on the soil.

(b) The owner or operator shall design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portions of the facility during peak discharge from at least a 25-year storm.

(c) The owner or operator shall design, construct, operate, and maintain a run-off management system capable of collecting and controlling a water volume at least equivalent to a 24-hour, 25-year storm.

(d) Collection and holding facilities, e.g., tanks or basins, associated with run-on and run-off control systems shall be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(e) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator shall manage the unit to control wind dispersal.

20.3 WASTE ANALYSIS

In addition to the waste analyses required by R315-7-9.4, before placing a hazardous waste in or on a land treatment facility, the owner or operator shall:

(a) Determine the concentration in the waste of any substances which equal or exceed the maximum concentrations contained in Table 1 of 40 CFR 261.24, that cause a waste to exhibit the Toxicity Characteristic;

(b) For any waste listed in R315-2, determine the concentration of any substances which caused the waste to be listed as a hazardous waste; and

(c) If food chain crops are grown, determine the concentrations in the waste of each of the following constituents: arsenic, cadmium, lead, and mercury, unless the owner or operator has written documented data that show that the constituent is not present;

R315-50-9, which incorporates by reference 40 CFR 261, Appendix VII, specifies the substances for which a waste is listed as a hazardous waste. As required by R315-7-9.4, the waste analysis plan shall include analyses needed to comply with R315-7-20.8 and R315-7-20.9. As required by R315-7-12.4, the owner or operator shall place the results from each waste analysis, or the documented information, in the operating record of the facility.

20.4 FOOD CHAIN CROPS

(a) An owner or operator of a hazardous waste land treatment facility on which food chain crops are being grown, or have been grown and will be grown in the future, shall notify the ~~[Board]~~Director. The growth of food chain crops at a facility which has never before been used for this purpose is a significant change in process under R315-3. Owners or operators of these land treatment facilities who propose to grow food chain crops shall comply with R315-3.

(b)(1) Food chain crops shall not be grown on the treated area of a hazardous waste land treatment facility unless the owner or operator can demonstrate, based on field testing, that any arsenic, lead, mercury, or other constituents identified under R315-7-20.3(b):

(i) Will not be transferred to the food portion of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals, e.g., by grazing; or

(ii) Will not occur in greater concentrations in the crops grown on the land treatment facility than in the same crops grown on untreated soils under similar conditions in the same region.

(2) The information necessary to make the demonstration required by R315-7-20.4(b)(1) shall be kept at the facility and shall, at a minimum:

(i) Be based on tests for the specific waste and application rates being used at the facility; and

(ii) Include descriptions of crop and soil characteristics, sample selection criteria, sample size determination, analytical methods and statistical procedures.

(c) Food chain crops shall not be grown on a land treatment facility receiving waste that contains cadmium unless all requirements of R315-7-20.4(c)(1)(i) through (iii) or all requirements of R315-7-20.4(c)(2)(i) through (iv) are met.

(1)(i) The pH of the waste and soil mixture is 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentration of 2. mg/kg, dry weight, or less.

(ii) The annual application of cadmium from waste does not exceed 0.5 kilograms per hectare (kg/ha) on land use for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate does not exceed:

TABLE

Time Period	Annual Cd Application Rate (kg/ha)
Present to June 30, 1984	2.0
July 1, 1984 to December 31, 1986	1.25
Beginning January 1, 1987	0.5

(iii) The cumulative application of cadmium from waste does not exceed the levels in either paragraph (A) or (B) below:

(A)

TABLE

Soil cation exchange capacity (meq/100g)	MAXIMUM CUMULATIVE APPLICATION (kg/ha)	
	Background soil pH less than 6.5	Background soil pH greater than 6.5
Less than 5	5	5
5-15	5	10
Greater than 15	5	20

(B) For soils with a background pH of less than 6.5, the cumulative cadmium application rate does not exceed the levels below: Provided, that the pH of the waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food chain crops are grown.

TABLE

Soil cation exchange capacity (meq/100g)	Maximum cumulative application (kg/ha)
Less than 5	5
5 to 15	10
Greater than 15	20

(2)(i) The only food chain crop produced is animal feed.

(ii) The pH of the waste and soil mixture is 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level is maintained whenever food chain crops are grown.

(iii) There is a facility operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The facility operating plan describes the measure to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses.

(iv) Future property owners are notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops shall not be grown, except in compliance with R315-7-20.7(c) (2).

As required by R315-7-12.4, which incorporates by reference 40 CFR 265.73, if an owner or operator grows food chain crops on his land treatment facility, he shall place the information developed in this section in the operating record of the facility.

20.5 UNSATURATED ZONE, ZONE OF AERATION, MONITORING

(a) The owner or operator shall have in writing, and shall implement, an unsaturated zone monitoring plan which is designed to:

(1) Detect the vertical migration of hazardous waste and hazardous waste constituents under the active portion of the land treatment facility; and

(2) Provide information on the background concentrations of the hazardous waste and hazardous waste constituents in similar but untreated soils nearby; this background monitoring shall be conducted before or in conjunction with the monitoring required under R315-7-20.5(a)(1).

(b) The unsaturated zone monitoring plan shall include, at a minimum:

- (1) Soil monitoring using soil cores; and
- (2) Soil-pore water monitoring using devices such as lysimeters.

(c) To comply with R315-7-20.5(a)(1), the owner or operator shall demonstrate in his unsaturated zone monitoring plan that:

(1) The depth at which soil and soil-pore water samples are to be taken is below the depth to which the waste is incorporated into the soil;

(2) The number of soil and soil-pore water samples to be taken is based on the variability of:

- (i) The hazardous waste constituents, as identified in R315-7-20.3(a) and (b), in the waste and in the soil; and
- (ii) The soil type(s); and

(3) The frequency and timing of soil and soil-pore water sampling is based on the frequency, time, and rate of waste application, proximity to groundwater, and soil permeability.

(d) The owner or operator shall keep at the facility his unsaturated zone monitoring plan, and the rationale used in developing this plan.

(e) The owner or operator shall analyze the soil and soil-pore water samples for the hazardous waste constituents that were found in the waste during the waste analysis under R315-7-20.3(a) and (b).

All data and information developed by the owner or operator under this section shall be placed in the operating record of the facility.

20.6 RECORDKEEPING

The owner or operator of a land treatment facility shall keep records of the application dates, application rates, quantities, and location of each hazardous waste placed in the facility, in the operating record required in R315-7-12.4, which incorporates by reference 40 CFR 265.73.

20.7 CLOSURE AND POST-CLOSURE CARE

(a) In the closure and post-closure plan under R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120, the owner or operator shall address the following objectives and indicate how they will be achieved:

(1) Control of the migration of hazardous waste and hazardous waste constituents from the treated area into the groundwater;

(2) Control of the release of contaminated run-off from the facility into surface water;

(3) Control of the release of airborne particulate contaminants caused by wind erosion; and

(4) Compliance with R315-7-20.4 concerning the growth of food-chain crops.

(b) The owner or operator shall consider at least the following factors in addressing the closure and post-closure care objectives of R315-7-20.7(a):

(1) Type and amount of hazardous waste and hazardous waste constituents applied to the land treatment facility;

(2) The mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;

(3) Site location, topography, and surrounding land use, with respect to the potential effects of pollutant migration, e.g., proximity to groundwater, surface water and drinking water sources;

(4) Climate, including amount, frequency, and pH of precipitation;

(5) Geological and soil profiles and surface and subsurface hydrology of the site, and soil characteristics, including cation exchange capacity, total organic carbon, and pH;

(6) Unsaturated zone monitoring information obtained under R315-7-20.5; and

(7) Type, concentration, and depth of migration of hazardous waste constituents in the soil as compared to their background concentrations.

(c) The owner or operator shall consider at least the following methods in addressing the closure and post-closure care objectives of R315-7-20.7(a):

(1) Removal of contaminated soils;

(2) Placement of a final cover, considering:

(i) Functions of the cover, e.g., infiltration control, erosion and run-off control and wind erosion control; and

(ii) Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover; and

(3) Monitoring of groundwater.

(d) In addition to the requirements of R315-7-14 which incorporates by reference 40 CFR 265.110 - 265.120, during the closure period the owner or operator of a land treatment facility shall:

(1) Continue unsaturated zone monitoring in a manner and frequency specified in the closure plan, except that soil pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone;

(2) Maintain the run-on control system required under R315-7-20.2(b);

(3) Maintain the run-off management system required under R315-7-20.2(c); and

(4) Control wind dispersal of particulate matter which may be subject to wind dispersal.

(e) For the purpose of complying with R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120, when closure is completed the owner or operator may submit to the ~~[Board]~~Director, certification both by the owner or operator and by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specification in the approved closure plan.

(f) In addition to the requirement of R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120, during the post-closure care period the owner or operator of a land treatment unit shall:

(1) Continue soil-core monitoring by collecting and analyzing samples in a manner and frequency specified in the post-closure plan;

(2) Restrict access to the unit as appropriate for its post-closure use;

(3) Ensure that growth of food chain crops complies with R315-7-20.4; and

(4) Control wind dispersal of hazardous waste.

20.8 SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE

The owner or operator shall not apply ignitable or reactive waste to the treatment zone unless the waste and treatment zone meet all applicable requirements of R315-13, which incorporates by reference 40 CFR 268, and:

(a) The waste is immediately incorporated into the soil so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under R315-2-9(d) and (f) and

(2) R315-7-9.8(b) is complied with; or

(b) That waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

20.9 SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES

Incompatible wastes, or incompatible wastes and materials, see 40 CFR 265, Appendix V for examples, shall not be placed in the same land treatment area, unless R315-7-9.8(b) is complied with.

R315-7-21. Landfills.

21.1 APPLICABILITY

The rules in this section apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as R315-7-8.1 provides otherwise. A waste pile used as a disposal facility is a landfill and is governed by this section.

21.2 DESIGN AND OPERATING REQUIREMENTS

(a) The owner or operator of each new landfill unit on which construction commences after January 29, 1992, each lateral expansion of a landfill unit on which construction commences after July 29, 1992, and each replacement of an existing landfill unit that is to commence reuse after July 29, 1992 must install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal systems, in accordance with R315-8-14.2(d), (e), or (f). "Construction commences" is as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, under "existing facility".

(b) The owner or operator of each unit referred to in R315-7-21.2(a) shall notify the ~~[Executive Secretary]~~Director at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice shall file a part B application within six months of the receipt of the notice.

(c) The owner or operator of any replacement landfill unit is exempt from R315-7-21.2(a) if:

(1) The existing unit was constructed in compliance with the design standards of section 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act; and

(2) There is no reason to believe that the liner is not functioning as designed.

(d) The double liner requirement set forth in R315-7-21.2(a) may be waived by the ~~[Board]~~Director for any monofill, if:

(1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and the waste does not contain constituents which would render the wastes hazardous for reasons other than the Toxicity Characteristic in R315-2-9(g), with EPA Hazardous Waste Number D004 through D017; and

(2)(i)(A) The monofill has at least one liner for which there is no evidence that the liner is leaking;

(B) The monofill is located more than one-quarter mile from an underground source of drinking water, as that term is defined in 40 CFR 144.3; and

(C) The monofill is in compliance with applicable groundwater monitoring requirements for facilities with permits; or

(ii) The owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any hazardous constituents into groundwater or surface water at any future time.

(e) In the case of any unit in which the liner and leachate collection system has been installed pursuant to the requirements of R315-7-21.2(a) and in good faith compliance with R315-7-21.2(a) and with guidance documents governing liners and leachate collection systems under R315-7-21.2(a), no liner or leachate collection system which is different from that which was so installed pursuant to R315-7-21.2(a) will be required for the unit by the [Board]Director when issuing the first permit to the facility, except that the [Board]Director will not be precluded from requiring installation of a new liner when the [Board]Director has reason to believe that any liner installed pursuant to the requirements of R315-7-21.10(a) is leaking.

(f) The owner or operator shall design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 25-year storm.

(g) The owner or operator shall design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(h) Collection and holding facilities, e.g., tanks or basins, associated with run-on and run-off control systems shall be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(i) The owner or operator of a landfill containing hazardous waste which is subject to dispersal by wind shall cover or otherwise manage the landfill so that wind dispersal of the hazardous waste is controlled.

As required by R315-7-9.4, which incorporates by reference 40 CFR 265.13, the waste analysis plan shall include analysis needed to comply with R315-7-21.5 and R315-7-21.6. As required by R315-7-12.4, which incorporates by reference 40 CFR 265.73, the owner or operator shall place the results of these analyses in the operating record.

21.3 SURVEYING AND RECORDKEEPING

The owner or operator of a landfill shall maintain the following items in the operating record required in R315-7-12.4, which incorporates by reference 40 CFR 265.73:

(a) On a map, the exact location and dimension, including depth, of each cell with respect to permanently surveyed benchmarks; and

(b) The contents of each cell and the approximate location of each hazardous waste type within each cell.

21.4 CLOSURE AND POST-CLOSURE CARE

(a) At final closure of the landfill or upon closure of any cell, the owner or operator shall cover the landfill or cell with a final cover designed and constructed to:

(1) Provide long-term minimization of migration of liquids through the closed landfill;

(2) Function with minimum maintenance;

(3) Promote drainage and minimize erosion or abrasion of the cover;

(4) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(5) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) After final closure, the owner or operator shall comply with all post-closure requirements contained in R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120, including maintenance and monitoring throughout the post-closure care period. The owner or operator shall:

(1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events.

(2) Maintain and monitor the leak detection system in accordance with R315-8-14.2(c)(3)(iv) and (4) and R315-7-21.12(b), and comply with all other applicable leak detection system requirements of R315-7;

(3) Maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of R315-7-13;

(4) Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(5) Protect and maintain surveyed benchmarks used in complying with R315-7-21.3.

21.5 SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE

(a) Except as provided in R315-7-21.5(b) and in 7.21.9, ignitable or reactive waste shall not be placed in a landfill, unless the waste and landfill meet all applicable requirements of R315-13, which incorporates by reference 40 CFR 268, and:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under R315-2-9(d) and (f).

(2) Section R315-7-9.8 is complied with.

(b) Except for prohibited wastes which remain subject to treatment standards in R315-13, which incorporates by reference 40 CFR 268 subpart D, ignitable wastes in containers may be landfilled without meeting the requirements of R315-7-21.5(a), provided that the wastes are disposed of in a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes shall be disposed of in non-leaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; shall be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes; and shall not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

21.6 SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES

Incompatible wastes, or incompatible wastes and materials, see 40 CFR 265, Appendix V for examples, shall not be placed in the same landfill cell, unless R315-7-9.8(b) is complied with.

21.7 SPECIAL REQUIREMENTS FOR BULK AND CONTAINERIZED LIQUIDS

(a) Bulk or non-containerized liquid waste or waste containing free liquids may be placed in a landfill prior to May 8, 1985, only if:

(1) The landfill has a liner and leachate collection and removal system that meets the requirements of R315-8-14.2(a); or

(2) Before disposal, the liquid waste or waste containing free liquids is treated or stabilized chemically or physically, e.g., by mixing with a sorbent solid, so that free liquids are no longer present.

(b) Effective May 8, 1985, the placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids, whether or not sorbents have been added, in any landfill is prohibited.

(c) Containers holding free liquids must not be placed in a landfill unless:

(1) All free-standing liquid

(i) has been removed by decanting, or other methods,

(ii) has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

(iii) had been otherwise eliminated; or

(2) The container is very small, such as an ampule; or

(3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(4) The container is a lab pack as defined in R315-7-21.8 and is disposed of in accordance with R315-7-21.9.

(d) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095, Paint Filter Liquids Test as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods." EPA Publication No. SW-846, as incorporated by reference in 40 CFR 260.11, see R315-1-2.

(e) The date of compliance with R315-7-21.7(a) is November 19, 1981. The date for compliance with R315-7-21.7(c) is March 22, 1982.

(f) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in R315-7-21.7(f)(1); materials that pass one of the tests in R315-7-21.7(f)(2); or materials that are determined by EPA to be nonbiodegradable through the R315-2-16, which incorporates by reference 40 CFR 260.22, petition process.

(1) Nonbiodegradable sorbents.

(i) Inorganic minerals, other inorganic materials, and elemental carbon, e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon; or

(ii) High molecular weight synthetic polymers, e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers. This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(iii) Mixtures of these nonbiodegradable materials.

(2) Tests for nonbiodegradable sorbents.

(i) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a)-Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or

(ii) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b)-Standard Practice for Determining Resistance of Plastics to Bacteria.

(iii) The sorbent material is determined to be nonbiodegradable under OECD test 301B, CO2 Evolution, Modified Sturm Test.

(g) Effective November 8, 1985, the placement of any liquid which is not a hazardous waste in a landfill is prohibited unless the owner or operator of the landfill demonstrates to the [Board]Director[, or the Board determines] that:

(1) The only reasonably available alternative to the placement in the landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain hazardous waste; and

(2) Placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water, as that term is defined in 40 CFR 144.3.

21.8 SPECIAL REQUIREMENTS FOR CONTAINERS

Unless they are very small, such as an ampule, containers must be either:

(a) At least 90 percent full when placed in the landfill; or

(b) Crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

21.9 DISPOSAL OF SMALL CONTAINERS OF HAZARDOUS WASTE IN OVERPACKED DRUMS, LAB PACKS

Small containers of hazardous waste in overpacked drums, lab packs may be placed in a landfill if the following requirements are met:

(a) Hazardous waste shall be packaged in non-leaking inside containers. The inside containers shall be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the waste held therein. Inside containers shall be tightly and securely sealed. The inside containers shall be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations, 49 CFR parts 173, 178, and 179, if those regulations specify particular inside container for the waste.

(b) The inside container shall be overpacked in an open head DOT specification metal shipping container, 49 CFR parts 178 and 179, of no more than 416-liter, 110 gallon, capacity and surrounded by, at a minimum, a sufficient quantity of sorbent material, determined to be nonbiodegradable in accordance with R315-7-21.7(f), to completely sorb all of the liquid contents of the inside containers. The metal outer container shall be full after it has been packed with inside containers and sorbent material.

(c) The sorbent material used shall not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with R315-7-9.8(b).

(d) Incompatible wastes, as defined in R315-1 shall not be placed in the same outside container.

(e) Reactive waste, other than cyanide or sulfide-bearing waste as defined in R315-2-9(f)(v) shall be treated or rendered non-reactive prior to packaging in accordance with R315-7-21.9(a) through (d).

(d) Cyanide and sulfide-bearing reactive waste may be packaged in accordance with R315-7-21.9(a) through (d) without first being treated or rendered non-reactive.

(f) Such disposal is in compliance with the requirements of R315-13, which incorporates by reference 40 CFR 268. Persons who incinerate lab packs according to the requirements in 40 CFR 268.42(c)(1) may use fiber drums in place of metal outer containers. The fiber drums must meet the DOT specifications in 49 CFR 173.12 and be overpacked according to the requirements in R315-7-21.9(b).

21.10 ACTION LEAKAGE RATE

(a) The owner or operator of landfill units subject to R315-7-21.2(a) shall submit a proposed action leakage rate to the ~~[Executive Secretary]~~Director when submitting the notice required under R315-7-21.2(b). Within 60 days of receipt of the notification, the ~~[Executive Secretary]~~Director will: Establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this section; or extend the review period for up to 30 days. If no action is taken by the ~~[Executive Secretary]~~Director before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator.

(b) The ~~[Executive Secretary]~~Director shall approve an action leakage rate for surface impoundment units subject to R315-7-21.2(a). The action leakage rate is the maximum design flow rate that the leak detection system, LDS, can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate shall include an adequate safety margin to allow for uncertainties in the design, e.g., slope, hydraulic conductivity, thickness of drainage material, construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions, e.g., the action leakage rate shall consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.

(c) To determine if the action leakage rate has been exceeded, the owner or operator shall convert the weekly or monthly flow rate from the monitoring data obtained under R315-7-21.12 to an average daily flow rate, gallons per acre per day, for each sump. Unless the ~~[Executive Secretary]~~Director approves a different calculation, the average daily flow rate for each sump shall be calculated weekly during the active life and closure period, and monthly during the post-closure care period when monthly monitoring is required under R315-7-21.12(b).

21.11 RESPONSE ACTIONS

(a) The owner or operator of landfill units subject to R315-7-21.2(a) shall submit a response action plan to the ~~[Executive Secretary]~~Director when submitting the proposed action leakage rate under R315-7-21.10. The response action plan shall set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan shall describe the actions specified in R315-7-21.11(b).

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator shall:

(1) Notify the ~~[Executive Secretary]~~Director in writing of the exceedance within seven days of the determination;

(2) Submit a preliminary written assessment to the ~~[Executive Secretary]~~Director within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(3) Determine to the extent practicable the location, size, and cause of any leak;

(4) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for

inspection, repairs, or controls, and whether or not the unit should be closed;

(5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the ~~[Executive Secretary]~~Director the results of the analyses specified in R315-7-21.11(b)(3)-(5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator shall submit to the ~~[Executive Secretary]~~Director a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak and/or remediation determinations in R315-7-21.11(b)(3)-(5), the owner or operator shall:

(1)(i) Assess the source of liquids and amounts of liquids by source,

(ii) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(iii) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(2) Document why such assessments are not needed.

21.12 MONITORING AND INSPECTION

(a) An owner or operator required to have a leak detection system under R315-7-21.2(a) shall record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(b) After the final cover is installed, the amount of liquids removed from each leak detection system sump shall be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps shall be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps shall be recorded at least semi-annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semi-annual recording schedules, the owner or operator shall return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(c) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the ~~[Executive Secretary]~~Director based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump. The timing for submission and approval of the proposed "pump operating level" will be in accordance with R315-7-21.10(a).

R315-7-22. Incinerators.

22.1 INCINERATORS APPLICABILITY

(a) R315-7-22 applies to owners or operators of facilities that incinerate hazardous waste, except as R315-7-8.1 provides otherwise.

(b) Integration of the MACT standards.

(1) Except as provided by R315-7-22.1(b)(2) and (3), the standards of R315-7 no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE, by conducting a comprehensive

performance test and submitting to the [Executive Secretary]Director a Notification of Compliance under R307-214-2, which incorporates by reference 40 CFR 63.1207(j) and 63.1210(d), documenting compliance with the requirements of R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE.

(2) The following requirements continue to apply even where the owner or operator has demonstrated compliance with the MACT requirements of R307-214-2, which incorporates by reference 40 CFR 63, subpart EEE: R315-7-22.5 (closure) and the applicable requirements of R315-7-8 through R315-7-15, R315-7-27, and R315-7-30.

(3) R315-7-22.2 generally prohibiting burning of hazardous waste during startup and shutdown remains in effect if you elect to comply with R315-3-9(b)(1)(i) to minimize emissions of toxic compounds from startup and shutdown.

(c) Owners and operators of incinerators burning hazardous waste are exempt from all of the requirements of R315-7-22, except R315-7-22.5, Closure, provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII, and the documentation is retained at the facility, if the waste to be burned is:

(1) Listed as a hazardous waste in R315-2-10 and R315-2-11, solely because it is ignitable, Hazard Code I, corrosive, Hazard Code C, or both; or

(2) Listed as a hazardous waste in R315-2-10 and R315-2-11, solely because it is reactive, Hazard Code R, for characteristics other than those listed in R315-2-9(b), and will not be burned when other hazardous wastes are present in the combustion zone; or

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

(4) A hazardous waste solely because it possesses the reactivity characteristics described by R315-2-9(f)(i), (ii), (iii), (vi), (vii), or (viii), and will not be burned when other hazardous wastes are present in the combustion zone.

22.2 GENERAL OPERATING REQUIREMENTS

During start-up and shut-down of an incinerator, the owner or operator shall not feed hazardous waste unless the incinerator is at steady state, normal, conditions of operation, including steady state operating temperature and air flow.

22.3 WASTE ANALYSIS

In addition to the waste analyses required by R315-7-9.4, which incorporates by reference 40 CFR 265.13, the owner or operator shall sufficiently analyze any waste which he has not previously burned in his incinerator to enable him to establish steady state, normal, operating conditions, including waste and auxiliary fuel feed and air flow, and to determine the type of pollutants which might be emitted. At a minimum, the analysis shall determine:

(a) Heating value of the waste;

(b) Halogen content and sulfur content in the waste; and

(c) Concentrations in the waste of lead and mercury, unless the owner or operator has written, documented data that show that the element is not present.

As required by R315-7-12.4, which incorporates by reference 40 CFR 265.73, the owner or operator shall place the results from each waste analysis, or the documented information, in the operating record of the facility.

22.4 MONITORING AND INSPECTIONS

The owner or operator shall conduct, at a minimum, the following monitoring and inspections when incinerating hazardous waste:

(a) Existing instruments which relate to combustion and emission control shall be monitored at least every 15 minutes. Appropriate corrections to maintain steady state combustion conditions shall be made immediately either automatically or by the operator. Instruments which relate to combustion and emission control would normally include those measuring waste feed, auxiliary fuel feed, air flow, incinerator temperature, scrubber flow, scrubber pH, and relevant level controls.

(b) The complete incinerator and associated equipment, pumps, valves, conveyors, pipes, etc., shall be inspected at least daily for leaks, spills and fugitive emissions, and all emergency shutdown controls and system alarms shall be checked to assure proper operation.

22.5 CLOSURE

At closure, the owner or operator shall remove all hazardous waste and hazardous waste residues, including but not limited to ash, scrubber waters, and scrubber sludges from the incinerator. At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with R315-2-1, that any solid waste removed from his incinerator is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with all applicable requirements of these rules.

22.6 INTERIM STATUS INCINERATORS BURNING PARTICULAR HAZARDOUS WASTES

(a) Owners or operators of incinerators subject to R315-7-22 may burn EPA Hazardous Wastes F020, F021, F022, F023, F026, or F027 if they receive a certification from the [Board]Director that they can meet the performance standards of R315-8-15 when they burn these wastes.

(b) The following standards and procedures will be used in determining whether to certify an incinerator:

(1) The owner or operator will submit an application to the [Board]Director containing applicable information in R315-3 demonstrating that the incinerator can meet the performance standards in R315-8-15 when they burn these wastes.

(2) The [Board]Director will issue a tentative decision as to whether the incinerator can meet the performance standards in R315-8-15. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the jurisdiction where the incinerator is located. The [Board]Director will accept comment on the tentative decision for 60 days. The [Board]Director also may hold a public hearing upon request or at their discretion.

(3) After the close of the public comment period, the [Board]Director will issue a decision whether or not to certify the incinerator.

R315-7-23. Thermal Treatment.

23.1 THERMAL TREATMENT

The rules in this section apply to owners or operators of facilities that thermally treat hazardous waste in devices other than enclosed devices using controlled flame combustion, except as R315-7-8.1 provides otherwise. Thermal treatment in enclosed devices using controlled flame combustion is subject to the requirements of R315-7-22 if the unit is an incinerator, and R315-14-7, which incorporates by reference 40 CFR 266, subpart H, if the unit is a boiler or an industrial

furnace as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10.

23.2 GENERAL OPERATING REQUIREMENTS

Before adding hazardous waste, the owner or operator shall bring his thermal treatment process to steady state, normal, conditions of operation--including steady state operating temperature--using auxiliary fuel or other means, unless the process is a non-continuous, batch, thermal treatment process which requires a complete thermal cycle to treat a discrete quantity of hazardous waste.

23.3 WASTE ANALYSIS

In addition to the waste analyses required by R315-7-9.4, which incorporates by reference 40 CFR 265.13, the owner or operator shall sufficiently analyze any waste which he has not previously treated in his thermal treatment process to enable him to establish steady state, normal, or in other appropriate, for a non-continuous process, operating conditions, including waste and auxiliary fuel feed, and to determine the type of pollutants which might be emitted. At a minimum, the analysis shall determine:

- (a) Heating value of the waste;
- (b) Halogen content and sulfur content in the waste; and
- (c) Concentrations in the waste of lead and mercury, unless

the owner or operator has written, documented data that show that the element is not present. The owner or operator shall place the results from each waste analysis, or the documented information, in the operating record of the facility.

23.4 MONITORING AND INSPECTIONS

The owner or operator shall conduct, at a minimum, the following monitoring and inspections when thermally treating hazardous waste:

(a) Existing instruments which relate to temperature and emission control, if an emission control device is present, shall be monitored at least every 15 minutes. Appropriate corrections to maintain steady state or other appropriate thermal treatment conditions shall be made immediately either automatically or by the operator. Instruments which relate to temperature and emission control would normally include those measuring waste feed, auxiliary fuel feed, treatment process temperature, and relevant process flow and level controls.

(b) The stack plume, emissions, where present, shall be observed visually at least hourly for normal appearance, color and opacity. The operator shall immediately make any indicated operating corrections necessary to return any visible emissions to their normal appearance.

(c) The complete thermal treatment process and associated equipment, pumps, valves, conveyor, pipes, etc., shall be inspected at least daily for leaks, spills, and fugitive emissions, and all emergency shutdown controls and system alarms shall be checked to assure proper operation.

23.5 CLOSURE

At closure, the owner or operator shall remove all hazardous waste and hazardous waste residues, including, but not limited to, ash from thermal treatment process or equipment.

At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with R315-2-1, that any solid waste removed from his thermal treatment process or equipment is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with all applicable requirements of these rules.

23.6 OPEN BURNING; WASTE EXPLOSIVES

Open burning of hazardous waste is prohibited except for the open burning and detonation of waste explosives. Waste explosives include waste which has the potential to detonate and bulk military propellants which cannot safely be disposed of through other modes of treatment. Detonation is an explosion in which chemical transformation passes through the material faster than the speed of sound, 0.33 kilometers/second at sea level. Owners or operators choosing to open burn or detonate waste explosives shall do so in accordance with the following table and in a manner that does not threaten human health or the environment:

TABLE

Pounds of Waste Explosives or Propellants	Minimum Distance from Open Burning or Detonation to the Property of Others
0 - 100	204 meters (670 feet)
101 - 1,000	380 meters (1,250 feet)
1,001 - 10,000	530 meters (1,730 feet)
10,001 - 30,000	690 meters (2,260 feet)

23.7 INTERIM STATUS THERMAL TREATMENT DEVICES BURNING PARTICULAR HAZARDOUS WASTE

(a) Owners or operators of thermal treatment devices subject to R315-23 may burn EPA Hazardous Wastes F020, F021, F022, F023, F026, or F027 if they receive a certification from the [Board]Director that they can meet the performance standards of R315-8-15 when they burn these wastes.

(b) The following standards and procedures will be used in determining whether to certify a thermal treatment unit:

(1) The owner or operator will submit an application to the [Board]Director containing the applicable information in R315-3 demonstrating that the thermal treatment unit can meet the performance standard in R315-8-15 when they burn these wastes.

(2) The [Board]Director will issue a tentative decision as to whether the thermal treatment unit can meet the performance standards in R315-8-15. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the jurisdiction where the thermal treatment device is located. The [Board]Director will accept comment on the tentative decision for 60 days. The [Board]Director also may hold a public hearing upon request or at their discretion.

(3) After the close of the public comment period, the [Board]Director will issue a decision whether or not to certify the thermal treatment unit.

R315-7-26. Air Emission Standards for Process Vents.

The requirements of 40 CFR subpart AA sections 265.1030 through 265.1035, 1997 ed., as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference with the following exception:

(1) substitute "[Board]Director" for all federal regulation references made to "Regional Administrator."

R315-7-27. Air Emission Standards for Equipment Leaks.

The requirements of 40 CFR subpart BB sections 265.1050 through 265.1064, 2004 ed., are adopted and incorporated by reference with the following exception:

(1) substitute "[~~Board~~] Director" for all federal regulation references made to "Regional Administrator."

R315-7-28. Drip Pads.

The requirements of 40 CFR subpart W sections 265.440 through 265.445, 1996 ed., are adopted and incorporated by reference with the following exception:

(1) substitute "[~~Board~~] Director" for all federal regulation references made to "Regional Administrator".

(2) Add, following December 6, 1990, in 40 CFR 264.570(a), "for all HSWA drip pads or January 31, 1992 for all non-HSWA drip pads."

(3) Add, following December 24, 1992, in 40 CFR 570(a), "for all HSWA drip pads or July 30, 1993 for all non-HSWA drip pads."

R315-7-29. Containment Buildings.

The requirements of subpart DD sections 265.1100 through 265.1102, as found in 57 FR 37194, August 18, 1992, are adopted and incorporated by reference with the following exception:

(1) substitute [~~Executive Secretary~~] "Director of the Division of Solid and Hazardous Waste" for all federal regulation references made to "Regional Administrator."

R315-7-30. Air Emission Standards for Tanks, Surface Impoundments, and Containers.

The requirements as found in 40 CFR subpart CC, sections 265.1080 through 265.1091, 1998 ed., as amended by as amended by 64 FR 3382, January 21, 1999, are adopted and incorporated by reference with the following exception:

(1) substitute [~~Executive Secretary~~] "Director" for all federal regulation references made to "Regional Administrator."

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: [~~January 13, 2012~~] 2013

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Solid and Hazardous Waste

R315-8

Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37312

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

DAR NOTE: The text of this filing is not included in this Bulletin because the Director of the Division of Administrative Rules has determined it is too long to print. The text is published by reference to the text on file and maintained by the Division of Administrative Rules. (Subsection 63G-3-402(1)(d))

**Environmental Quality, Solid and
Hazardous Waste
R315-9
Emergency Controls**

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 37313
 FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ SMALL BUSINESSES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

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THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-9. Emergency Controls.

R315-9-2. Emergency Control Variance.

If a spill of hazardous waste requires immediate removal to protect human health or the environment, as determined by the ~~[Executive Secretary]~~ Director, a variance may be granted by the ~~[Executive Secretary]~~ Director to the manifest and recordkeeping requirements of these rules until the spilled material and any residue or contaminated soil, water or other material resulting from the spill no longer presents an immediate hazard to human health or the environment, as determined by the ~~[Executive Secretary]~~ Director.

R315-9-3. Spill Clean-up.

The person responsible for the material at the time of the spill shall clean up all the spilled material and any residue or contaminated media or other material resulting from the spill or take action as may be required by the [~~Executive Secretary~~]Director so that the spilled material, residue, or contaminated media no longer presents a hazard to human health or the environment as defined in R315-101. The cleanup or other required actions shall be at the expense of the person responsible for the spill. If the person responsible for the spill fails to take the required action, the Department may take action and bill the responsible person.

R315-9-4. Reporting.

Within 15 days after any spill of hazardous waste or material which, when spilled, becomes hazardous waste, and is reported under R315-9-1(b), the person responsible for the material at the time of the spill shall submit to the [~~Board or the Executive Secretary~~]Director a written report which contains the following information:

- (a) The person's name, address, and telephone number;
- (b) Date, time, location, and nature of the incident;
- (c) Name and quantity of material(s) involved;
- (d) The extent of injuries, if any;
- (e) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- (f) The estimated quantity and disposition of recovered material that resulted from the incident.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: [~~December 15, 1995~~]2013

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

**Environmental Quality, Solid and
Hazardous Waste
R315-12
Administrative Procedures**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37314

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in

statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-12. Administrative Procedures.****R315-12-1. Administrative Procedures.**

Administrative proceedings under the following acts are governed by Rule R305-6:

- (a) Title 19, Chapter 6, Part 1 (Solid and Hazardous Waste Act);
- (b) Title 19, Chapter 6, Part 6 (Lead Acid Battery Disposal);
- (c) Title 19, Chapter 6, Part 7 (Used Oil Management Act);
- (d) Title 19-6[26],[Chapter 32a], Part 8 (Waste Tire Recycling); and
- (e) Title 19, Chapter 6, Part 10 (Mercury Switch Removal Act).

KEY: hazardous waste, administrative proceedings, hearings, adjudicative proceedings

Date of Enactment or Last Substantive Amendment: [~~August 29, 2011~~]**2013**

Notice of Continuation: June 14, 2011

Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-105; 63G-4-102; 63G-4-201 through 205; 63G-4-503

Environmental Quality, Solid and Hazardous Waste

R315-13

Land Disposal Restrictions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37315

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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SALT LAKE CITY, UT 84116-3097
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DIRECT QUESTIONS REGARDING THIS RULE TO:

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- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-13. Land Disposal Restrictions.

R315-13-1. Land Disposal Restrictions.

The requirements as found in 40 CFR 268, 2001 ed., as amended by 65 FR 67068, November 8, 2000; 65 FR 81373, December 26, 2000; 66 FR 27266, May 16, 2001; 66 FR 58258,

November 20, 2001; 67 FR 17119, April 9, 2002; 67 FR 62618, October 7, 2002; 67 FR 48393, July 24, 2002; 70 FR 9138, February 24, 2005; 70 FR 45508, August 5, 2005; 75 FR 12989, March 18, 2010; 75 FR 31716, June 4, 2010; and 75 FR 78918, December 17, 2010, are adopted and incorporated by reference including Appendices III, IV, VI, VII, VIII, IX, and XI, with the exclusion of Sections 268.5, 268.6, 268.42(b), and 268.44(a) - (g) and with the following exceptions:

(a) Substitute "[~~Board~~]Director" for all federal regulation references made to "Administrator" or "Regional Administrator" except for 40 CFR 268.40(b).

(b) All references made to "EPA Hazardous Waste Number" will include P999, and F999.

(c) Substitute Utah Code Annotated, Title 19, Chapter 6 for all references to RCRA.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: [~~January 13, 2012~~]2013

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 19-6-106; 19-6-105

Environmental Quality, Solid and Hazardous Waste **R315-16** Standards for Universal Waste Management

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37317

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

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♦ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-16. Standards for Universal Waste Management.
R315-16-3. Standards for Large Quantity Handlers of Universal Waste.**

3.1 APPLICABILITY

This section applies to large quantity handlers of universal waste as defined in section 16-1.9.

3.2 PROHIBITIONS

A large quantity handler of universal waste is:

- (a) Prohibited from disposing of universal waste; and
- (b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in section 16-3.8; or by managing specific wastes as provided in section 16-3.4.

3.3 NOTIFICATION

(a)(1) Except as provided in paragraphs (a)(2) and (3) of this section, a large quantity handler of universal waste must have sent written notification of universal waste management to the [Executive Secretary]Director, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

(2) A large quantity handler of universal waste who has already notified the Division of his hazardous waste management activities and has received an EPA Identification Number is not required to renotify under this section.

(3) A large quantity handler of universal waste who manages recalled universal waste pesticides as described in section 16-1.3(a)(1) and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under this section.

(b) This notification must include:

- (1) The universal waste handler's name and mailing address;
- (2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
- (3) The address or physical location of the universal waste management activities;
- (4) A list of all of the types of universal waste managed by the handler, (e.g., batteries, pesticides, mercury-containing equipment, lamps) and;
- (5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time.

3.4 WASTE MANAGEMENT

(a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed, except that cells may be opened to remove electrolyte but must be immediately closed after removal:

- (i) Sorting batteries by type;
- (ii) Mixing battery types in one container;
- (iii) Discharging batteries so as to remove the electric charge;
- (iv) Regenerating used batteries;
- (v) Disassembling batteries or battery packs into individual batteries or cells;
- (vi) Removing batteries from consumer products; or
- (vii) Removing electrolyte from batteries.

(3) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste, e.g., battery pack materials, discarded consumer products as a result of the activities listed above, must determine whether the electrolyte or other solid waste, or both, exhibits a characteristic of hazardous waste identified in R315-2-9.

(i) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of R315-1 through R315-101. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to R315-5.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste pesticides. A large quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of paragraph (b)(1) of this section, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (b)(1) of this section; or

(3) A tank that meets the requirements of R315-7-17, which incorporates by reference 40 CFR part 265 subpart J, excluding the requirements of 40 CFR 265.197(c), 265.200, and 265.201; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(c) Mercury-containing equipment. A large quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste must contain any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the of the device, must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonable designed to prevent the escape of mercury into the environment by volatilization or any other means.

(2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(i) Removes the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes ampules only over or in a containment device, (e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage);

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or

leaks from broken ampules, from the containment device to a container that meets the requirements of R315-5-3.34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of R315-5-3.34;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(3) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(i) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(ii) Follows all requirements for removing ampules and managing removed ampules under paragraph (c)(2) of this section; and

(4)(i) A large quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in 40 CFR part 261, subpart C:

(A) Mercury or clean-up residues resulting from spills or leaks and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules or housings (e.g. , the remaining mercury-containing device).

(ii) If the mercury, residues, and/or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it in compliance with 40 CFR part 262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(d) Lamps. A large quantity handler of universal waste shall manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste shall contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages shall remain closed and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste shall immediately clean up and place in a container any lamp that is broken and shall place in a container any lamp that shows evidence of

breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers shall be closed, structurally sound, compatible with the contents of the lamps and shall lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

3.5 LABELING/MARKING

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries, i.e., each battery, or a container or tank in which the batteries are contained, must be labeled or marked clearly with the following phrase: "Universal Waste Battery" or "Universal Waste Batteries";

(b) A container, or multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides as described in R315-16-1-3(a)(1) are contained must be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste Pesticide" or "Universal Waste Pesticides";

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in R315-16-1-3(a)(2) are contained must be labeled or marked clearly with:

(1)(i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in paragraph (c)(1)(i) of this section is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in paragraphs (c)(1)(i) and (1)(ii) of this section is not feasible, another label prescribed or designated by the pesticide collection program; and

(2) The words "Universal Waste Pesticide" or "Universal Waste Pesticides".

(d)(1) Mercury-containing equipment (i.e. , each device), or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste -- Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(2) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste -- Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(e) Each lamp or a container or package in which such lamps are contained shall be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

3.6 ACCUMULATION TIME LIMITS

(a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met.

(b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of

universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(2) Marking or labeling the individual item of universal waste, e.g., each battery, lamp, or thermostat with the date it became a waste or was received;

(3) Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;

(4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

3.7 EMPLOYEE TRAINING

A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

3.8 RESPONSE TO RELEASES

(a) A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A large quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of R315-1 through R315-101. The handler is considered the generator of the material resulting from the release, and is subject to R315-5.

3.9 OFF-SITE SHIPMENTS

(a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a large quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of section 16-4 while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(1) Receive the waste back when notified that the shipment has been rejected, or

(2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

(1) Send the shipment back to the originating handler, or

(2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Division of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Division will provide instructions for managing the hazardous waste.

(h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

3.10 TRACKING UNIVERSAL WASTE SHIPMENTS

(a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

(1) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

(2) The quantity of each type of universal waste received, e.g., batteries, pesticides, lamps, or thermostats;

(3) The date of receipt of the shipment of universal waste.

(b) Shipments off-site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

(1) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

(2) The quantity of each type of universal waste sent, e.g., batteries, pesticides, thermostats, or lamps;

(3) The date the shipment of universal waste left the facility.

(c) Record retention.

(1) A large quantity handler of universal waste must retain the records described in paragraph (a) of this section for at least three years from the date of receipt of a shipment of universal waste.

(2) A large quantity handler of universal waste must retain the records described in paragraph (b) of this section for at least three years from the date a shipment of universal waste left the facility.

3.11 EXPORTS

A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in R315-5-5, which incorporates by reference 40 CFR 262.58(a)(1), in which case the handler is subject to the requirements of R315-5-8, which incorporates by reference 40 CFR 262 subpart H, must:

(a) Comply with the requirements applicable to a primary exporter in R315-5-5;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in subpart E of 40 CFR, part 262, as incorporated by reference at R315-5-5; and

(c) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

3.12 TESTING REQUIREMENTS

A determination of whether or not mercury-containing lamps are hazardous waste shall be performed by a Utah certified laboratory using the Toxicity Characteristic Leaching Procedure according to:

(a) R315-50-7, which incorporates the requirements of 40 CFR 261, Appendix II, 1993 ed.; and

(b) the Science Applications International Corporation report, "Analytical Results of Mercury in Fluorescent Lamps," section 6.0, "Summary Guidelines for the Extraction of Fluorescent Lamps," which is adopted and incorporated by reference.

R315-16-7. Petitions to Include Other Wastes Under R315-16.

7.1 GENERAL

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to R315-16 may petition for a regulatory amendment under this section and R315-2.

(b) To be successful, the petitioner must demonstrate to the satisfaction of the ~~[Executive Secretary]~~Director that regulation under the universal waste regulations of R315-16 is: appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by R315-2-17(b). The petition should also address as many of the factors listed in R315-16-7.2 as are appropriate for the waste or waste category addressed in the petition.

(c) The ~~[Executive Secretary]~~Director will evaluate petitions using the factors listed in R315-16-7.2. The ~~[Executive Secretary]~~Director will grant or deny a petition using the factors listed in section 16-7-2. The decision will be based on the weight of evidence showing that regulation under R315-16 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

(d) The ~~[Executive Secretary]~~Director may request additional information needed to evaluate the merits of the petition.

7.2 FACTORS FOR PETITIONS TO INCLUDE OTHER WASTES UNDER R315-16

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in R315-2-10, 2-11, and 2-26 (which incorporate by reference 40 CFR 261 Subpart D), and R315-2-24, or if

not listed, a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in R315-2-9. When a characteristic waste is added to the universal waste regulations of R315-16 by using a generic name to identify the waste category, e.g., batteries, the definition of universal waste in section 16-1.9 will be amended to include only the hazardous waste portion of the waste category, e.g., hazardous waste batteries. Thus, only the portion of the waste stream that does exhibit one or more characteristics, i.e., is hazardous waste, is subject to the universal waste regulations of R315-16;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments, including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities;

(c) The waste or category of waste is generated by a large number of generators, e.g., more than 1,000 nationally, and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste, including packaging, marking, and labeling practices, would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner, e.g., waste management requirements appropriate to be added to R315-16, sections 2.4, 3.4, and 4.3; and applicable Department of Transportation requirements would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under R315-16 will increase the likelihood that the waste will be diverted from non-hazardous waste management systems, e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, and municipal sewer or stormwater systems, to recycling, treatment, or disposal in compliance with Utah Code Annotated 19-6.

(g) Regulation of the waste or category of waste under R315-16 will improve implementation of and compliance with the hazardous waste regulatory program; and

(h) Such other factors as may be appropriate.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: ~~[April 17, 2012]~~2013

Notice of Continuation: May 27, 2010

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Solid and Hazardous Waste **R315-17** End of Life Automotive Mercury Switch Removal Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37318

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-17. End of Life Automotive Mercury Switch Removal Standards.****R315-17-4. Mercury Switch Collection Plan.**

(a) Manufacturers of any vehicle sold within the State of Utah shall submit a plan individually or in cooperation with other manufacturers to the ~~[Executive Secretary of the Utah Solid and Hazardous Waste Control Board]~~ Director for review and approval by January 15, 2007. This submission shall be accompanied by a filing fee as established by the legislature in the Department of Environmental Quality fee schedule. The ~~[Executive Secretary]~~ Director shall bill the responsible party for review of plans submitted to meet the requirements of this Rule.

(b) The ~~[Executive Secretary]~~ Director shall review and approve or disapprove the submitted plan based on the requirements outlined in R315-7-17-4(d). If the plan is not approved, the ~~[Executive Secretary]~~ Director shall provide comments to the manufacturer within 60 days of submission of the plan. The manufacturer shall address all comments from the ~~[Executive Secretary]~~ Director and submit an amended plan within 90 days after the ~~[Executive Secretary]~~ Director provides comments on the unapproved plan.

(c) A manufacturer shall ensure that plan implementation occurs by July 1, 2007.

(d) The mercury switch collection plan shall include:

(1) The make, model, and year of any vehicle, including current and anticipated future production models, sold by a manufacturer that may contain one or more mercury switches;

(2) The description and location of each mercury switch for each make, model, and year of vehicle;

(3) Procedures for the prompt reimbursement by a manufacturer of costs incurred by a person removing and collecting mercury switches without regard to the date on which the mercury switch is removed and collected;

(4) Information addressing safe and environmentally sound methods for mercury switch removal and information about hazards related to mercury and the proper handling of mercury;

(5) Methods for the storage and disposal of mercury switches, including packaging and shipping of mercury switches to an authorized recycling, storage, or disposal facility; and

(6) Procedures for the transfer of information among persons involved with the plan to comply with reporting requirements.

(e) If a manufacturer does not know or is uncertain about whether or not a switch contains mercury, the plan shall presume that the switch contains mercury.

R315-17-6. Public Participation.

The [~~Executive Secretary~~]Director shall also provide public notice, a public comment period, and public hearing(s) for each proposed Mercury Switch Collection Plan in accordance with R315-4-1.10 through R315-4-1.12 and R315-4-1.17.

R315-17-7. Plan Amendments.

The [~~Executive Secretary~~]Director may require a manufacturer to modify the plan at any time upon finding that an approved plan as implemented has failed to meet the requirements of this rule.

R315-17-8. Reporting Requirements.

(a) Each manufacturer that is required to implement a mercury switch collection plan shall submit, either individually or in cooperation with other manufacturers, an annual report on the plan's implementation to the [~~Executive Secretary~~]Director by October 1 of each year, beginning in 2008.

(b) The annual report shall include:

- (1) The number of mercury switches collected;
- (2) The number of mercury switches for which the manufacturer has provided reimbursement;
- (3) A description of the successes and failures of the plan;
- (4) A discussion of how the failures of the plan have been or will be corrected; and
- (5) A statement detailing the costs required to implement the plan.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: [~~December 1, 2006~~]2013

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 9-6-1003

**Environmental Quality, Solid and
Hazardous Waste
R315-50-6
Representative Sampling Methods**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37319

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in

statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
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- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-50. Appendices.****R315-50-6. Representative Sampling Methods.**

The requirements of 40 CFR 261, Appendix I, 1991 ed., are adopted and incorporated by reference with the following exception:

Substitute "[Board]Director" for all references to "Agency".

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: ~~January 13, 2012~~ 2013

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 19-6-106; 19-6-108; 19-6-105

Environmental Quality, Solid and
Hazardous Waste
R315-101
Cleanup Action and Risk-Based
Closure Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37320

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov

◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-101. Cleanup Action and Risk-Based Closure Standards.****R315-101-1. Purpose, Applicability.**

(a) **Purpose.** R315-101 establishes information requirements to support risk-based cleanup and closure standards at sites for which remediation or removal of hazardous constituents to background levels will not be achieved. The procedures in this rule also provide for continued management of sites for which minimal risk-based standards cannot be met.

(b) **Applicability.**

(1) R315-101 is applicable to any responsible party involved in management of a site contaminated with hazardous waste or hazardous constituents. This rule does not apply to a site that has been or will be cleaned to background.

(2) In the event of a release of hazardous waste or material which, when released, becomes hazardous waste, these requirements apply if the responsible party fails to clean up all the released material and any residue or contaminated soil, water or other material resulting from the release as required by R315-9-3. If the level of risk present at

the site is below 1×10^{-6} for carcinogens and a Hazard Index of less than or equal to one for non-carcinogens based on the risk assessment conducted in accordance with R315-101-5.2(b)(1) and the ~~[Executive Secretary]~~Director determines that ecological effects are insignificant based on the approved assessment conducted in accordance with R315-101-5.3(a)(8), the requirements of R315-9-3 shall be considered met.

(3) The owner or operator of a hazardous waste management facility or a facility subject to interim status requirements shall meet the requirements of R315-7-14 and R315-8-7 prior to implementation of any activities described in R315-101. The requirements of R315-3-1.1(e)(5) and (6) shall be met for a hazardous waste management unit if the level of risk present at the site is below 1×10^{-6} for carcinogens and a Hazard Index of less than or equal to one for non-carcinogens based on the risk assessment conducted in accordance with R315-101-5.2(b)(1) and the ~~[Executive Secretary]~~Director determines that ecological effects are insignificant based on the approved assessment conducted in accordance with R315-101-5.3(a)(8). If these risk exposure criteria are met, a request for a risk-based closure may be submitted to the ~~[Executive Secretary]~~Director for review.

(4) If the risk present at the site is greater than the exposure limit as defined in R315-101-1(b)(2) or (3) or the ~~[Executive Secretary]~~Director determines that ecological effects may be significant, then a risk-based closure will not be granted and appropriate management will be required and may include corrective action, post-closure care, monitoring, deed restrictions, and security of the site. For determinations of appropriate corrective action or management activities at a site, the following criteria shall be considered in order of importance:

- (a) The impact or potential impact of the contamination on the human health;
- (b) The impact or potential impact of the contamination on the environment;
- (c) The technologies available for use in clean-up; and
- (d) Economic considerations and cost-effectiveness of clean-up options.

R315-101-2. Stabilization.

The responsible party must immediately take appropriate action to stabilize the site either through source removal or source control. After the responsible party has attempted to complete the requirements of R315-9 and the ~~[Executive Secretary]~~Director determines that additional work is needed to stabilize the site, the ~~[Executive Secretary]~~Director will notify the responsible party that additional work is necessary and provide the responsible party with objectives to be addressed in developing a work plan to further stabilize the site. The work plan shall be submitted to the ~~[Executive Secretary]~~Director for review and approval within fifteen days of receiving notification that additional work will be necessary to complete the emergency actions required by R315-9. Work plans shall be of a scope commensurate with the work to be performed and site-specific characteristics. This work plan shall include a description of the interim measure and how it will meet the criteria of source removal or source control. The implementation of the work plan shall be according to the schedule contained within the approved plan. All interim measures shall be at the expense of the party responsible for the site. If the party responsible for the site fails to take the measures required for stabilizing the site, the ~~[Executive Secretary]~~Director may

request the Executive Director of the Department to take abatement and cost recovery actions as provided in Section 19-6-301, et seq., Utah Hazardous Substances Mitigation Act.

R315-101-3. Principle of Non-degradation.

When closing or managing a contaminated site, the responsible party shall not allow levels of contamination in groundwater, surface water, soils, and air to increase beyond the existing levels of contamination at a site when site management commences. The responsible party will demonstrate compliance with this policy by submitting appropriate monitoring data or other data as may be required by the ~~[Executive Secretary]~~Director. If at any time the level of contamination increases, the responsible party shall take immediate corrective action to prevent further degradation of any medium.

R315-101-5. Health Evaluation Criteria, Risk Assessment.

5.1 REQUIRED STUDY

(a) When conducting the risk assessment the responsible party will use all applicable site characterization data and shall consider the following parameters when conducting the risk assessment:

- (1) Identification, concentration, and distribution of all suspected hazardous constituents identified in R315-101-4(e);
- (2) All area(s) of contamination at the site;
- (3) Fate of contaminants and pathways of contaminant transport; and
- (4) Potentially exposed populations.

5.2 CHARACTERIZATION AND EVALUATION OF RISK

(a) The responsible party shall conduct a risk assessment which includes the following:

- (1) The concentration term "C" for each medium for each hazardous constituent identified in R315-101-5.1(a)(1);
- (2) Evaluation of the fate of contaminants and of all pathways of contaminant transport identified in R315-101-5.1(a)(3);
- (3) Exposure assessment identifying the RME for all exposure pathways, intakes, and identified constituents;
- (4) Current toxicity information for carcinogenic and noncarcinogenic effects;
- (5) Risk characterization identifying carcinogenic risk, individual and multiple substances, and noncarcinogenic hazardous index, individual and multiple substances;
- (6) An ecological evaluation which provides for terrestrial and aquatic processes; and
- (7) Current toxicity information for all the constituents and biological processes relevant to the ecological evaluation.

(b) The risk assessment shall be conducted using one or both of the standard exposure scenarios listed below, as needed to determine site management options:

- (1) Residential. This exposure scenario includes ingestion of water (must include surface water and ground water regardless of water quality), ingestion of soil and dust, ingestion of contaminated and potentially contaminated food, inhalation of contaminants, dermal contact with chemicals in soil, and dermal contact with chemicals in water for a human being ages zero through 70 years old using the equations and default variable values found in the Risk Assessment Guidance for Superfund, Volume 1: Human Health Evaluation Manual Supplemental Guidance, "Standard Default Exposure Factors", Interim

Final, OSWER Directive 9285.6-03, March 25, 1991 or most recent edition;

(2) Actual land use conditions or potential land use conditions based upon applicable zoning and future land use planning considerations, if potential land use conditions offer a more protective exposure scenario than actual land use conditions. This exposure scenario involves an assessment based on actual site conditions using standard default variable values. The potential land use exposure scenario should include a conceptual model including current site conditions, expected future conditions based upon site-specific physical and chemical information, and the assumption that contaminated media will not have undergone any remedial engineering.

5.3 DATA PRESENTATION

(a) A risk assessment report shall be submitted to the ~~[Executive Secretary]~~Director and must include at a minimum the following:

- (1) An executive summary;
- (2) An overview of the site and the areas of contamination;
- (3) A site characterization report which includes:
 - (i) Maps of sufficient detail and accuracy to depict areas of contamination, topography, geology, and groundwater contours or potentiometric surface;
 - (ii) Site and regional geological and hydrological descriptions;
 - (iii) A detailed discussion of areas of contamination;
 - (iv) Background levels of hazardous constituents including details of statistical methods used to determine background; and
 - (v) Descriptions of releases of hazardous constituents and expected extent of migration from the area of contamination.

(4) Identification and concentration of hazardous constituents identified in R315-101-5.1(a)(1). A sampling and analysis plan shall be prepared and utilized for the collection of all data. This plan shall be developed using procedures and methods outlined in R315-50-6 and the most current version of "SW-846, Test Methods for Evaluating Solid Waste." It shall contain a summary outlining data quality objectives, completed analytical request forms for all analysis performed, dry weight equivalents, sampling location identification and justification, standard operating procedures used for data collection, all statistical analysis performed, quality assurance and quality control plans (QA/QC plan) and QA/QC results, instrument calibration results, and analytical methods including constituent detection limits;

(5) Exposure assessment identifying exposure levels for all exposure pathways identified in R315-101-5.2(a)(3). If fate and transport models are used, the users manual, model theory, computer software for the model, installation verification data set for the model and parametric analysis of the input parameters must be provided upon request of the ~~[Executive Secretary]~~Director;

(6) Identification of toxicity information gathered for all identified hazardous constituents for carcinogenic, slope factors and weight-of-evidence classification, noncarcinogenic effects, chronic reference doses (RfDs) and critical effects associated with RfDs from, in order of preference, the Integrated Risk Information System (IRIS), Health Effects Assessment Summary Tables (HEAST), Agency for Toxic Substances and Disease Registry (ATSDR) toxicological profiles, Environmental Criteria and Assessment Office (ECAO), or other scientifically accepted listings. The source and date of the

toxicological information must be identified and be acceptable to the ~~[Executive Secretary]~~Director;

(7) The risk characterization identifying carcinogenic risk, individual and multiple substances, noncarcinogenic hazardous index, individual and multiple substances, chronic hazard quotient, subchronic hazard quotient, uncertainties, and a tabulation of all risk characterization data presented in a format approved by the ~~[Executive Secretary]~~Director; and

(8) Unless justification is provided to the ~~[Executive Secretary]~~Director, and a waiver of this requirement is granted by the ~~[Executive Secretary]~~Director in writing, an ecological assessment of the site which contains at least the following:

- (i) An inventory of the current biological community;
- (ii) Estimates of ecological effects based on a subset of ecological endpoints;
- (iii) The magnitude and variation of toxic effects; and
- (iv) Identification of extent of effects, specifically from the presence of hazardous waste.

(b) If the risk assessment report does not contain all required information of sufficient quality and detail, the ~~[Executive Secretary]~~Director will notify the responsible party in writing of the deficiencies and require resubmittal of the report in a designated time frame.

(c) If the risk assessment report contains all required information of sufficient quality and detail, the ~~[Executive Secretary]~~Director will approve the risk assessment report in writing.

R315-101-6. Risk Management: Site Management Plan and Closure Equivalency.

(a) A site management plan which is supported by the findings in the approved risk assessment report shall be submitted to the ~~[Executive Secretary]~~Director within 60 days of approval of the risk assessment report. This plan may be submitted along with the risk assessment report and must include a schedule for implementation.

(b) The ~~[Executive Secretary]~~Director shall review and approve or disapprove of the conclusions of the proposed site management plan. If the ~~[Executive Secretary]~~Director finds that the site management plan is not adequate for protection of human health and the environment, the responsible party shall then submit a revised site management plan addressing the comments of the ~~[Executive Secretary]~~Director within an appropriate time frame as specified by the ~~[Executive Secretary]~~Director. The ~~[Executive Secretary]~~Director shall review and approve or reject the revised site management plan. Upon draft approval of the site management plan, the ~~[Executive Secretary]~~Director shall follow the requirements of R315-101-7 prior to issuance of final approval. The approved site management plan shall be implemented according to the approved schedule. If the ~~[Executive Secretary]~~Director rejects this revised site management plan, the revised plan will be considered deficient for the reasons specified by the ~~[Executive Secretary]~~Director in a statement of disapproval.

(c)(1) The site management plan may contain a no further action option only if the level of risk present at the site is below 1×10^{-6} for carcinogens and a Hazard Index of "less than or equal to one" for non-carcinogens based on the approved assessment conducted in accordance with R315-101-5.2(b)(1) and the ~~[Executive Secretary]~~Director determines that ecological effects are insignificant based on the approved assessment conducted in accordance with R315-101-5.3(a)(8);

(2) The requirements of R315-3-1.1(e)(5) and (6) shall be deemed met for a hazardous waste management unit if the level of risk present at the site is below 1×10^{-6} for carcinogens and a Hazard Index of "less than or equal to one" for non-carcinogens based on the risk assessment conducted in accordance with R315-101-5.2(b)(1) and the ~~[Executive Secretary]~~Director determines that ecological effects are insignificant based on the approved assessment conducted in accordance with R315-101-5.3(a)(8). If this risk exposure criterion is met, a request for a risk-based closure may be submitted; or

(3) If the risk present at the site is greater than or equal to 1×10^{-6} for carcinogens or a Hazard Index of "greater than one" for non-carcinogens based upon the exposure assessment conducted in accordance with R315-101-5.2(b)(1), or the ~~[Executive Secretary]~~Director determines that ecological effects may be significant based on the approved assessment conducted in accordance with R315-101-5.3(a)(8), a risk-based closure will not be granted. The responsible party shall then submit a site management plan fulfilling the requirements of R315-101-6(d) or (e) as applicable.

(d) If the level of risk present at the site is less than 1×10^{-4} for carcinogens and a hazard index is "less than or equal to one" for the risk assessment conducted in accordance with R315-101-5.2(b)(2) but greater than or equal to 1×10^{-6} for carcinogens or a hazard index is greater than one for a risk assessment conducted in accordance with R315-101-5.2(b)(1) or the ~~[Executive Secretary]~~Director determines that ecological effects may be significant based on the approved assessment conducted in accordance with R315-101-5.3(a)(8), the site management plan may contain, but is not required to contain, procedures for corrective action. The site management plan shall contain appropriate management activities e.g., monitoring, deed notations, site security, or post-closure care, as determined on a case-by-case basis in accordance with criteria identified in R315-101-1(b)(4).

(e) The site management plan must contain procedures for corrective action if the level of risk present at the site is greater than or equal to 1×10^{-4} for carcinogens or a Hazard Index of "greater than one" for non-carcinogens based on the approved assessment conducted in accordance with R315-101-5.2(b)(2) or the ~~[Executive Secretary]~~Director concludes that corrective action is required to mitigate ecological effects based on the approved assessment conducted in accordance with R315-101-5.3(a)(8). For determination of appropriate corrective action the criteria identified in R315-101-1(b)(4) shall be considered.

(f) If hazardous constituents are present only in groundwater at the site, and if the hazardous constituents are listed in Table 1 of R315-8-6.5, the Maximum Concentration Levels listed in Table 1 can be presented in lieu of health risk estimates for those constituents. The RME for Table 1 constituents must be determined in accordance with approved site characterization methods listed in R315-101-4.

R315-101-7. Public Participation.

(a) The ~~[Executive Secretary]~~Director may provide for public participation in all phases of the cleanup action process, as defined in R315-101-4 through R315-101-6. As directed by the ~~[Executive Secretary]~~Director and based on the circumstances and level of public interest at the site, pertinent work plans shall describe how information will be made available to the public through, for example, fact sheets or information repositories and, where appropriate, contain proposed time frames for public input through, for example, public meetings, hearings, or comment periods. The

~~[Executive Secretary]~~Director shall also provide public notice, a public comment period, and public hearing(s) for the site management plan in accordance with R315-4-1.10 through R315-4-1.12 and R315-4-1.17.

R315-101-8. Cleanup/Management Action.

(a) Upon approval of the site management plan by the ~~[Executive Secretary]~~Director, all remedial activities at the site shall proceed according to the schedule established in the approved site management plan using the method(s) described therein.

(b) Cleanup/Management Report. The Cleanup/Management Report shall detail remediation, treatment, and monitoring activities undertaken at the site by the responsible party as required by the approved site management plan. If the Cleanup/Management Report provides analytical data as evidence that levels of contamination at the site meet the requirements established in the site management plan for a risk-based closure or no further action as defined in R315-101-6(c)(2), the responsible party shall submit a certification of completion as outlined in R315-101-8(c), or request risk-based closure as outlined in R315-3-1.1(e)(6), whichever is applicable.

(c) Certification of Completion. Within 60 days of the completion of all activities documented in the Cleanup/Management Report, a Certification of Completion of Cleanup/Management Action shall be submitted to the ~~[Executive Secretary]~~Director by registered mail. The certification of completion shall state the site has been managed in accordance with the specifications in the approved Site Management Plan and shall be signed by the responsible party and by an independent Utah registered professional engineer.

(d) Oversight.

(1) The ~~[Executive Secretary]~~Director or his representatives shall have access to the site as described in R315-2-12 and at all times when activity pursuant to R315-101 is taking place. The ~~[Executive Secretary]~~Director or his representatives may take samples or make records of any visit to the site by photographic, electronic, videotape or any other reasonable means.

(2) The ~~[Executive Secretary]~~Director shall bill the responsible party for review of plans submitted to meet the requirements of this Rule.

(3) The responsible party shall notify the ~~[Executive Secretary]~~Director at least seven days prior to any sampling event or remediation activity.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: ~~[September 20, 2004]~~2013

Notice of Continuation: July 13, 2011

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Solid and Hazardous Waste **R315-102** Penalty Policy

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37321

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-106 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-102. Penalty Policy.****R315-102-1. Purpose, Scope, and Applicability.**

(a) Subsection 19-6-113(2) of the Utah Solid and Hazardous Waste Act provides that any person who violates any order, plan, rule, or other requirement issued or adopted under the Act is subject in a civil proceeding to a penalty of not more than \$13,000 per day for each day of violation. Subsection 19-6-721(1) of the Used Oil Management Act provide that any person who violates any order, plan, rule, or other requirement issued or adopted under the Acts is subject in a civil proceeding to a penalty of not more than \$10,000 per day for each day of violation. Subsection 19-6-104(1)(e) of the Utah Solid and Hazardous Waste Act allows the ~~[Board]~~Director to settle or compromise administrative or civil actions initiated to compel compliance with the Act or rules adopted under the Act.

(b) The following criteria are to be used by the ~~[Executive Secretary of the Board]~~Director for determining amounts which (1) may be sought in settlement of enforcement actions, and which (2) may be accepted in settlement of enforcement actions.

(c) The procedures in R315-102 are intended solely for the guidance of the ~~[Executive Secretary]~~Director and are not intended, and cannot be relied upon, to create a cause of action against the State.

R315-102-2. Criterion 1: Factors.

The ~~[Executive Secretary]~~Director shall consider the following factors when calculating a settlement amount:

(a) Economic benefit of noncompliance. These are the costs a person may save by delaying or avoiding compliance with applicable laws or rules.

(b) Gravity of the violation. This component of the calculation shall be based on:

(1) the extent of deviation from the rules, and

(2) the potential for harm to human health and the environment, regardless of the extent of harm that actually occurred.

(c) The number of days of noncompliance.

(d) Good faith efforts to comply or lack of good faith. This takes into account the openness in dealing with the violations, promptness in correction of the problems, and the degree of cooperation with the State to include accessibility to information and the amount of State effort necessary to bring the person into compliance.

(e) Degree of willfulness or negligence. Factors to be considered include how much control the violator had over the events constituting the violation, the foreseeability of the events constituting

the violation, whether the violator took reasonable precautions to prevent the violation, and whether the violator knew, or should have known, of the hazards associated with the conduct or the legal requirements which were violated.

(f) History of compliance or noncompliance. The settlement amount may be adjusted upward in consideration of previous violations and the degree of recidivism. Likewise, the settlement amount may be adjusted downward when it is shown that the violator has a good compliance record.

(g) Ability to pay. The settlement amount may be adjusted downward based on a person's inability to pay. This should be distinguished from a person's unwillingness to pay. In cases of financial hardship, the ~~[Executive Secretary]~~ Director may accept payment of the settlement under an installment plan, delayed payment schedule, reduced penalty amount, or any combination of these options.

(h) Other unique factors.

R315-102-3. Criterion 2: Calculation of Settlement Amounts.

(a) Violations are grouped into the following categories based on the gravity of the violation:

(1) Major potential for harm, major extent of deviation from the requirement. For used oil, major potential for harm, major extent of deviation from the requirement: \$8,000 to \$10,000. For hazardous waste or constituents, or solid waste, major potential for harm, major deviation from the requirement: \$10,400 to \$13,000.

(i) The violation: poses, or may pose, a relatively high risk of exposure of humans or other environmental receptors to hazardous waste or constituents, solid waste, or used oil; or has, or may have, a relatively high adverse effect on statutory or regulatory purposes or procedures for implementing the hazardous waste, solid waste, or used oil programs.

(ii) The violator deviates from requirements of the regulation or statute to such an extent that most, or important aspects, of the requirements are not met, resulting in substantial noncompliance.

(2) Major potential for harm, moderate extent of deviation from the requirement. For used oil, major potential for harm, moderate deviation from the requirement: \$6,000 to \$8,000. For hazardous waste or constituents, or solid waste, major potential for harm, moderate deviation from the requirement: \$7,800 to \$10,400.

(i) The violation: poses, or may pose, a relatively high risk of exposure of humans or other environmental receptors to hazardous waste or constituents, solid waste, or used oil; or has, or may have, a relatively high adverse effect on statutory or regulatory purposes or procedures for implementing the hazardous waste, solid waste, or used oil programs.

(ii) The violator significantly deviates from the requirements of the regulation or statute but some of the requirements are implemented as intended.

(3) Major potential for harm, minor extent of deviation from the requirement. For used oil, major potential for harm, minor deviation from the requirement: \$4,400 to \$6,000. For hazardous waste or constituents, or solid waste, major potential for harm, minor deviation from the requirement: \$5,720 to \$7,800.

(i) The violation: poses, or may pose, a relatively high risk of exposure of humans or other environmental receptors to hazardous waste or constituents, solid waste, or used oil; or has, or may have, a relatively high adverse effect on statutory or regulatory purposes or

procedures for implementing the hazardous waste, solid waste, or used oil programs.

(ii) The violator deviates somewhat from the regulatory or statutory requirements but most, or all important aspects, of the requirements are met.

(4) Moderate potential for harm, major extent of deviation. For used oil, moderate potential for harm, major deviation from the requirement: \$3,200 to \$4,400. For hazardous waste or constituents, or solid waste, moderate potential for harm, major deviation from the requirement: \$4,160 to \$5,720.

(i) The violation: poses, or may pose, a medium risk of exposure of humans or other environmental receptors to hazardous waste or constituents, solid waste, or used oil; or has, or may have, a medium adverse effect on statutory or regulatory purposes or procedures for implementing the hazardous waste, solid waste or used oil programs.

(ii) The violator deviates from requirements of the regulation or statute to such an extent that most, or important aspects, of the requirements are not met, resulting in substantial noncompliance.

(5) Moderate potential for harm, moderate extent of deviation from the requirement. For used oil, moderate potential for harm, moderate deviation from the requirement: \$2,000 to \$3,200. For hazardous waste or constituents, or solid waste, moderate potential for harm, moderate deviation from the requirement: \$2,600 to \$4,160.

(i) The violation: poses, or may pose, a medium risk of exposure of humans or other environmental receptors to hazardous waste or constituents, solid waste, or used oil; or has, or may have, a medium adverse effect on statutory or regulatory purposes or procedures for implementing the hazardous waste, solid waste or used oil programs.

(ii) The violator significantly deviates from the requirements of the regulation or statute but some of the requirements are implemented as intended.

(6) Moderate potential for harm, minor extent of deviation from the requirement. For used oil, moderate potential for harm, minor deviation from the requirement: \$1,200 to \$2,000. For hazardous waste or constituents, or solid waste, moderate potential for harm, minor deviation from the requirement: \$1,560 to \$2,600.

(i) The violation: poses, or may pose, a medium risk of exposure of humans or other environmental receptors to hazardous waste or constituents, solid waste, or used oil; or has, or may have, a medium adverse effect on statutory or regulatory purposes or procedures for implementing the hazardous waste, solid waste or used oil programs.

(ii) The violator deviates somewhat from the regulatory or statutory requirements but most, or all important aspects, of the requirements are met.

(7) Minor potential for harm, major extent of deviation from the requirement. For used oil, minor potential for harm, major deviation for the requirement: \$600 to \$1,200. For hazardous waste or constituents, or solid waste, minor potential for harm, major deviation from the requirement: \$780 to \$1,560.

(i) The violation: poses, or may pose, a relatively low risk of exposure of humans or other environmental receptors to hazardous waste or constituents, solid waste, or used oil; or has, or may have, a small adverse effect on statutory or regulatory purposes or procedures for implementing the hazardous waste, solid waste, or used oil programs.

(ii) The violator deviates from requirements of the regulation or statute to such an extent that most, or important aspects, of the requirements are not met, resulting in substantial noncompliance.

(8) Minor potential for harm, moderate extent of deviation from the requirements. For used oil, minor potential for harm, moderate deviation from the requirement: \$200 to \$600. For hazardous waste or constituents, or solid waste, minor potential for harm, moderate deviation from the requirement: \$260 to \$780.

(i) The violation: poses, or may pose, a relatively low risk of exposure of humans or other environmental receptors to hazardous waste or constituents, solid waste, or used oil; or has, or may have, a small adverse effect on statutory or regulatory purposes or procedures for implementing the hazardous waste, solid waste, or used oil programs.

(ii) The violator significantly deviates from the requirements of the regulation or statute but some of the requirements are implemented as intended.

(9) Minor potential for harm, minor extent of deviation from the requirements. For used oil, minor potential for harm, minor deviation from the requirement: \$40 to \$200. For hazardous waste or constituents, or solid waste, minor potential for harm, minor deviation from the requirement: \$50 to \$260.

(i) The violation: poses, or may pose, a relatively low risk of exposure of humans or other environmental receptors to hazardous waste or constituents, solid waste, or used oil; or has, or may have, a small adverse effect on statutory or regulatory purposes or procedures for implementing the hazardous waste, solid waste, or used oil programs.

(ii) The violator deviates somewhat from the regulatory or statutory requirements but most, or all important aspects, of the requirements are met.

(b) The ~~[Executive Secretary]~~Director shall have the discretion to determine the appropriate amount within these ranges.

(c) If applicable, a multi-day component may be added to the settlement amount determined in R315-102-3(b). The amount used in a multi-day calculation will typically range from 5% to 20%, with a minimum of \$40 per day for used oil, and with a minimum of \$50 per day for hazardous waste or constituents, or solid waste, of the amount determined in R315-102-3(b) for each day of violation up to 179 days following the first day of violation. However, discretion is retained to consider amounts (1) of up to \$10,000 per day of violation for used oil and up to \$13,000 per day of violation for hazardous waste or constituents, or solid waste and (2) for days of violation after the first 179 days following the first day of violation.

(d) The amount calculated above may be adjusted by taking into account the factors specified in R315-102-2(d) through (h).

(e) This amount will then be added to any economic benefit gained by the person as specified in R315-102-2(a).

(f) If applicable, partial credit may be given for an approved supplemental environmental project.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: ~~[January 20, 2006]~~2013

Notice of Continuation: May 27, 2010

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37322

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, 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, 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 fluction, block sliding, and rock falls.

(5) "Asbestos 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 that meets the definition found in Subsection 19-6-102(3)(a) (iii) and is permitted by the ~~[Executive Secretary]~~ Director

(a) to receive for disposal:

(i) municipal solid waste;

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

(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 that is permitted by the ~~[Executive Secretary]~~ Director

(a) to receive for disposal:

(i) municipal solid waste;

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

(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) 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]~~ Director to receive for disposal only industrial solid waste.

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

(a) construction/demolition waste;

(b) yard waste;

(c) inert waste;

(d) dead animals, as approved by the ~~[Executive Secretary]~~ Director 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]~~ Director 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]~~ Director 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]~~ Director 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 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; or
- (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 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]~~ Director; 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 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 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 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 that are also regulated solid wastes. Incineration 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 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 industries; food and related products or by-products industries; inorganic chemical industries; iron and steel manufacturing; leather and leather product industries; nonferrous metals manufacturing or foundry industries; organic chemical industries; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic product industries; stone, glass, clay, and concrete product 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(18)(b).

(36) "Industrial solid waste facility" means a facility 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 change.

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

(39) "Land treatment, landfarming, or landspreading facility" means a facility or unit within 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 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~~ Director;

(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 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 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]~~ Director 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 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 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 landfill, incinerator, or land treatment area.

(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 transfer vehicle for transport to a solid waste handling or disposal facility.

(76) "Transport vehicle" means a vehicle capable of hauling 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.

(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.

(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.

(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.

(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.

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

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

(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.

(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.

(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 from the ~~[Executive Secretary]~~Director and shall meet all of the following;

(i) submit the required permit application in the time frame specified by the ~~[Executive Secretary]~~Director and respond promptly to all requests for information from the ~~[Executive Secretary]~~Director 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).

(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~~]Director and has received a letter of approval from the [~~Executive Secretary~~]Director to accept waste.

(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: [~~February 1, 2007~~]2013

Notice of Continuation: February 14, 2008

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.: 37323
FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, 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;

- (iv) 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 or a drop box facility;
- (iii) a pile 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, county, or city park, monument, or recreation area;

(B) designated wilderness or wilderness study area;

(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 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) 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.

(ii) Holocene Fault Areas. A new facility or a lateral expansions 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]~~Director 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.

(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]~~Director 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.

(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]~~Director 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.

(ii) Floodplains. No new or existing facility shall be located in a floodplain unless the owner or operator demonstrates to the ~~[Executive Secretary]~~Director 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]~~Director 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]~~ Director:

(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]~~ Director, of hydraulic conductivity and other information necessary to determine the 250 days ground water travel distance.

(vi) Ground Water Alternative.

(A) Subject to the ground water performance standard stated in Subsection R315-303-2(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]~~ Director may approve, on a site specific basis, an alternative ground water monitoring system at the facility or may waive the ground water monitoring requirement. If ground water monitoring is waived the owner or operator 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]~~ Director 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 Section R315-302-1 may be granted by the ~~[Executive Secretary]~~ Director on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

(a) No exemption may be granted without application to the ~~[Executive Secretary]~~ Director.

(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]~~Director, 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]~~Director 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]~~Director 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]~~Director 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]~~Director. 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]~~Director or his authorized representative. The facility must be operated in accordance with the plan. Each plan of operation shall include:

(a) an intended schedule of construction. Facility permits will be reviewed by the ~~[Executive Secretary]~~Director 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 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]~~Director.

(3) Recordkeeping. Each owner or operator shall maintain and keep, on-site or at a location approved by the ~~[Executive Secretary]~~Director, 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]~~Director.

(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]~~Director 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) the annual update of the required financial assurances mechanism pursuant to Subsection R315-309-2(2);
- (v) results of ground water monitoring and gas monitoring;

and

- (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.

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]~~Director.

- (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]~~Director or his authorized representative upon request.

(b) The ~~[Executive Secretary]~~Director or any duly authorized officer, employee, or representative of the ~~[Board]~~Director 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]~~Director.

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

- (1) Applicability.

(a) 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(12). 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]~~Director.

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

(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]~~Director 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]~~Director 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 shall, within 90 days or as required by the ~~[Executive Secretary]~~Director, submit to the ~~[Executive Secretary]~~Director:

(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]~~Director 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]~~Director to protect human health and the environment for a period of 30 years or a period established by the ~~[Executive Secretary]~~Director.

(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) (m) and as approved by the ~~[Executive Secretary]~~Director 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]~~Director 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]~~Director may direct that post-closure activities cease until the owner or operator receives a notice from the ~~[Executive Secretary]~~Director to proceed with post-closure activities.

(b) When post-closure activities are complete, as determined by the ~~[Executive Secretary]~~Director, the owner or operator shall submit a certification to the ~~[Executive Secretary]~~Director, 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]~~Director 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]~~Director 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: ~~February 1, 2007~~2013

Notice of Continuation: February 14, 2008

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.: 37324

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-303. Landfilling Standards.

R315-303-2. Standards for Performance.

(1) **Ground Water.** An owner or operator of a disposal facility shall not contaminate the ground water underlying the facility beyond the ground water quality standard set in Section R315-308-4 or, for constituents not set in Section R315-308-4, as established by the [Executive Secretary] Director based on health risk standards.

(2) **Air Quality and Explosive Gas Emissions.**

(a) An owner or operator of a disposal facility shall not allow concentrations of explosive gases generated by the facility to exceed:

(i) twenty-five percent of the lower explosive limit for explosive gases in facility structures, excluding gas control or recovery system components; and

(ii) the lower explosive limit for explosive gases at the property boundary or beyond.

(b) An owner or operator of a disposal facility shall not cause a violation of any ambient air quality standard at the property boundary or emission standard from any emission of landfill gases, combustion or any other emission associated with the facility.

(3) **Surface Waters.** An owner or operator of a disposal facility:

(a) shall not cause a violation of any Utah Pollution Discharge Elimination System permit or standard from discharges of surface run-off, leachate or any liquid associated with the facility; and

(b) shall be in compliance under the Clean Water Act for any discharge as well as in compliance with any area-wide or state-wide plan under Section 208 or 319 of the Clean Water Act.

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] Director, 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]~~Director;

(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) Equivalent Design.

(i) The ~~[Executive Secretary]~~Director 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 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 equivalent liner design, the ~~[Executive Secretary]~~Director 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) Alternative Design.

(i) The owner or operator may use, as approved by the ~~[Executive Secretary]~~Director, an alternative design.

(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]~~Director, 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; 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]~~Director 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) Each new Class II Landfill and any existing Class II Landfill seeking facility expansion shall meet the location standards of Section R315-302-1.

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

(iv) A Class II Landfill, 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.

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

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

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

(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.

(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]~~Director.

(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.

(c) ~~Executive Secretary~~ Alternative Final Cover Design. The ~~Executive Secretary~~ Director 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 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 achieved by the standard design in Subsection R315-303-3(4)(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~~ Director 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.

(f) If a landfill has been constructed using an approved alternative landfill design, the ~~Executive Secretary~~ Director may require, on a site-specific basis, the landfill closure design to be more stringent than the standard design specified in Subsection R315-303-3(4)(a) to protect human health or the environment.

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

(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~~ Director;

(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~~ Director, for the explosive gas release, place a copy of the plan in the operating record, and notify the ~~Executive Secretary~~ Director 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~~ Director 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~~ Director 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~~ Director 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~~ Director. The ~~Executive Secretary~~ Director 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 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 site when the site is open to the public;

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

(ii) at least two persons on 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 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 an alternative daily cover 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 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 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~~ Director 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~~ Director 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~~ Director. ~~Executive Secretary~~ Director approval is based on the material meeting the requirements of Subsection R315-303-4(4)(c).

(f) The ~~Executive Secretary~~ Director 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]~~Director 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]~~Director 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.

(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]~~Director.

(i) No alternative intermediate cover will be approved by the ~~[Executive Secretary]~~Director 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]~~Director 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]~~Director 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. 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.

(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]~~Director, 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]~~Director, 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: [~~February 1, 2007~~2013]

Notice of Continuation: February 14, 2008

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.: 37325
FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-304. Industrial Solid Waste Landfill Requirements.

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 a landfill 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 a landfill 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]~~ Director; or
- (b) conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5.

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]~~ Director 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]~~ Director.

(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);

(iii) 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]~~Director 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]~~Director.

(ii) If an exemption is granted, the landfill may be required to have more stringent design, construction, monitoring, or 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]~~Director:

(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]~~Director.

(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]~~Director, 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]~~Director.

(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]~~Director, 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]~~Director.

(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]~~Director, from the financial assurance requirements of Rule R315-309.

(7) Permit Requirements.

Each Class III Landfill shall apply for and obtain a permit to operate by meeting the applicable requirements of Rule R315-310.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~[February 1, 2007]~~2013

Notice of Continuation: March 29, 2012

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 40 CFR 257

Environmental Quality, Solid and Hazardous Waste **R315-305** Class IV and VI Landfill Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37326

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, 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 R315-302-1(2)(e)(i)(B);
 - (iv) the standards with respect to geology as specified in Subsections R315-302-1(2)(b)(i) and (iv);
 - (v) if the permit application for a new Class 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) 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~~ Director 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.
 - (i) No exemption may be granted without application to the ~~Executive Secretary~~ Director.
 - (ii) If an exemption is granted, the landfill may be required to meet more stringent design, construction, monitoring, or operation requirements than the minimum described in Rule R315-305 to protect human health or the environment.
 - (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, the request to the ~~Executive Secretary~~ Director 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.

R315-305-5. Requirements for Operation.

(1) The owner or operator of a Class IV or VI Landfill shall not accept any other form of waste except the wastes specified in Subsection R315-305-1(1).

(2) The owner or operator of a Class IV or VI Landfill shall prevent the disposal of unauthorized waste by ensuring that at least one person is on site during hours of operation and shall prevent unauthorized disposal during off-hours by controlling entry, i.e., lockable gate or barrier, when the facility is not open.

(3) The owner or operator of a Class IV or VI Landfill shall:

(a) minimize the size of the working face as required by Subsection R315-303-3(7)(g);

(b) employ measures to prevent emission of fugitive dusts, when weather conditions or climate indicate that transport of dust off-site is liable to create a nuisance;

(c) meet the requirements of Subsection R315-303-3(1)(a) and (b) to minimize liquids admitted to the landfill;

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

(e) prohibit scavenging.

(4) The owner or operator of a Class IV or VI Landfill shall cover timbers, wood, and other combustible waste with a minimum of six inches of soil, or equivalent, as needed to avoid a fire hazard.

(5) The owner or operator of a Class IV or VI Landfill shall meet the applicable general requirements of closure and post-closure care of Section R315-302-3 as determined by the ~~[Executive Secretary]~~ Director.

(a) The owner or operator of a Class IVa Landfill shall meet the specific closure requirements of Subsection R315-303-3(4).

(b) The owner or operator of a Class IVb or VI Landfill shall close the facility by:

(i) leveling the waste to the extent practicable;

(ii) covering the waste with a minimum of two feet of soil, including six inches of topsoil;

(iii) contouring the cover as specified in Subsection R315-303-3(4)(a)(i)(B); and

(iv) seeding the cover with grass, other shallow rooted vegetation, or other native vegetation or covering in another manner approved by the ~~[Executive Secretary]~~ Director to minimize erosion.

(v) The ~~[Executive Secretary]~~ Director may approve an alternative final cover design for a Class IVb or VI Landfill if it is documented that the alternative final cover provides equivalent

protection from infiltration and erosion as the cover specified in Subsection R315-305-5(5)(b).

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~February 1, 2007~~ 2013

Notice of Continuation: February 14, 2008

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** Incinerator Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37327

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, 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 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] Director.

(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 to inspect loads or take other steps, as approved by the [Executive Secretary] Director, 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.

R315-306-3. Requirements for Small Incinerators.

(1) Applicability.

(a) These requirements apply to any incinerator designed to incinerate ten tons, or less, of solid waste per day and incinerator facilities that incinerate solid waste only from on-site sources.

(b) If an incinerator processes 250 pounds, or less, of solid waste per week, the requirements of Section R315-306-3 do not apply and a permit from the [~~Executive Secretary~~] Director is not required but the facility may be regulated by other local, state, or federal requirements.

(2) Requirements.

(a) Each owner and operator of an incinerator facility shall submit a plan of operation to the [~~Executive Secretary~~] Director that meets the requirements of Section R315-302-2.

(b) The submitted plan of operation shall also address:

(i) alternative storage, or disposal plans for all breakdowns that would result in overfilling the storage areas;

(ii) identification of the specific waste streams to be handled by the facility;

(iii) generator waste analysis requirements and procedures;

(iv) waste verification procedures at the facility;

(v) generator certification of wastes shipped as being nonhazardous; and

(vi) recordkeeping procedures, including a detailed operating record.

(c) Solid waste shall be stored temporarily only in storage compartments, containers, or areas specifically designed to store wastes.

(i) Storage of wastes other than in specifically designed compartments, containers or areas is prohibited.

(ii) Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as necessary to maintain the plant in a sanitary and clean condition.

(d) Incinerator ash and residues from any incinerator shall be sampled, analyzed, and disposed as specified in Subsection R315-306-2(7).

(e) The owner or operator of the incinerator shall prevent the disposal of prohibited hazardous waste or prohibited waste containing PCB's as specified in Subsection R315-306-2(15).

(f) The incinerator must be designed, constructed and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

(g) The plan of operation shall include a training program for new employees and annual review training for all applicable employees to ensure safe handling of waste and proper operation of the equipment.

(h) The owner or operator of the incinerator shall close the facility by removing all solid waste, ash, and other residues to a permitted solid waste disposal facility.

(i) The owner or operator of the 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: [~~February 1, 2007~~] 2013

Notice of Continuation: February 14, 2008

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

Environmental Quality, Solid and Hazardous Waste **R315-307-3** Standards for Maintenance and Operation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37328

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
 R315-307. Landtreatment Disposal Standards.
 R315-307-3. Standards for Maintenance and Operation.**

The owner or operator of a landtreatment disposal facility shall maintain and operate the facility to:

- (1) avoid the disposal of garbage or infectious waste;
- (2) avoid applying wastes at rates greater than ten times agronomic rates using the proposed cover crop, or depths greater than would allow for disking the soil by tracked vehicles;
- (3) provide disking of soils during the growing season and after each application of waste to maintain aerobic soil conditions, minimize odors and lessen run-off;
- (4) avoid applying waste to any active area having standing water;
- (5) conform to the approved plan of operation and all other applicable requirements of Section R315-302-2;
- (6) provide for a written contract between landowners, waste generators, waste haulers, and waste operators requiring compliance with rules as a condition of the contract; and
- (7) avoid food-chain crops during the active life of the facility and until demonstrated to be safe, after closure, according to the closure and post-closure plans filed with the plan of operation. Specific approval in writing from the ~~Executive Secretary~~ Director is required for any landspreading disposal facility that is used to raise food-chain crops after closure.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~July 1, 2001~~ 2013

Notice of Continuation: February 14, 2008

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.: 37329

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, 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]~~Director during the permitting or the permit renewal process.

(2) 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]~~Director; and

(b) the ground water monitoring system complete and operational.

(3) Ground water monitoring requirements may be waived by the ~~[Executive Secretary]~~Director 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]~~Director, 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]~~Director.

(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]~~Director 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.

(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]~~Director in complicated hydrogeological settings or to define the extent of contamination detected.

(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.

(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]~~Director; and

(g) procedures to ensure employee health and safety during well installation and monitoring.

(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]~~Director, 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]~~Director 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]~~Director as the ground water monitoring results to be included in the annual report required by Subsection R315-302-2(4):

(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(5)(c) and R315-308-2(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]~~Director:

(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(8).

(vi) The results of the ground water monitoring may be submitted in electronic format.

(6) After background constituent levels have been established, a ground water quality protection standard shall be set by the ~~[Executive Secretary]~~Director 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 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.

(7) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(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]~~Director 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]~~Director.

(9) For both detection monitoring, as described in Subsection R315-308-2(5), and assessment monitoring, as described in Subsection R315-308-2(12), the ~~[Executive Secretary]~~Director 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.

(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.

(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]~~Director 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]~~Director, 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]~~Director 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]~~Director 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(5)(b).

(12) If, after 90 days, a successful demonstration as stipulated in Subsection R315-308-2(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]~~Director 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]~~Director shall establish a ground water quality protection standard pursuant to Subsection R315-308-2(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]~~Director 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(12)(d)(i) are shown to be at or below established background values, the owner or operator must notify the ~~[Executive Secretary]~~Director of this finding and may, upon the approval of the ~~[Executive Secretary]~~Director, return to the monitoring schedule and constituents as specified in Subsection R315-308-2(5)(b).

(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(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]~~Director 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(13)(b) and (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]~~Director 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(12)(d) or Subsection R315-308-2(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(13)(e) is not made, the owner or operator must:

(a) continue to monitor as required in Subsection R315-308-2(12)(d).

(b) take any interim measures as required by the ~~[Executive Secretary]~~Director 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]~~Director.

(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]~~Director.

(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]~~Director 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]~~Director of the financial assurance mechanism and its effective date.

(2) Upon approval of the selected corrective action remedy, the ~~[Executive Secretary]~~Director 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]~~Director 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]~~Director 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, the owner or operator must implement other methods or techniques, upon approval by the ~~[Executive Secretary]~~Director, that could practicably achieve compliance with the requirements.

(c) Upon completion of the remedy, the owner or operator shall notify the ~~[Executive Secretary]~~Director. The notification 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]~~Director. Upon approval of the ~~[Executive Secretary]~~Director the owner or operator shall:

(i) terminate corrective action measures;

(ii) continue detection monitoring as required in Subsection R315-308-2(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(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	0.01
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(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	0.37
2,4,5-TP	93-72-1	0.05
Anthracene	120-12-7	10
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: [February 1, 2007]2013
Notice of Continuation: February 14, 2008
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.: 37330
 FILED: 02/15/2013

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- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-309. Financial Assurance.

R315-309-1. Applicability.

(1) The owner or operator of any solid waste disposal facility requiring a permit shall establish financial assurance sufficient to assure adequate closure, post-closure care, and corrective action, if required, of the facility by compliance with one or more financial assurance mechanisms acceptable to and approved by the [~~Executive Secretary~~]Director.

(2) Financial assurance is not required for a solid waste disposal facility that is owned or operated by the State of Utah or the Federal government.

(3) Existing Facilities.

(a) An existing facility shall have the financial assurance mechanism in place and effective according to the compliance schedule as established for the facility by the [~~Executive Secretary~~]Director.

(b) In the case of corrective action, the financial assurance mechanism shall be in place and effective no later than 120 days after the corrective action remedy has been selected.

(4) A new facility or an existing facility seeking lateral expansion shall have the financial assurance mechanism in place and effective before the initial receipt of waste at the facility or the lateral expansion.

R315-309-2. General Requirements.

(1) A financial assurance plan, including the assurance mechanism proposed for use, shall be submitted:

(a) for new facilities, upon initial permit application; and

(b) for existing facilities, to meet the effective dates specified in Subsection R315-309-1(3).

(2) The financial assurance shall be updated each year as part of the annual report required by Subsection R315-302-2(4) to adjust for inflation or facility modification that would affect closure or post-closure care costs. The annual update of the financial assurance shall be reviewed and must be approved by the [~~Executive Secretary~~]Director prior to implementation.

(3) Financial assurance cost estimates shall be based on a third party performing closure or post-closure care.

(a) The closure cost estimate shall be based on the most expensive cost to close the largest area of the disposal facility ever requiring a final cover at any time during the active life in accordance with the closure plan and at a minimum must contain the following elements if applicable:

(i) the cost of obtaining, moving, and placing the cover material;

(ii) the cost of final grading of the cover material;

(iii) the cost of moving and placing topsoil on the final cover;

(iv) the cost of fertilizing, seeding, and mulching or other approved method; and

(v) the cost of removing any stored items or materials, buildings, equipment, or other items or materials not needed at the closed facility.

(b) The post-closure care cost estimate shall be based on the most expensive cost of completing the post-closure care reasonably expected during the post-closure care period and must contain the following elements:

(i) ground water monitoring, if required, including number of monitor wells, parameters to be monitored, frequency of sampling, and cost per sampling;

(ii) leachate monitoring and treatment if necessary;

(iii) gas monitoring and control if required; and

(iv) cover stabilization which will include an estimate of the area and cost for expected annual work to repair residual settlement, control erosion, or reseed.

(4) Any facility for which financial assurance is required for post-closure care must have a financial assurance mechanism, which will cover the costs of post-closure care, in effect and active until the ~~[Executive Secretary]~~Director determines that the post-closure care is complete.

(5) Financial assurance for corrective action shall be required only in cases of known releases of contaminants from a facility and shall be a current cost estimate for corrective action based on the most expensive cost of a third party performing the corrective action that may be required.

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]~~Director 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]~~Director 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]~~Director;

(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]~~Director; and

(c) Financial assurance mechanism documents submitted to the ~~[Executive Secretary]~~Director 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]~~Director.

(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]~~Director. 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]~~Director 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 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 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: $\text{Next Payment} = (\text{RB}-\text{CV})/\text{Y}$ 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]~~Director. The ~~[Executive Secretary]~~Director shall act upon the reimbursement request within 30 days of receiving the request.

(b) After receiving approval from the ~~[Executive Secretary]~~Director, 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]~~Director that documentation for the reimbursement has been placed in the operating record and that the reimbursement has been received.

R315-309-5. Surety Bond Guaranteeing Payment or Performance.

(1) The owner or operator of a solid waste facility may provide a surety bond for a financial assurance mechanism. The bond 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) The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury and the owner or operator must notify the ~~[Executive Secretary]~~ Director that a copy of the bond has been placed in the operating record.

(3) The penal sum of the bond must be in an amount at least equal to the closure, post-closure, or corrective action cost estimates of Subsection R315-309-2(3) or Subsection R315-309-2(5), whichever is applicable.

(4) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(a) In the case of a payment bond, the surety shall pay the costs of closure and post-closure care if the owner or operator fails to complete closure and post-closure care activities.

(b) In the case of a performance bond, the surety shall perform closure and post-closure care on behalf of the owner or operator if the owner or operator fails to complete closure and post-closure care activities.

(5) The surety bond guaranteeing payment or performance shall contain provisions preventing cancellation except under the following conditions:

(a) if the surety sends notice of cancellation by certified mail to the owner or operator and the ~~[Executive Secretary]~~ Director 120 days in advance of the cancellation date; or

(b) if an alternative financial assurance mechanism has been obtained by the owner or operator.

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]~~ Director 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]~~ Director, 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]~~ Director 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]~~ Director 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]~~ Director that the policy issued provides insurance covering closure costs, post-closure costs, or corrective action costs.

R315-309-7. Letter of Credit.

(1) The owner or operator of a solid waste facility may provide a letter of credit as a financial assurance mechanism. The letter of credit must be irrevocable and issued for a period of at least one year in the amount at least equal to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care or the cost estimate as required by Subsection R315-309-2(5) for corrective action, if necessary.

(2) The institution issuing the letter of credit must be an entity which has the authority to issue a letter of credit and whose operations are regulated and examined by a Federal or state agency.

(3) The letter of credit must be effective for closure and post-closure care:

(a) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(b) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(c) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(4) The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has elected not to extend the letter of credit by sending notice by certified mail to the owner or operator and the ~~[Executive Secretary]~~ Director 120 days in advance of the expiration.

(5) If the letter of credit is not extended by the issuing institution, the owner or operator shall obtain alternate financial assurance which will become effective on or before the expiration date.

R315-309-8. Local Government Financial Test.

(1) The terms used in Section R315-309-8 are defined as follows.

(a) "Total revenues" means the revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

(b) "Total expenditures" means all expenditures excluding capital outlays and debt repayments.

(c) "Cash plus marketable securities" means all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

(d) "Debt service" means the amount of principal and interest due on a loan in a given time period, typically the current year.

(2) A local government owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate as required by Subsection R315-309-2(5) for corrective action, if required, or up to the amount specified in Subsection R315-309-8(6), which ever is less, by meeting the following requirements.

(a) If the local government has outstanding, rated general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or other guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's or AAA, AA, A, or BBB, as issued by Standard and Poor's on such general obligation bonds.

(b) If the local government has no outstanding general obligation bonds, the local government shall satisfy each of the following financial ratios based on the local government's most recent audited annual financial statement:

(i) a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

(ii) a ratio of annual debt service to total expenditures less than or equal to 0.20.

(c) The local government must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant.

(d) The local government must place a reference to the closure and post-closure care costs assured through the financial test into the next comprehensive annual financial report and in every subsequent comprehensive annual financial report during the time in which closure and post-closure care costs are assured through the financial test. A reference to corrective action costs must be placed in the comprehensive annual financial report not later than 120 days after the corrective action remedy has been selected. The reference to the closure and post-closure care costs shall contain:

(i) the nature and source of the closure and post-closure care requirements;

(ii) the reported liability at the balance sheet date;

(iii) the estimated total closure and post-closure care costs remaining to be recognized;

(iv) the percentage of landfill capacity used to date; and

(v) the estimated landfill life in years.

(3) A local government is not eligible to assure closure, post-closure care, or corrective action costs at its solid waste disposal facility through the financial test if it:

(a) is currently in default on any outstanding general obligation bonds, or

(b) has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or

(c) has operated at a deficit equal to 5%, or more, of the total annual revenue in each of the past two fiscal years; or

(d) receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant, or appropriate state agency auditing its financial statement.

The ~~Executive Secretary~~ Director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the ~~Executive Secretary~~ Director deems the qualification insufficient to warrant disallowance of use of the test.

(4) The local government owner or operator must submit the following items to the ~~Executive Secretary~~ Director for approval and place a copy of these items in the operating record of the facility:

(a) a letter signed by the local government's chief financial officer that:

(i) lists all current cost estimates covered by a financial test; and

(ii) provides evidence and certifies that the local government meets the requirements of Subsections R315-309-8(2) and R315-309-8(6);

(b) the local government's independently audited year-end financial statements for the latest fiscal year including the unqualified opinion of the auditor, who must be an independent certified public accountant;

(c) a report to the local government from the local government's independent certified public accountant stating the procedures performed and the findings relative to:

(i) the requirements of Subsections R315-309-8(2)(c) and R315-309-8(3)(c) and (d); and

(ii) the financial ratios required by Subsection R315-309-8(2)(b), if applicable; and

(d) a copy of the comprehensive annual financial report used to comply with Subsection R315-309-8(2)(d).

(e) The items required by Subsection R315-309-8(4) are to be submitted to the ~~Executive Secretary~~ Director and copies placed in the facility's operating record as follows:

(i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(5) A local government must satisfy the requirements of the financial test at the close of each fiscal year.

(a) The items required in Subsection R315-309-8(4) shall be submitted as part of the facility's annual report required by Subsection R315-302-2(4).

(b) If the local government no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the local government's fiscal year:

(i) obtain alternative financial assurance that meets the requirements of R315-309-1(1); and

(ii) submit documentation of the alternative financial assurance to the ~~Executive Secretary~~ Director and place copies of the documentation in the facility's operating record.

(c) The ~~Executive Secretary~~ Director, based on a reasonable belief that the local government may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the ~~Executive Secretary~~ Director finds that the local government no longer meets the requirements of the local government financial test, the local government shall be required to provide

alternative financial assurance on a schedule established by the ~~[Executive Secretary]~~Director.

(6) The portion of the closure, post-closure, and corrective action costs for which a local government owner or operator may assume under the local government financial test is determined as follows:

(a) If the local government does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.

(b) If the local government assures any other environmental obligation through a financial test, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure by local government financial test. The total that may be assured must not exceed 43% of the local government's total annual revenue.

(c) The local government shall obtain an alternate financial assurance mechanism for those costs that exceed 43% of the local government's total annual revenue.

(7) Local Government Guarantee.

(a) An owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure, and corrective action by obtaining a written guarantee provided by a local government. The local government providing the guarantee shall meet the requirements of the local government financial test in Section R315-309-8 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-8(7)(b) and (c).

(b) The guarantee must be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or

(ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the ~~[Executive Secretary]~~Director. Cancellation may not occur until 120 days after the date the notice is received by the ~~[Executive Secretary]~~Director.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

(i) obtain alternate financial assurance that meets the requirements of Subsection R315-309-1(1);

(ii) submit documentation of the alternate financial assurance to the ~~[Executive Secretary]~~Director; and

(iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90 day period, the guarantor must provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the ~~[Executive Secretary]~~Director for

review and approval, and place copies of the documentation in the facility's operating record.

R315-309-9. Corporate Financial Test.

(1) The terms used specifically in Section R315-309-9 are defined as follows.

(a) "Assets" means all existing and probable future economic benefits obtained or controlled by a particular entity.

(b) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(c) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(d) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR 144.62(a), (b), and (c) (2001) which is adopted and incorporated by reference.

(e) "Independently audited" means an audit performed by and independent certified public accountant in accordance with generally accepted auditing standards.

(f) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(g) "Net working capital" means current assets minus current liabilities.

(h) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(i) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(2) A corporate owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate required by Subsection R315-309-2(5) for corrective action, if required, by meeting the following requirements.

(a) The owner or operator must satisfy one of the following three conditions:

(i) a current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or

(ii) a ratio of less than 1.5 comparing total liabilities to net worth; or

(iii) a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.

(b) The tangible net worth of the owner or operator must be greater than:

(i) the sum of the current closure, post-closure care, and corrective action cost estimates and any other environmental obligation, including guarantees, covered by a financial test plus \$10 million except as provided in Subsection R315-309-9(2)(b)(ii);

(ii) \$10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's

or operator's audited financial statements, and subject to the approval of the ~~[Executive Secretary]~~ Director.

(c) The owner or operator must have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test.

(3) The owner or operator must place the following items into the facility's operating record and submit a copy of these items to the ~~[Executive Secretary]~~ Director for approval:

(a) a letter signed by the owner's or operator's chief financial officer that:

(i) lists all current cost estimates for closure, post-closure care, corrective action, and any other environmental obligations covered by a financial test; and

(ii) provides evidence demonstrating that the firm meets the conditions of Subsection R315-309-9(2)(a)(i), or (a)(ii), or (a)(iii) and Subsections R315-309-9(2)(b) and (c); and

(b) a copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year.

(i) To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant.

(ii) The ~~[Executive Secretary]~~ Director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test where the ~~[Executive Secretary]~~ Director deems the matters which form the basis for the qualification are insufficient to warrant disallowance of the test.

(c) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies Subsection R315-309-9(2)(a)(i) or (ii) that are different from data in the audited financial statements or data filed with the Securities and Exchange Commission, then a special report from the owner's or operator's independent certified public accountant is required. The special report shall:

(i) be based upon an agreed upon procedures engagement in accordance with professional auditing standards;

(ii) describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements;

(iii) describe the findings of that comparison; and

(iv) explain the reasons for any differences.

(d) If the chief financial officer's letter provides a demonstration that the firm has assured environmental obligations as provided in Subsection R315-309-9(2)(b)(ii), then the letter shall include a report from the independent certified public accountant that:

(i) verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements;

(ii) explains how these obligations have been measured and reported; and

(iii) certifies that the tangible net worth of the firm is at least \$10 million plus the amount of all guarantees provided.

(e) The items required by Subsection R315-309-9(3) are to be submitted to the ~~[Executive Secretary]~~ Director and copies placed in the facility's operating record as follows:

(i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(4) A firm must satisfy the requirements of the financial test at the close of each fiscal year by submitting the items required in Subsection R315-309-9(3) as part of the facility's annual report required by Subsection R315-302-2(4).

(5) If the firm no longer meets the requirements of the corporate financial test it shall, within 120 days following the close of the firm's fiscal year:

(a) obtain alternative financial assurance that meets the requirements of R315-309-1(1); and

(b) submit documentation of the alternative financial assurance to the ~~[Executive Secretary]~~ Director and place copies of the documentation in the facility's operating record.

(c) The ~~[Executive Secretary]~~ Director, based on a reasonable belief that the firm may no longer meet the requirements of the corporate financial test, may require additional reports of financial condition from the firm at any time. If the ~~[Executive Secretary]~~ Director finds that the firm no longer meets the requirements of the corporate financial test, firm shall be required to provide alternative financial assurance on a schedule established by the ~~[Executive Secretary]~~ Director.

(6) Corporate Guarantee.

(a) A corporate owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure care, and corrective action by obtaining a written guarantee provided by a corporation.

(i) The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator.

(ii) The firm shall meet the requirements of the corporate financial test in Section R315-309-9 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-3(6)(b) and (c).

(A) A certified copy of the guarantee along with copies of the letter from the guarantor's chief financial officer and accountant's opinions must be submitted to the ~~[Executive Secretary]~~ Director and placed in the facility's operating record.

(B) If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee.

(C) If the guarantor is a firm with a substantial business relationship with the owner or operator, the letter from the chief financial officer must describe this substantial business relationship and the value received in consideration of the guarantee.

(b) The guarantee must be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or

(ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the ~~[Executive Secretary]~~Director. Cancellation may not occur until 120 days after the date the notice is received by the ~~[Executive Secretary]~~Director.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

(i) obtain alternate financial assurance that meets the requirements of Subsection R315-309-1(1);

(ii) submit documentation of the alternate financial assurance to the ~~[Executive Secretary]~~Director; and

(iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90 day period, the guarantor must provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the ~~[Executive Secretary]~~Director for review and approval, and place copies of the documentation in the facility's operating record.

(f) If a corporate guarantor no longer meets the requirements of the corporate financial test as specified in Section R315-309-9:

(i) the owner or operator must, within 90 days, obtain alternate financial assurance; and

(ii) submit documentation of the alternate financial assurance to the ~~[Executive Secretary]~~Director and place copies of this documentation in the facility's operating record.

(iii) If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

R315-309-10. Discounting.

(1) The ~~[Executive Secretary]~~Director may allow discounting of closure, post-closure care, or corrective action costs up to the rate of return for essentially risk free investments, net inflation.

(2) Discounting may be allowed under the following conditions:

(a) the ~~[Executive Secretary]~~Director determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a professional engineer registered in the state of Utah so stating;

(b) the ~~[Executive Secretary]~~Director finds the facility in compliance with all applicable Utah Solid Waste Permitting and Management Rules and in compliance with all conditions of the facility's permit issued under the rules;

(c) the ~~[Executive Secretary]~~Director determines that the closure date is certain and the owner or operator certifies that there are no foreseeable factors that will change the estimate of the facility life; and

(d) discounted cost estimates must be adjusted annually to reflect inflation and years of remaining facility life.

R315-309-11. Termination of Financial Assurance.

The owner or operator of a solid waste facility may terminate or cancel an active financial assurance mechanism under the following conditions:

(1) if the owner or operator establishes alternate financial assurance as approved by the ~~[Executive Secretary]~~Director; or

(2) if the owner or operator is released from the financial assurance requirements by the ~~[Executive Secretary]~~Director after meeting the conditions and requirements of Subsections R315-302-3(7)(b) and (c) or Subsection R315-308-3(2)(c), whichever is applicable.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: [February 1, 2007]2013

Notice of Continuation: February 14, 2008

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

Environmental Quality, Solid and Hazardous Waste **R315-310** Permit Requirements for Solid Waste Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37331

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, 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);
 - (c) incinerator facilities that are regulated by Rule R315-306;
 - (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 requirements of Rule R315-310 apply to each existing and new solid waste facility, for which a permit is required.

(a) The ~~[Executive Secretary]~~ Director 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]~~ Director for the desired class, or subclass, of landfill.

R315-310-2. Procedures for Permits.

(1) Prospective applicants may request the ~~[Executive Secretary]~~ Director 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]~~ Director. Two copies of the application, signed by the owner or operator and received by the ~~[Executive Secretary]~~ Director are required before permit review can begin.

(3) Applications for a permit must be completed in the format prescribed by the ~~[Executive Secretary]~~ Director.

(4) An application for a permit, all reports required by a permit, and other information requested by the ~~[Executive Secretary]~~ Director 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]~~ Director, 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]~~Director 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 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]~~Director, 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]~~Director 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;

(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 archeological 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]~~Director 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]~~Director 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.

(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]~~Director, 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]~~Director 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]~~Director.

(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 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]~~Director, 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]~~Director and until the ~~[Executive Secretary]~~Director 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.

R315-310-9. Contents of an Application for 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 renewal of the permit by submitting the applicable information and application specified in Sections R315-310-3, -4, -5, -6, -7, or -8, as appropriate. Applicable information, that was submitted to the ~~[Executive Secretary]~~Director 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. 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.

R315-310-11. Permit Transfer.

(1) A permit may not be transferred without approval from the ~~[Executive Secretary]~~Director, nor shall a permit be transferred from one property to another.

(2) The new owner or operator shall submit to the ~~[Executive Secretary]~~Director:

(a) 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 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]Director 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]Director;

(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: [February 1, 2007]2013
Notice of Continuation: February 14, 2008
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258

Environmental Quality, Solid and Hazardous Waste
R315-311

Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 37332
 FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous

Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, 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 information required by Rule R315-310, as determined by the ~~[Executive Secretary]~~Director, a draft permit or permit denial will be prepared and the owner or operator of the new or existing facility will be notified in writing by the ~~[Executive Secretary]~~Director.

(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 for which the ~~[Executive Secretary]~~Director 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 ten years by the ~~[Executive Secretary]~~Director, except as allowed in Subsection R315-311-1(5).

(4) The owner or operator, or both, when the owner and the operator are not the same person, of each solid waste facility shall:

(a) apply for a permit renewal, as required by Section R315-310-10, 180 days 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]~~Director 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(4)(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]~~Director'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]~~Director 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]~~Director.

(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]~~Director 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;

(xvi) changes are made in the statistical method used to statistically analyze the ground water quality data; or

(xvii) Changes are made in any permit condition that are more restrictive or provide more protection to health or the environment.

(b) The ~~[Executive Secretary]~~Director 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.

(d) If the ~~[Executive Secretary]~~Director 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~~]Director 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~~]Director 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 63G Chapter 4, and Rule R315-12.

R315-311-3. Public Comment Period.

(1) The draft permit, permit renewal, or major modification of a permit, for each solid waste facility that requires a permit, shall be subject to a 30-day public comment period.

(2) A public hearing may be held if a request for public hearing is submitted to the [~~Executive Secretary~~]Director in writing:

- (a) by a local government, a state agency, ten interested persons, or an interested association having not fewer than ten members; and
- (b) the request is received by the [~~Executive Secretary~~]Director not more than 15 days after the publication of the public notice.

(3) After due consideration of all comments received, final determination on draft permits or major modification of permits will be made available by public notice.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: [~~February 1, 2007~~]2013

Notice of Continuation: February 14, 2008

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.: 37333

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR

195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-312. Recycling and Composting Facility Standards.

R315-312-2. Recycling and Composting Requirements.

(1) Any recycling or composting facility shall meet the requirements of Section R315-302-2, and shall submit a general plan of operation and such other information as requested by the ~~[Executive Secretary]~~ Director prior to the commencement of any recycling operation.

(2) Each applicable recycling or composting facility shall submit a certification that the facility has, during the past year, operated according to the submitted plan of operation to the ~~[Executive Secretary]~~ Director by March 1 of each year.

(3) Any facility storing materials in outdoor piles for the purpose of recycling shall be considered to be disposing of solid waste if:

(a) at least 50% of the material on hand at the beginning of a year at the facility has not been shown to have been recycled by the end of that year and any material has been on-site more than two years unless a longer period is approved by the ~~[Executive Secretary]~~ Director; or

(b) ground water or surface water, air, or land contamination has occurred or is likely to occur under current conditions of storage.

(c) Upon a determination by the ~~[Executive Secretary]~~ Director or his authorized representative that the limits of Subsection R315-312-2(3)(a) or (b) have been exceeded, the ~~[Executive Secretary]~~ Director may require a permit application and issuance of a permit as a solid waste disposal facility.

(4) Any recycling or composting facility may be required to provide financial assurance for clean-up and closure of the site as determined by the ~~[Executive Secretary]~~ Director.

(5) Tires stored in piles for the purpose of recycling at a tire recycling facility shall be subject to the requirements of Section R315-314-3.

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)

(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.

(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 104 and 149 degrees Fahrenheit (40 and 65 degrees Celsius) for a period of not less than 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) waste containing PCBs; or

(iv) treated wood.

(g) Any composting facility utilizing municipal solid waste, municipal sewage treatment sludge, water treatment sludge, or septage shall require the generator to characterize the material and certify that any material used is nonhazardous, contains no PCB's, and contains no treated wood.

(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, ground water, or both and to allow collection of run-off and leachate. The liner shall be 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]~~ Director; and

(iv) run-on prevention systems shall be designed, constructed, and maintained to divert the maximum flow from a 25-year storm event.

(i) If the ~~[Executive Secretary]~~ Director 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]~~ Director may require the owner or operator of the composting facility to meet the requirements specified in Subsection R315-312-3(4)(h).

(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.

(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]~~ Director; and

(ii) inspection and maintenance of any cover material.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~January 13, 2012~~ **2013**

Notice of Continuation: February 14, 2008

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.: 37334
FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, 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~~]Director for approval prior to construction and operation.

(3) Each transfer station shall submit, to the [~~Executive Secretary~~]Director, 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.

(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) 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) remove all wastes at final closure from the facility to another permitted facility.

KEY: solid waste management

Date of Enactment or Last Substantive Amendment: [February 1, 2007]2013

Notice of Continuation: February 14, 2008

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

**Environmental Quality, Solid and
Hazardous Waste**

R315-314

**Facility Standards for Piles Used for
Storage and Treatment**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37335

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-314. Facility Standards for Piles Used for Storage and Treatment.

R315-314-1. Applicability.

(1) The requirements of Rule R315-314 apply to the following:

- (a) a pile of solid waste containing garbage that has been in place for more than seven days;
- (b) a pile of solid waste which does not contain garbage that has been in place for more than 90 days;
- (c) a pile of material derived from waste tires where more than 1,000 passenger tire equivalents are stored at one site; and
- (d) a pile of whole waste tires where more than 1,000 tires are stored at one site.

(2) The requirements of Rule R315-314 do not apply to the following:

- (a) solid waste stored or treated in piles prior to recycling including compost piles and wood waste;
- (b) solid waste stored in fully enclosed buildings, provided that no liquids or sludge containing free liquids are added to the waste;
- (c) a pile of inert waste, as defined by Subsection R315-301-2(36); and
- (d) a pile of whole waste tires located at a permitted waste disposal facility that is stored for not longer than one year.

(3) A site where crumb rubber, an ultimate product derived from waste tires, or waste tires that have been reduced to materials for beneficial use are stored for not longer than one year may receive a waiver of the requirements of Rule R315-314 from the ~~[Executive Secretary]~~ Director on a site specific basis.

(a) No waiver of the requirements of Rule R315-314 will be granted by the ~~[Executive Secretary]~~ Director without application from the owner or operator of the storage site.

(b) In granting a waiver of the requirements of Rule R315-314, the ~~[Executive Secretary]~~ Director may place conditions on the owner or operator of the storage site as to the sizes of piles, distance between piles, or other operational practices that will minimize fire danger or a risk to human health or the environment.

(c) The ~~[Executive Secretary]~~ Director may revoke a waiver of the Requirements of Rule R315-314 if the ~~[Executive Secretary]~~ Director finds that:

- (i) any condition of the waiver is not met; or
- (ii) the operation of the storage site presents a fire danger or a threat to human health or the environment.

R315-314-2. General Requirements.

(1) Each owner and operator shall:

(a) comply with the applicable requirements of Section R315-302-2; and

(b) remove all solid waste from the pile at closure to another permitted facility.

(2) Requirements for Solid Waste Likely to Produce Leachate.

(a) Waste piles shall be placed upon a surface such as sealed concrete, asphalt, clay, or an artificial liner underlying the pile to prevent subsurface soil and potential ground water 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 pile handling vehicles and the pile itself.

(b) A run-off collection and treatment system shall be designed, installed and maintained to collect and treat a 25-year storm event.

(c) Waste piles having a capacity of greater than 10,000 cubic yards shall have either:

(i) a ground water monitoring system that complies with Rule R315-308; or

(ii) a leachate detection, collection and treatment system.

(iii) For purposes of this subsection, capacity refers to the total capacity of all leachate-generating piles at one facility, e.g., two, 5,000 cubic yard piles will subject the facility to the requirements of this subsection.

(d) A run-on prevention system shall be designed and maintained to divert the maximum flow from a 25-year storm event.

(e) The ~~[Executive Secretary]~~Director may require that the entire base or liner shall be inspected for wear and integrity and repaired or replaced by removing stored wastes or otherwise providing inspection access to the base or liner; the request shall be in writing and cite the reasons including valid ground water monitoring or leachate detection data leading to request such an inspection, repair or replacement.

(3) The length of time that solid waste may be stored in piles shall not exceed 1 year unless the ~~[Executive Secretary]~~Director determines that the solid waste may be stored in piles for a longer time period without becoming a threat to human health or the environment.

(4) The ~~[Executive Secretary]~~Director or an authorized representative may enter and inspect a site where waste is stored in piles as specified in Subsection R315-302-2(5)(b).

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]~~Director. 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]~~Director:

(i) the information required in Subsections R315-310-8;

(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]~~Director;

(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]~~Director 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]~~Director; 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]~~Director 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)(I) 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: [February 1, 2007]2013
Notice of Continuation: February 14, 2008
Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

**Environmental Quality, Solid and
 Hazardous Waste
 R315-315
 Special Waste Requirements**

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 37336
 FILED: 02/15/2013**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
 R315-315. Special Waste Requirements.
 R315-315-1. General Requirements.**

(1) If special wastes are accepted at the facility, proper provisions shall be made for handling and disposal. These provisions may include, where required and approved by the ~~Executive Secretary~~ Director, a separate area for disposal of the wastes, designated by appropriate signs.

(2) Sections R315-315-2 through 9 are applicable to all solid waste facilities regulated by Rules R315-301 through 320.

R315-315-2. Asbestos Waste.

(1) Regulated asbestos-containing material to be disposed of shall be handled, transported, and disposed in a manner that will not

permit the release of asbestos fibers into the air and must otherwise comply with Code of Federal Regulations, Title 40, Part 61, Section 154.

(2) No transporter or disposal facility shall accept regulated asbestos-containing material unless the waste has been adequately wetted and containerized.

(a) Regulated asbestos-containing material is adequately wetted when its moisture content prevents fiber release.

(b) Regulated asbestos-containing material is properly containerized when it is placed in double plastic bags of 6-mil or thicker, sealed in such a way to be leak-proof and air-tight, and the amount of void space or air in the bags is minimized. Regulated asbestos-containing material slurries must be packaged in leak-proof and air-tight rigid containers if such slurries are too heavy for the plastic bag containers. Upon submittal of a request, including documentation demonstrating safety, the ~~[Executive Secretary]~~ Director may authorize other proper methods of containment which may include double bagging, plastic-lined cardboard containers, plastic-lined metal containers, or the use of vacuum trucks for the transport of slurry.

(c) All containers holding regulated asbestos-containing material shall be labeled with the name of the waste generator, the location where the waste was generated, and tagged with a warning label indicating that the containers hold regulated asbestos-containing material.

(3) The following standards apply to the disposal of Regulated Asbestos-Containing Material;

(a) upon entering the disposal site, the transporter of the regulated asbestos-containing material shall notify the landfill operator that the load contains regulated asbestos-containing material by presenting the waste shipment record. The landfill operator will verify quantities received, sign off on the waste shipment record, and send a copy of the waste shipment record to the generator within 30 days;

(b) upon receipt of the regulated asbestos-containing material, the landfill operator shall inspect the loads to verify that the regulated asbestos-containing material is properly contained in leak-proof containers and labeled appropriately. The operator shall notify the local health department and the ~~[Executive Secretary]~~ Director if the operator believes that the regulated asbestos-containing material is in a condition that may cause fiber release during disposal. If the wastes are not properly containerized, and the landfill operator accepts the load, the operator shall thoroughly soak the regulated asbestos-containing material with a water spray prior to unloading, rinse out the truck, and immediately cover the regulated asbestos-containing material with material which prevents fiber release prior to compacting the regulated asbestos-containing material in the landfill.

(c) During deposition and covering of the regulated asbestos-containing material, the operator:

(i) may prepare a separate trench or separate area of the landfill to receive only regulated asbestos-containing material, or may dispose of the regulated asbestos-containing material at the working face of the landfill;

(ii) shall place the regulated asbestos-containing material containers into the trench, separate area, or at the bottom of the landfill working face with sufficient care to avoid breaking the containers;

(iii) within 18 hours or at the end of the operating day, shall completely cover the containerized regulated asbestos-containing material with sufficient care to avoid breaking the containers with a minimum of six inches of material containing no regulated asbestos-

containing material. If the regulated asbestos-containing material is improperly containerized, it must be completely covered immediately with six inches of material containing no regulated asbestos-containing material; and

(iv) shall not compact regulated asbestos-containing material until completely covered with a minimum of six inches of material containing no regulated asbestos-containing material.

(d) The operator shall provide barriers adequate to control public access. At a minimum, the operator shall:

(i) limit access to the regulated asbestos-containing material management site to no more than two entrances by gates that can be locked when left unattended and by fencing adequate to restrict access by the general public; and

(ii) place warning signs at the entrances and at intervals no greater than 330 feet along the perimeter of the sections where regulated asbestos-containing material is deposited that comply with the requirements of 40 CFR 61.154(b); and

(e) close the separate trenches, if constructed, according to the requirements of Subsection R315-303-3(4) with the required signs in place.

R315-315-7. PCB Containing Waste.

(1) Any facility that disposes of nonhazardous waste, hazardous waste, or radioactive waste containing PCBs is regulated by Rules R315-301 through 320.

(2) The following wastes containing PCBs may be disposed in a permitted Class I, II, III, IV, V, or VI Landfill; permitted incinerator; permitted energy recovery facility; or a facility permitted by rule under Rule R315-318:

(a) waste, as specified by 40 CFR 761.61, containing PCBs at concentrations less than 50 ppm;

(b) PCB household waste as defined by 40 CFR 761.3 ; and

(c) small quantities, 10 or fewer, of intact, non-leaking, small PCB capacitors, including capacitors from fluorescent lights x-ray machines, and other machines and test equipment.

(3) Waste containing PCBs at concentrations of 50 ppm or higher are prohibited from disposal in a landfill, incinerator, or energy recovery facility that is regulated by Rules R315-301 through 320, except:

(a) the following facilities may receive waste containing PCBs at concentrations of 50 ppm or higher for treatment or disposal:

(i) a facility permitted prior to July 15, 1993 under 40 CFR 761.70, .75 or .77; or

(ii) a facility permitted after July 15, 1993 under 40 CFR 761.70, .71, .72, .75, or .77 and approved by the ~~[Executive Secretary]~~ Director under Rules R315-301 through 320; or

(b) a Class I or V landfill that has a liner and ground water monitoring or an incinerator that meets the requirements of Subsection R315-315-7(a)(i) or (ii) and when approved by the ~~[Executive Secretary]~~ Director, may dispose of the following PCB wastes:

(i) PCB bulk products regulated by 40 CFR 761.62(b);

(ii) drained PCB contaminated equipment as defined by 40 CFR 761.3;

(iii) drained PCB articles, including drained PCB transformers, as defined by 40 CFR 761.3;

(iv) non-liquid cleaning materials remediation wastes containing PCB's regulated by 40 CFR 761.61(a)(5)(v)(A);

(v) PCB containing manufactured products regulated by 40 CFR 761.62(b)(1)(i) and (ii); or

(vi) non-liquid PCB containing waste, initially generated as a non-liquid waste, generated as a result of research and development regulated by 40 CFR 761.64(b)(2).

(c) If a unit of a permitted landfill is approved to receive PCB containing wastes under Subsection R315-315-7(3)(b), the owner or operator of the landfill:

(i) shall modify the approved Ground Water Monitoring Plan to include the testing of the ground water samples for PCB containing constituents at appropriate detection levels; and

(ii) shall test the leachate generated at the unit of the landfill for PCB's.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~January 13, 2012~~ **2013**

Notice of Continuation: February 14, 2008

Authorizing, and Implemented or Interpreted Law: 19-6-105

**Environmental Quality, Solid and
Hazardous Waste
R315-316
Infectious Waste Requirements**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37337

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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ENVIRONMENTAL QUALITY
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DIRECT QUESTIONS REGARDING THIS RULE TO:

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THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-316. Infectious Waste Requirements.

R315-316-4. Infectious Waste Transportation Requirements.

(1) Infectious waste shall not be transported in the same vehicle with other waste unless the infectious waste is contained in a separate, fully enclosed leak-proof container within the vehicle or unless all of the waste is to be treated as infectious waste in accordance with Rule R315-316.

(2) Persons manually loading or unloading containers of infectious waste onto or from transport vehicles shall:

(a) be trained in the proper use of protective equipment;

(b) have available and easily accessible at all times puncture resistant gloves and shoes, shatterproof glasses, and coveralls; and

(c) shall have face shields and respirators available.

(d) Protective gear that becomes soiled with infectious waste shall be decontaminated or disposed as infectious waste.

(3) Surfaces of transport vehicles that have contacted spilled or leaked infectious waste shall be decontaminated by procedures approved by the ~~[Executive Secretary]~~Director.

(4) Vehicles transporting infectious waste shall meet all warning requirements of the Department of Transportation related to infectious, biohazardous or biomedical waste.

(5) Each truck, trailer, or semitrailer, or container used for transporting infectious waste shall be designed and constructed, and its contents limited, so that under conditions normally incident to transportation, there shall be no releases of infectious waste to the environment.

(6) Any truck, trailer, semitrailer, or container used for transporting infectious waste shall be free from leaks, and all discharge openings shall be securely closed during transportation.

(7) No person shall transport infectious waste into the state for treatment, storage, or disposal unless the waste is packaged, contained, labeled and transported in the manner required by this section.

(8) All transporter vehicles shall carry a spill containment and cleanup kit and the transport workers shall be trained in spill containment and cleanup procedures.

R315-316-5. Infectious Waste Treatment and Disposal Requirements.

(1) Infectious waste shall be treated or disposed as soon as possible 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 solid waste, provided it is not otherwise a hazardous waste or a radioactive waste excluded from disposal in a solid waste facility by Rules R315-301 through 320.

(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]~~Director.

(3) Infectious waste may be incinerated in an incinerator provided the incinerator is permitted or approved under Rules R315-301 through 320.

(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 of 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 and a pressure of at least 15 psi was maintained 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 frequent.

(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 and the date of each load and the operator's name;

(ii) the amount and type of infectious waste placed in the sterilizer; and

(iii) the temperature, pressure, and duration of treatment.

(5)(a) Alternative treatment methods may be approved on a site-specific basis when the ~~[Executive Secretary]~~Director 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 in an identical way to the treatment process being proposed for approval; 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* or *Mycobacterium phlei* 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]~~Director shall review the submitted materials and reply in writing within 30 days of the receipt of the treatment studies.

(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.

(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 in 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: [~~January 15, 2010~~]**2013**

Notice of Continuation: February 14, 2008

Authorizing, and Implemented or Interpreted Law: 19-6-105

Environmental Quality, Solid and Hazardous Waste

R315-317

Other Processes, Variances, Violations, and Petition for Rule Change

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37338

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

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SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097

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THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-317. Other Processes, Variances, Violations, and Petition for Rule Change.

R315-317-1. Other Processes, Methods, and Equipment.

Processes, methods, and equipment other than those specifically addressed in Rules R315-301 through 320 will be considered on an individual basis by the [~~Executive Secretary~~]Director upon submission of evidence of adequacy to meet the minimum standards of performance to protect human health and the environment as required in Section R315-303-2.

R315-317-2. Variances.

(1) Variances will be granted in accordance with Section R315-2-13.

R315-317-3. Violations, Orders, and Hearings.

(1) Whenever the ~~[Executive Secretary]~~Director or his duly appointed representative determines that any person is in violation of any applicable approved solid waste operation plan or permit or the requirements of Rules R315-301 through 320, the ~~[Executive Secretary]~~Director may cause written notice of violation to be served upon the alleged violators. The notice shall specify the provisions of the plan, permit, or rules alleged to have been violated and the facts alleged to constitute the violation. The ~~[Executive Secretary]~~Director may issue an order that necessary corrective action be taken within a reasonable time or may request the attorney general or the county attorney in the county in which the violation takes place to bring a civil action for injunctive relief and enforcement of the permit requirements or the requirements of Rules R315-301 through 320.

(2) Any order issued pursuant to Subsection R315-317-3(1) shall become final unless, within 30 days after the order is ~~[served]~~issued, the person ~~[specified therein]~~to whom the order is addressed challenges the order as provided in 19-1-301 and the Utah Administrative Procedures Act, Title 63G, Chapter 4 and shall be governed by UAC R315-305-6. ~~[files a written request, containing the information specified in Subsection 63G-4-201(3), for agency action before the Board as provided in Section R315-12-3. Title 63G, Chapter 4 and Rule R315-12 shall govern the conduct of hearings before the Board.]~~

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]~~Director.

(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: ~~[February 1, 2007]~~2013

Notice of Continuation: February 14, 2008

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
Permit by Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37339

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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SOLID AND HAZARDOUS WASTE
SECOND FLOOR

195 N 1950 W
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DIRECT QUESTIONS REGARDING THIS RULE TO:

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THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, 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, may be permitted by rule upon application to the [~~Executive Secretary~~]Director if the [~~Executive Secretary~~]Director 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~~]Director.

(3) Any facility permitted by rule is not required to obtain a permit 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~~]Director, to minimize risk to human health or the environment.

(4) In no case may a facility operating under a permit by rule approved by the [~~Executive Secretary~~]Director conduct disposal operations that are in violation of the Utah Solid and Hazardous Waste Act or Rules R315-301 through R315-320.

R315-318-2. Facilities Permitted by Rule.

(1) The following facilities that began receiving waste prior to July 15, 1993 are permitted by rule:

(a) solid waste disposal and incineration facilities which are required to operate under the conditions of a state or Federal hazardous waste permit or plan approval;

(b) disposal operations or activities which are required to operate under the conditions of a Utah Division of Oil, Gas, and Mining permit or plan approval;

(c) non-commercial underground injection facilities regulated by the Utah Division of Water Quality; and

(d) disposal operations or activities which accept only radioactive waste and are required to operate under the conditions of a Utah Division of Radiation Control permit or plan approval.

(2) An underground storage tank, as defined by 40 CFR 280.12 and Subsection R311-200-1(43), that by meeting the requirements specified in 40 CFR 280.71(b) and Section R311-204-3,

is closed in place, may be permitted by rule after meeting the following conditions:

(a) the owner of the underground storage tank shall notify the [~~Executive Secretary~~]Director of the in place closure; and

(b) the owner of the underground storage tank shall provide documentation to the [~~Executive Secretary~~]Director that the requirements of Subsection R315-302-2(6) have been met.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: [~~February 1, 2007~~]2013

Notice of Continuation: February 14, 2008

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.: 37340

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are required to conform with S.B. 21 passed during 2012 General Session (Chapter 360, Laws of Utah 2012).

SUMMARY OF THE RULE OR CHANGE: S.B. 21, passed during the 2012 General Session, removed some authorities from the Utah Solid and Hazardous Waste Control Board and its Executive Secretary and gave them to the Director of the Division of Solid and Hazardous Waste. This change in statute now requires changes to the Solid and Hazardous Waste rules. Specifically, references to the "Board" and the "Executive Secretary" in the rules need to be changed to "Director" as appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-107 and Section 19-6-108

ANTICIPATED COST OR SAVINGS TO:

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♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings as this amendment only changes who has authority to make regulatory decisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this amendment only changes who has authority to make regulatory decisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as this amendment only changes who has authority to make regulatory decisions.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2013

AUTHORIZED BY: Scott Anderson, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-320. Waste Tire Transporter and Recycler Requirements.

R315-320-1. Authority, Purpose, and Inspection.

(1) The waste tire transporter and recycler requirements are promulgated under the authority of the Waste Tire Recycling Act, Title 19, Chapter 6, and the Solid and Hazardous Waste Act Title 19, Chapter 6, to protect human health; to prevent land, air and water pollution; to conserve the state's natural, economic, and energy resources; and to promote recycling of waste tires.

(2) Except for Subsections R315-320-4(7) and R315-320-5(7), which apply to the application fees for the registration of a waste tire transporter and a waste tire recycler throughout the state, Rule R315-320 does not supersede any ordinance or regulation adopted by the governing body of a political subdivision or local health department if the ordinance or regulation is at least as stringent as Rule R315-320, nor does Rule R315-320 relieve a tire transporter or

recycler from the requirement to meet all applicable local ordinances or regulations.

(3) The ~~[Executive Secretary]~~Director or an authorized representative may enter and inspect the site of a waste tire transporter or a waste tire recycler as specified in Subsection R315-302-2(5)(b).

R315-320-3. Landfilling of Waste Tires and Material Derived from Waste Tires.

(1) Disposal of waste tires or material derived from waste tires is prohibited except as allowed by Subsection R315-320-3(2) or (3).

(2) Landfilling of Whole Tires. A landfill may not receive whole waste tires for disposal except as follows:

(a) waste tires delivered to a landfill no more than four whole tires at one time by an individual, including a waste tire transporter; or

(b) waste tires from devices moved exclusively by human power; or

(c) waste tires with a rim diameter greater than 24.5 inches.

(3) Landfilling of Material Derived from Waste Tires.

(a) A landfill, which has a permit issued by the ~~[Executive Secretary]~~Director, may receive material derived from waste tires for disposal.

(b) Except for the beneficial use of material derived from waste tires at a landfill, material derived from waste tires shall be disposed in a separate landfill cell that is designed and constructed, as approved by the ~~[Executive Secretary]~~Director, to keep the material in a clean and accessible condition so that it can reasonably be retrieved from the cell for future recycling.

(4) Reimbursement for Landfilling Shredded Tires.

(a) The owner or operator of a permitted landfill may apply for reimbursement for landfilling shredded tires as specified in Subsection R315-320-6(1).

(b) To receive the reimbursement, the owner or operator of the landfill must meet the following conditions:

(i) the waste tires shall be shredded;

(ii) the shredded tires shall be stored in a segregated cell or other landfill facility that ensures the shredded tires are in a clean and accessible condition so that they can be reasonably retrieved and recycled at a future time; and

(iii) the design and operation of the landfill cell or other landfill facility has been reviewed and approved by the ~~[Executive Secretary]~~Director prior to the acceptance of shredded tires.

(5) Violation of Subsection R315-320-3(1), (2), or (3) is subject to enforcement proceedings and a civil penalty as specified in Subsection 19-6-804(4).

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]~~Director.

(2) Each applicant for registration as a waste tire transporter shall complete a waste tire transporter application form provided by the ~~[Executive Secretary]~~Director 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
 - (iv) name of registered owner;
- (e) name of business owner;
- (f) 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 from 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]~~Director 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]~~Director 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 R315-320-4(9) shall constitute compliance with this requirement.
- (4) A waste tire transporter shall notify the ~~[Executive Secretary]~~Director 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]~~Director 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 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]~~Director. 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]~~Director 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]~~Director.

(2) Each applicant for registration as a waste tire recycler shall complete a waste tire recycler application form provided by the ~~[Executive Secretary]~~Director 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;
- (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]~~Director 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]~~Director 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]~~Director 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 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]~~Director 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.

R315-320-6. Reimbursement for Recycling Waste Tires.

(1) No partial reimbursement request submitted by a waste tire recycler for the first time, or the first time a specific recycling process or a beneficial use activity is used, shall be approved by a local health department under Section 19-6-813 until the local health department has received from the ~~[Executive Secretary]~~Director a written certification that the ~~[Executive Secretary]~~Director has determined the processing of the waste tires is recycling or a beneficial use. If the reimbursement request contains sufficient information, the ~~[Executive Secretary]~~Director shall make the recycling or beneficial use determination and notify the local health department in writing within 15 days of receiving the request for determination.

(2) No partial reimbursement may be requested or paid for waste tires that were generated in Utah and recycled at an out-of-state location except as allowed by Subsection 19-6-809(1)(a)(ii)(C) or (D).

(3) In addition to any other penalty imposed by law, any person who knowingly or intentionally provides false information required by Section R315-320-5 or Section R315-320-6 shall be ineligible to receive any reimbursement and shall return to the Division of Finance any reimbursement previously received that was obtained through the use of false information.

R315-320-7. Reimbursement for the Removal of an Abandoned Tire Pile or a Tire Pile at a Landfill Owned by a Governmental Entity.

(1) A county or municipality applying for payment for removal of an abandoned tire pile or a tire pile at a county or municipal owned landfill shall meet the requirements of Section 19-6-811.

(2) Determination of Reasonability of a Bid.

(a) The following items shall be submitted to the ~~[Executive Secretary]~~Director when requesting a determination of reasonability of a bid as specified in Subsections 19-6-811(3) and (4):

(i) a copy of the bid;

(ii) a letter from the local health department stating that the tire pile is abandoned or that the tire pile is at a landfill owned or operated by a governmental entity; and

(iii) a written statement from the county or municipality that the bidding was conducted according to the legal requirements for competitive bidding.

(b) The ~~[Executive Secretary]~~Director will review the submitted documentation in accordance with Subsection 19-6-811(4) and will inform the county or municipality if the bid is reasonable.

(c) A determination of reasonability of the bid will be made and the county or municipality notified within 30 days of receipt of the request by the ~~[Executive Secretary]~~Director.

(d) A bid determined to be unreasonable shall not be deemed eligible for reimbursement.

(3) If the ~~[Executive Secretary]~~Director determines that the bid to remove waste tires from an abandoned waste tire pile or from a waste tire pile at a landfill owned or operated by a governmental entity is reasonable and that there are sufficient monies in the trust fund to pay the expected reimbursements for the transportation, recycling, or beneficial use under Section 19-6-809 during the next quarter, the ~~[Executive Secretary]~~Director may authorize a maximum reimbursement of:

(a) 100% of a waste tire transporter's or recycler's costs allowed under Subsection 19-6-811(2) to remove the waste tires from the waste tire pile and deliver the waste tires to a recycler if no waste tires have been added to the waste tire pile after June 30, 2001; or

(b) 60% of a waste tire transporter's or recycler's costs allowed under Subsection 19-6-811(2) to remove the waste tires from the waste tire pile and deliver the waste tires to a recycler if waste tires have been added to the waste tire pile after June 30, 2001.

KEY: solid waste management, waste disposal

Date of Enactment or Last Substantive Amendment: ~~January 13, 2012~~2013

Notice of Continuation: February 17, 2009

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-819

Health, Disease Control And Prevention, Epidemiology **R386-702** Communicable Disease Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37345

FILED: 02/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add three rare, but important, multi-drug resistant organisms (MDROs) to the list of reportable conditions in order to facilitate surveillance and detection within the healthcare setting. Detection and response in the healthcare setting provides an important opportunity to minimize spread into the community setting. Addition of these organisms has been requested by key representatives within the Infection Control community, and has been agreed on in discussions with the Utah Healthcare Infection Prevention (UHIP) Steering Committee and Healthcare Associated Infections Workgroup (HAIWG). In addition, three references are updated to include the most recent editions.

SUMMARY OF THE RULE OR CHANGE: The following three MDROs are proposed to be added to the list of reportable conditions: 1) Acinetobacter species with resistance or intermediate resistance to carbapenem (meropenem and imipenem) from any site; 2) Escherichia coli with resistance or intermediate resistance to carbapenem (meropenem, ertapenem, and imipenem) from any site; and 3) Klebsiella species with resistance or intermediate resistance to carbapenem (meropenem, ertapenem, and imipenem) from any site. In addition, three references are updated to include the most recent editions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-30 and Section 26-6-3 and Title 26, Chapter 23b

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is anticipated to be a one-time cost for the state associated with personnel working with local health departments (LHDs), laboratories, and healthcare facilities to establish and implement surveillance and investigation procedures for these organisms. There is currently a federal grant in place that supports personnel who will work on this effort, so the state budget should not be impacted. It is anticipated that it will take approximately 0.25 FTE six months to achieve this initial implementation. In terms of volume of reports for ongoing costs, based on current de-identified surveillance data, it is expected that approximately two cases per week will be reported statewide, demonstrating these will be rare. It is estimated that it will take approximately 30 minutes per case in Utah Department of Health (UDOH) personnel time to investigate each case in collaboration with facilities and LHDs (approximately \$2,000/year in personnel for UDOH).

◆ **LOCAL GOVERNMENTS:** There are anticipated to be some costs associated with establishing and implementing surveillance and investigation procedures collaboratively with UDOH, laboratories, and healthcare facility staff; the majority of work in developing procedures is expected to be completed by UDOH with input from LHDs, especially the Salt Lake Valley Health Department (SLVHD), since it is anticipated they will find the majority of cases within their jurisdiction. Costs for implementation should be minimal for LHDs (less than one hour/week for six months). For ongoing costs, it is estimated that approximately 60% of cases will occur in Salt Lake County hospitals; the remaining 40% will be dispersed throughout the rest of the state. Costs for SLVHD are estimated to be approximately 30 minutes per case to investigate and manage a case with UDOH and involved facilities. Assuming approximately 60 cases per year, for an investigator pay rate of \$25/hour plus benefits, this would cost SLVHD approximately \$1,160 per year to support investigation of these additional organisms. Because these cases are expected to be rare, impact to other LHDs in detecting and investigating cases are anticipated to be minimal. UDOH staff will be available to support these case investigations as needed.

◆ **SMALL BUSINESSES:** While it is expected that these cases will be rare, if a case is identified in a small healthcare facility, it may incur a cost at the facility to assist with the investigation and response. UDOH staff will be available to support this work and any case investigations as needed. It is estimated that each case will require approximately 45 minutes for a facility to investigate; at a pay rate of \$35/hour plus benefits, this equates to about \$41 per case. Small facilities are not expected to have more than one case per year, therefore costs should be minimal for small facilities.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is expected that there will be costs associated with identification and reporting of these cases by laboratories,

and with investigation and management of these cases by healthcare facilities. Because it is anticipated only about two cases per week will be identified statewide, costs should be minimal. Laboratories already conduct testing for these organisms as ordered by physicians, so there will not be costs associated with implementation of testing for them. Reporting of results with patient information to public health will be a new activity, and estimates for costs will vary depending on the laboratory (e.g., some laboratories use computer programming to automate reporting, while others may require manual review/reporting). A general estimate for laboratory reporting taking these factors into account is 15 minutes per case. Assuming two cases per week, this equates to approximately two man-hours per month, or approximately \$100 per month (at a pay rate of \$30/hour plus benefits), or \$1,200 per year in total for laboratories. It is estimated that each case will require approximately 45 minutes for a facility to investigate; at a pay rate of \$35/hour plus benefits, this equates to about \$41 per case. It is estimated that large facilities will account for about 90% of cases, or approximately 94 cases per year assuming two cases occur each week statewide; large facilities in total may expect to incur approximately \$3,850 in personnel costs to investigate cases of these organisms. It is anticipated that there will be significant savings to individuals, the community at large, and healthcare facilities if these organisms are detected and managed quickly and effectively in the healthcare setting. Prevention of spread from the healthcare to the community setting represents an opportunity to save individuals from morbidity and mortality associated with these organisms (they are associated with high mortality rates - up to 40% in some studies). Prevention of spread also represents an opportunity to save healthcare facility resources, since these organisms are extremely resistant to antibiotics, presenting significant challenges for treatment in a clinical setting. If incidence is minimized in the healthcare setting, this translates into significant savings to individuals, the community, and healthcare facilities over time. Though it is not possible to accurately predict a number for these savings, studies suggest that treating patients with an MDRO costs approximately \$20,000 - \$30,000 more than treating patients without an MDRO in the hospital setting; therefore, preventing infections from occurring is an important cost-saving approach for these organisms.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no direct compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The impact on business should be minimal. Reporting should aid in control of these diseases in the facilities should result in improved health outcomes.

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

HEALTH
DISEASE CONTROL AND PREVENTION,

EPIDEMIOLOGY
 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:
 ♦ Melissa Stevens Dimond by phone at 801-538-6810, by FAX at 801-538-9923, or by Internet E-mail at melissastevens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/08/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

R386. Health, Disease Control and Prevention, Epidemiology.
R386-702. Communicable Disease Rule.
R386-702-3. Reportable Diseases, Emergency Illnesses, and Health Conditions.

(1) The Utah Department of Health declares the following conditions to be of concern to the public health and reportable as required or authorized by Section 26-6-6 and Title 26, Chapter 23b of the Utah Health Code.

(a) Acinetobacter species with resistance or intermediate resistance to carbapenem (meropenem and imipenem) from any site

- ([a]b) Acquired Immunodeficiency Syndrome
- ([b]c) Adverse event resulting after smallpox vaccination
- ([e]d) Amebiasis
- ([d]e) Anthrax
- ([e]f) Arbovirus infection, including Saint Louis encephalitis and West Nile virus infection
- ([f]g) Babesiosis
- ([g]h) Botulism
- ([h]i) Brucellosis
- ([i]j) Campylobacteriosis
- ([j]k) Chancroid
- ([k]l) Chickenpox
- ([l]m) Chlamydia trachomatis infection
- ([m]n) Cholera
- ([n]o) Coccidioidomycosis
- ([o]p) Colorado tick fever
- ([p]q) Creutzfeldt-Jakob disease and other transmissible human spongiform encephalopathies
- ([q]r) Cryptosporidiosis
- ([r]s) Cyclospora infection
- ([s]t) Dengue fever
- ([t]u) Diphtheria
- ([u]v) Echinococcosis
- ([v]w) Ehrlichiosis, human granulocytic, human monocytic, or unspecified
- ([w]x) Encephalitis
- ([x]y)(1) Escherichia coli with resistance or intermediate resistance to carbapenem (meropenem, ertapenem, and imipenem) from any site

- (y)(2) Shiga toxin-producing Escherichia coli (STEC) infection
- ([y]z) Giardiasis
- ([z]aa) Gonorrhea: sexually transmitted and ophthalmia neonatorum
- ([aa]bb) Haemophilus influenzae, invasive disease
- ([bb]cc) Hansen Disease (Leprosy)
- ([ee]dd) Hantavirus pulmonary syndrome
- ([dd]ee) Hemolytic Uremic Syndrome, postdiarrheal
- ([ee]ff) Hepatitis A
- ([ff]gg) Hepatitis B, cases and carriers
- ([gg]hh) Hepatitis C, acute and chronic infection
- ([hh]ii) Hepatitis, other viral
- ([ii]jj)(1) Human Immunodeficiency Virus Infection. Reporting requirements are listed in R388-803.
- ([ii]jj)(2) Pregnancy in a HIV case
- ([jj]kk) Influenza-associated hospitalization
- ([kk]ll) Influenza-associated death, in a person less than 18 years of age
- (mm) Klebsiella species with resistance or intermediate resistance to carbapenem (meropenem, ertapenem, and imipenem) from any site
- ([H]nn) Legionellosis
- ([mmm]oo) Listeriosis
- ([nn]pp) Lyme Disease
- ([o]qq) Malaria
- ([pp]rr) Measles
- ([qq]ss) Meningitis (aseptic, bacterial, fungal, parasitic, protozoan, and viral)
- ([r]tt) Meningococcal Disease
- ([ss]uu) Mumps
- ([t]vv) Norovirus, formerly called Norwalk-like virus, infection
- ([uu]ww) Pertussis
- ([vv]xx) Plague
- ([ww]yy) Poliomyelitis, paralytic
- ([xx]zz) Poliovirus infection, nonparalytic
- ([yy]aaa) Psittacosis
- ([zz]bbb) Q Fever
- ([aaa]ccc) Rabies, human and animal
- ([bbb]ddd) Relapsing fever, tick-borne and louse-borne
- ([eee]eee) Rubella
- ([ddd]fff) Rubella, congenital syndrome
- ([eee]ggg) Salmonellosis
- ([fff]hhh) Severe Acute Respiratory Syndrome (SARS)
- ([ggg]iii) Shigellosis
- ([hhh]jjj) Smallpox
- ([iii]kkk) Spotted fever rickettsioses (including Rocky Mountain Spotted Fever)
- ([jjj]lll) Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site
- ([kkk]mmm) Streptococcal disease, invasive, including Streptococcus pneumoniae and Groups A, B, C, and G streptococci isolated from a normally sterile site
- ([lll]nnn) Syphilis, all stages and congenital
- ([mmm]ooo) Tetanus
- ([nnn]ppp) Toxic-Shock Syndrome, staphylococcal or streptococcal
- ([ooo]qqq) Trichinosis

([ppp]ttr) Tuberculosis. Special Measures for the Control of Tuberculosis are listed in R388-804.

([qqq]sss) Tularemia

([rrr]ttt) Typhoid, cases and carriers

([sss]uuu) Vibriosis

([ttt]vvv) Viral hemorrhagic fever

([uuu]www) Yellow fever

([vvv]xxx) Any unusual occurrence of infectious or communicable disease or any unusual or increased occurrence of any illness that may indicate a Bioterrorism event or public health hazard, including any single case or multiple cases of a newly recognized, emergent or re-emergent disease or disease-producing agent, including newly identified multi-drug resistant bacteria or a novel influenza strain such as a pandemic influenza strain.

([www]yyy) Any outbreak, epidemic, or unusual or increased occurrence of any illness that may indicate an outbreak or epidemic. This includes suspected or confirmed outbreaks of foodborne disease, waterborne disease, disease caused by antimicrobial resistant organisms, any infection that may indicate a bioterrorism event, or of any infection that may indicate a public health hazard.

(2) In addition to the reportable conditions set forth in R386-702-3(1) the Department declares the following reportable emergency illnesses or health conditions to be of concern to the public health and reporting is authorized by Title 26, Chapter 23b, Utah Code, unless made mandatory by the declaration of a public health emergency:

(a) respiratory illness (including upper or lower respiratory tract infections, difficulty breathing and Adult Respiratory Distress Syndrome);

(b) gastrointestinal illness (including vomiting, diarrhea, abdominal pain, or any other gastrointestinal distress);

(c) influenza-like constitutional symptoms and signs;

(d) neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

(e) rash illness;

(f) hemorrhagic illness;

(g) botulism-like syndrome;

(h) lymphadenitis;

(i) sepsis or unexplained shock;

(j) febrile illness (illness with fever, chills or rigors);

(k) nontraumatic coma or sudden death; and

(l) other criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin.

R386-702-4. Reporting.

(1) Each reporting entity shall report each confirmed case and any case who the reporting entity believes in its professional judgment is likely to harbor an illness, infection, or condition reportable under R386-702-3(1), and each outbreak, epidemic, or unusual occurrence described in R386-702-3(1)([vvv]xxx) or ([www]yyy) to the local health department or to the Bureau of Epidemiology, Utah Department of Health. Unless otherwise specified, the report of these diseases to the local health department or to the Bureau of Epidemiology, Utah Department of Health shall provide the following information: name, age, sex, address, date of onset, and all other information as prescribed by the Department. A standard report form has been adopted and is supplied to physicians

and other reporting entities by the Department. Upon receipt of a report, the local health department shall promptly forward a written or electronic copy of the report to the Bureau of Epidemiology, Utah Department of Health.

(2) Where immediate reporting is required, the reporting entity shall report as soon as possible, but not later than 24 hours after identification. Immediate reporting shall be made by telephone to the local health department or to the Bureau of Epidemiology, Utah Department of Health at 801-538-6191 or 888-EPI-UTAH (888-374-8824). All diseases not required to be reported immediately or by number of cases shall be reported within three working days from the time of identification. Reporting entities shall send reports to the local health department by phone, secured fax, secured email, or mail; or the Bureau of Epidemiology by phone (801-538-6191), secured fax (801-538-9923), secured email (please contact the Bureau of Epidemiology at 801-538-6191 for information on this option), or by mail(288 North 1460 West, P. O. Box 142104, Salt Lake City, Utah 84114-2104). Laboratories may report case information electronically in a manner approved of by the Department if the laboratory has capacity to do so (please contact the Bureau of Epidemiology at 801-538-6191 for information on this option).

(3) Entities Required to Report Communicable Diseases: Title 26, Chapter 6, Section 6 Utah Code lists those individuals and facilities required to report diseases known or suspected of being communicable.

(a) Physicians, hospitals, health care facilities, home health agencies, health maintenance organizations, and other health care providers shall report details regarding each case.

(b) Schools, child care centers, and citizens shall provide any relevant information.

(c) Laboratories and other testing sites shall report laboratory evidence confirming any of the reportable diseases. Laboratories and other testing sites shall also report any test results that provide presumptive evidence of infection such as positive tests for HIV, syphilis, measles, and viral hepatitis.

(d) Pharmacists shall report unusual prescriptions or patterns of prescribing as specified in section 26-23b-105.

(4) Immediately Reportable Conditions: Cases and suspect cases of anthrax, botulism (except for infant botulism), cholera, diphtheria, Haemophilus influenzae (invasive disease), hepatitis A, measles, meningococcal disease, plague, poliomyelitis, rabies, rubella, Severe Acute Respiratory Syndrome (SARS), smallpox, Staphylococcus aureus with resistance (VRSA) or intermediate resistance (VISA) to vancomycin isolated from any site, tuberculosis, tularemia, typhoid, viral hemorrhagic fever, yellow fever, and any condition described in R386-702-3(1)([vvv]xxx) or ([www]yyy) are to be made immediately as provided in R386-702-4(2).

(5) Full reporting of all relevant patient information related to laboratory-confirmed influenza is authorized and may be required by local or state health department personnel for purposes of public health investigation of a documented threat to public health.

(6) Reports of emergency illnesses or health conditions under R386-702-3(2) shall be made as soon as practicable using a process and schedule approved by the Department. Full reporting of all relevant patient information is authorized. The report shall include at least, if known:

(a) name of the facility;

(b) a patient identifier;

(c) date of visit;

- (d) time of visit;
- (e) patient's age;
- (f) patient's sex;
- (g) zip code of patient's residence;
- (h) the reportable condition suspected; and
- (i) whether the patient was admitted to the hospital.

(7) An entity reporting emergency illnesses or health conditions under R386-702-3(2) is authorized to report on other encounters during the same time period that do not meet definition for a reportable emergency illness or health condition. Submission of an isolate does not replace the requirement to report the case also to the local health department or Bureau of Epidemiology, Utah Department of Health. The report shall include the following information for each such encounter:

- (a) facility name;
- (b) date of visit;
- (c) time of visit;
- (d) patient's age;
- (e) patient's sex; and
- (f) patient's zip code for patient's residence.

(8) **Mandatory Submission of Isolates:** Laboratories shall submit all isolates of the following organisms to the Utah Department of Health, public health laboratory. Laboratories should alert the Unified State Laboratories: Public Health (USLPH), via telephone during business hours (801) 965-2560 or after hours (888) EPI-UTAH, on all bioterrorism (BT) agents that are being submitted. BT agents are marked below (as (BT)) with other organisms mandated for submission:

- (a) *Bacillus anthracis* (BT);
- (b) *Brucella* species (BT);
- (c) *Campylobacter* species;
- (d) *Clostridium botulinum* (BT);
- (e) *Corynebacterium diphtheriae*;
- (f) Shiga toxin-producing *Escherichia coli* (STEC) (including enrichment and/or MacConkey broths that tested positive by enzyme immunoassay for Shiga toxin);
- (g) *Francisella tularensis* (BT);
- (h) *Haemophilus influenzae*, from normally sterile sites;
- (i) Influenza (hospitalized cases only), types A and B;
- (j) *Legionella* species;
- (k) *Listeria monocytogenes*;
- (l) *Mycobacterium tuberculosis* complex;
- (m) *Neisseria gonorrhoeae*;
- (n) *Neisseria meningitidis*, from normally sterile sites;
- (o) *Salmonella* species;
- (p) *Shigella* species;
- (q) *Staphylococcus aureus* with resistance or intermediate

resistance to vancomycin isolated from any site;

- (r) *Vibrio* species;
- (s) *Yersinia* species (*Yersinia pestis*, BT); and
- (t) any organism implicated in an outbreak when instructed

by authorized local or state health department personnel.

(9) **Epidemiological Review:** The Department or local health department may conduct an investigation, including review of the hospital and health care facility medical records and contacting the individual patient to protect the public's health.

(10) **Confidentiality of Reports:** All reports required by this rule are confidential and are not open to public inspection. Nothing in this rule, however, precludes the discussion of case information with

the attending physician or public health workers. All information collected pursuant to this rule may not be released or made public, except as provided by Section 26-6-27. Penalties for violation of confidentiality are prescribed in Section 26-6-29.

(11) If public health conducts a retrospective surveillance project, such as to assess completeness of case finding or assess another measure of data quality, the department may, at its discretion, waive any penalties for participating facilities, medical providers, laboratories, or other reporters if cases are found that were not originally reported for whatever reason.

R386-702-6. Special Measures for Control of Rabies.

(1) Rationale of Treatment.

A physician must evaluate individually each exposure to possible rabies infection. The physician shall also consult with local or state public health officials if questions arise about the need for rabies prophylaxis.

(2) Management of Biting Animals.

(a) A healthy dog, cat, or ferret that bites a person shall be confined and observed at least daily for ten days from the date of bite as specified by local animal control ordinances. It is recommended that rabies vaccine not be administered during the observation period. Such animals shall be evaluated by a veterinarian at the first sign of illness during confinement. A veterinarian or animal control officer shall immediately report any illness in the animal to the local health department. If signs suggestive of rabies develop, a veterinarian or animal control officer shall direct that the animal be euthanized, its head removed, and the head shipped under refrigeration, not frozen, for examination of the brain by a laboratory approved by the Utah Department of Health.

(b) If the dog, cat, or ferret shows no signs of rabies or illness during the ten day period, the veterinarian or animal control officer shall direct that the unvaccinated animal be vaccinated against rabies at the owner's expense before release to the owner. If a veterinarian is not available, the animal may be released, but the owner shall have the animal vaccinated within 72 hours of release. If the dog, cat, or ferret was appropriately vaccinated against rabies before the incident, the animal may be released from confinement after the 10-day observation period with no further restrictions.

(c) Any stray or unwanted dog, cat, or ferret that bites a person may be euthanized immediately by a veterinarian or animal control officer, if permitted by local ordinance, and the head submitted, as described in R386-702-6(2)(a), for rabies examination. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(d) Wild animals include raccoons, skunks, coyotes, foxes, bats, the offspring of wild animals crossbred to domestic dogs and cats, and any carnivorous animal other than a domestic dog, cat, or ferret.

(e) Signs of rabies in wild animals cannot be interpreted reliably. If a wild animal bites or scratches a person, the person or attending medical personnel shall notify an animal control or law enforcement officer. A veterinarian, animal control officer or representative of the Division of Wildlife Resources shall kill the animal at once, without unnecessary damage to the head, and submit the brain, as described in R386-702-6(2)(a), for examination for evidence of rabies. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(f) Rabbits, opossums, squirrels, chipmunks, rats, and mice are rarely infected and their bites rarely, if ever, call for rabies prophylaxis or testing. Unusual exposures to any animal should be reported to the local health department or the Bureau of Epidemiology, Utah Department of Health.

(g) When rare, valuable, captive wild animals maintained in zoological parks approved by the United States Department of Agriculture or research institutions, as defined by Section 26-26-1, bite or scratch a human, the Bureau of Epidemiology, Utah Department of Health shall be notified. The provisions of subsection R386-702-6(2)(e) may be waived by the Bureau of Epidemiology, Utah Department of Health if zoological park operators or research institution managers can demonstrate that the following rabies control measures are established:

(i) Employees who work with the animal have received preexposure rabies immunization.

(ii) The person bitten by the animal voluntarily agrees to accept postexposure rabies immunization provided by the zoological park or research facility.

(iii) The director of the zoological park or research facility shall direct that the biting animal be held in complete quarantine for a minimum of 180 days. Quarantine requires that the animal be prohibited from direct contact with other animals or humans.

(h) Any animal bitten or scratched by a wild, carnivorous animal or a bat that is not available for testing shall be regarded as having been exposed to rabies.

(i) For maximum protection of the public health, unvaccinated dogs, cats, and ferrets bitten or scratched by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer. If the owner is unwilling to have the animal euthanized, the local health officer shall order that the animal be held in strict isolation in a municipal or county animal shelter or a veterinary medical facility approved by the local health department, at the owner's expense, for at least six months and vaccinated one month before being released. If any illness suggestive of rabies develops in the animal, the veterinarian or animal control officer shall immediately report the illness to the local health department and the veterinarian or animal control officer shall direct that the animal be euthanized and the head shall be handled as described in subsection R386-702-6(2)(a).

(j) Dogs, cats, and ferrets that are currently vaccinated and are bitten by rabid animals, shall be revaccinated immediately by a veterinarian and confined and observed by the animal's owner for 45 days. If any illness suggestive of rabies develops in the animal, the owner shall report immediately to the local health department and the animal shall be euthanized by a veterinarian or animal control officer and the head shall be handled as described in subsection R386-702-6(2)(a).

(k) Livestock exposed to a rabid animal and currently vaccinated with a vaccine approved by the United States Department of Agriculture for that species shall be revaccinated immediately by a veterinarian and observed by the owner for 45 days. Unvaccinated livestock shall be slaughtered immediately. If the owner is unwilling to have the animal slaughtered, the animal shall be kept under close observation by the owner for six months.

(l) Unvaccinated animals other than dogs, cats, ferrets, and livestock bitten by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer.

(3) Measures for Standardized Rabies Control Practices.

(a) Humans requiring either pre- or post-exposure rabies prophylaxis shall be treated in accordance with the recommendations of the U.S. Public Health Service Immunization Practices Advisory Committee, as adopted and incorporated by reference in R386-702-1[+]2(2). A copy of the recommendations shall be made available to licensed medical personnel, upon request to the Bureau of Epidemiology, Utah Department of Health.

(b) A physician or other health care provider that administers rabies vaccine shall immediately report all serious systemic neuroparalytic or anaphylactic reactions to rabies vaccine to the Bureau of Epidemiology, Utah Department of Health, using the process described in R386-702-4.

(c) The Compendium of Animal Rabies Prevention and Control, as adopted and incorporated by reference in R386-702-1[+]2(3), is the reference document for animal vaccine use.

(d) A county, city, town, or other political subdivision that requires licensure of animals shall also require rabies vaccination as a prerequisite to obtaining a license.

(e) Animal rabies vaccinations are valid only if performed by or under the direction of a licensed veterinarian in accordance with the Compendium of Animal Rabies Prevention and Control.

(f) All agencies and veterinarians administering vaccine shall document each vaccination on the National Association of State Public Health Veterinarians (NASPHV) form number 51, Rabies Vaccination Certificate, which can be obtained from vaccine manufacturers. The agency or veterinarian shall provide a copy of the report to the animal's owner. Computer-generated forms containing the same information are also acceptable.

(g) Animal rabies vaccines may be sold or otherwise provided only to licensed veterinarians or veterinary biologic supply firms. Animal rabies vaccine may be purchased by the Utah Department of Health and the Utah Department of Agriculture.

(4) Measures to Prevent or Control Rabies Outbreaks.

(a) The most important single factor in preventing human rabies is the maintenance of high levels of immunity in the pet dog, cat, and ferret populations through vaccination.

(i) All dogs, cats, and ferrets in Utah should be immunized against rabies by a licensed veterinarian; and

(ii) Local governments should establish effective programs to ensure vaccination of all dogs, cats, and ferrets and to remove strays and unwanted animals.

(b) If the Utah Department of Health determines that a rabies outbreak is present in an area of the state, the Utah Department of Health may require that:

(i) all dogs, cats, and ferrets in that area and adjacent areas be vaccinated or revaccinated against rabies as appropriate for each animal's age;

(ii) any such animal be kept under the control of its owner at all times until the Utah Department of Health declares the outbreak to be resolved;

(iii) an owner who does not have an animal vaccinated or revaccinated surrender the animal for confinement and possible destruction; and

(iv) such animals found at-large be confined and possibly destroyed.

R386-702-12. Official References.

All treatment and management of individuals and animals who have or are suspected of having a communicable or infectious

disease that must be reported pursuant to this rule shall comply with the following documents, which are adopted and incorporated by reference:

(1) American Public Health Association. "Control of Communicable Diseases Manual". 19th ed., Heymann, David L., editor, 2008.

(2) Centers for Disease Control and Prevention. Human Rabies Prevention---United States, 2008: Recommendations of the Advisory Committee on Immunization Practices [~~Advisory Committee (ACIP): Human rabies Prevention—United States, 1999~~]. "Morbidity and Mortality Weekly Report." [~~1999~~2008; [48]57 (RR03):[~~RR-1,~~ 1-2[+]~~6,~~ 28.

(3) The National Association of State Public Health Veterinarians, Inc., "Compendium of Animal Rabies Prevention and Control, 20[~~08~~]11."

(4) American Academy of Pediatrics. "Red Book[~~Plus~~]: 20[~~09~~]12 Report of the Committee on Infectious Diseases" 2[8]9th Edition. Elk Grove Village, IL, American Academy of Pediatrics; 20[~~09~~]12.

KEY: communicable diseases, quarantine, rabies, rules and procedures

Date of Enactment or Last Substantive Amendment: [~~August 8, 2012~~]2013

Notice of Continuation: October 12, 2011

Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-6-3; 26-23b

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-303** Coverage Groups

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 37301
FILED: 02/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to extend Medicaid coverage for Transitional Medical Assistance (TMA) and the Qualifying Individual (QI) program in accordance with the American Taxpayer Relief Act of 2012, Pub. L. No. 112 240.

SUMMARY OF THE RULE OR CHANGE: This change extends Medicaid coverage for TMA and the QI program in accordance with the American Taxpayer Relief Act of 2012, Pub. L. No. 112 240.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Section 1902(a)(10)(E)(i) through (iv) of Title XIX of the Social Security Act , published by Social Security Administration, 11/19/2012
- ◆ Updates 42 CFR 435.112 and 435.115(f), (g) and (h), published by Government Printing Office, 10/01/2011
- ◆ Updates Section 1931(c)(1) and Section 1931(c)(2) of Title XIX of the Social Security Act, published by Social Security Administration, 11/19/2012

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because this rule simply continues coverage of TMA and the QI program.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund Medicaid services nor determine Medicaid eligibility.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because this rule simply continues coverage of TMA and the QI program.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because this rule simply continues coverage of TMA and the QI program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid recipient because this rule simply continues coverage of TMA and the QI program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Reinstatement of funding under Pub. L. No. 112 240, signed into law on 01/02/2013, allows Medicaid to re-open the eligibility group that had been closed temporarily when such funding was not available.

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 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 NO LATER THAN AT 5:00 PM ON 04/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/08/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-303. Coverage Groups.

R414-303-3. Medicaid for Individuals Who Are Aged, Blind or Disabled for Community and Institutional Coverage Groups.

(1) The Department provides Medicaid coverage to individuals as described in 42 CFR 435.120, 435.122, 435.130 through 435.135, 435.137, 435.138, 435.139, 435.211, 435.232, 435.236, 435.301, 435.320, 435.322, 435.324, 435.340, and 435.350, 2011 ed., which are incorporated by reference. The Department provides coverage to individuals as required by 1634(b), (c) and (d), 1902(a)(10)(A)(i)(II), 1902(a)(10)(A)(ii)(X), and 1902(a)(10)(E)(i) through (iv) of Title XIX of the Social Security Act in effect [April 2]November 19, 2012, which are incorporated by reference. The Department provides coverage to individuals described in Section 1902(a)(10)(A)(ii)(XIII) of Title XIX of the Social Security Act in effect April 2, 2012, which is incorporated by reference. Coverage under Section 1902(a)(10)(A)(ii)(XIII) is known as the Medicaid Work Incentive Program.

(2) Proof of disability includes a certification of disability from the State Medicaid Disability Office, Supplemental Security Income (SSI) status, or proof that a disabled client is recognized as disabled by the Social Security Administration (SSA).

(3) An individual can request a disability determination from the State Medicaid Disability Office. The Department adopts the disability determination requirements described in 42 CFR 435.541, 2011 ed., and Social Security's disability requirements for the Supplemental Security Income program as described in 20 CFR 416.901 through 416.998, 2011 ed., which are incorporated by reference, to decide if an individual is disabled. The Department notifies the eligibility agency of its disability decision, who then sends a disability decision notice to the client.

(a) If an individual has earned income, the State Medicaid Disability Office shall review medical information to determine if the client is disabled without regard to whether the earned income exceeds the Substantial Gainful Activity level defined by the Social Security Administration.

(b) If, within the prior 12 months, SSA has determined that the individual is not disabled, the eligibility agency must follow SSA's decision. If the individual is appealing SSA's denial of disability, the State Medicaid Disability Office must follow SSA's decision throughout the appeal process, including the final SSA decision.

(c) If, within the prior 12 months, SSA has determined an individual is not disabled but the individual claims to have become disabled since the SSA decision, the State Medicaid Disability Office shall review current medical information to determine if the client is disabled.

(d) Clients must provide the required medical evidence and cooperate in obtaining any necessary evaluations to establish disability.

(e) Recipients must cooperate in completing continuing disability reviews as required by the State Medicaid Disability Office unless they have a current approval of disability from SSA. Medicaid eligibility as a disabled individual will end if the individual fails to cooperate in a continuing disability review.

(4) If an individual denied disability status by the Medicaid Disability Review Office requests a fair hearing, the Disability Review Office may reconsider its determination as part of fair hearing process. The individual must request the hearing within the time limit defined in Section R414-301-6.

(a) The individual may provide the eligibility agency additional medical evidence for the reconsideration.

(b) The reconsideration may take place before the date the fair hearing is scheduled to take place.

(c) The eligibility agency notifies the individual of the reconsideration decision. Thereafter, the individual may choose to pursue or abandon the fair hearing.

(5) If the eligibility agency denies an individual's Medicaid application because the Medicaid Disability Review Office or SSA has determined that the individual is not disabled and that determination is later reversed on appeal, the eligibility agency determines the individual's eligibility back to the application that gave rise to the appeal. The individual must meet all other eligibility criteria for such past months.

(a) Eligibility cannot begin any earlier than the month of disability onset or three months before the month of application subject to the requirements defined in Section R414-306-4, whichever is later.

(b) If the individual is not receiving medical assistance at the time a successful appeal decision is made, the individual must contact the eligibility agency to request the Disability Medicaid coverage.

(c) The individual must provide any verifications the eligibility agency needs to determine eligibility for past and current months for which the individual is requesting medical assistance.

(d) If an individual is determined eligible for past or current months, but must pay a spenddown or Medicaid Work Incentive (MWI) premium for one or more months to receive coverage, the spenddown or MWI premium must be met before Medicaid coverage may be provided for those months.

(6) The age requirement for Aged Medicaid is 65 years of age.

(7) For children described in Section 1902(a)(10)(A)(i)(II) of the Social Security Act in effect April 4, 2012, the [Department]eligibility agency shall conduct periodic redeterminations to assure that the child continues to meet the SSI eligibility criteria as required by such section.

(8) Coverage for qualifying individuals described in Section 1902(a)(10)(E)(iv) of Title XIX of the Social Security Act in effect [April 4, 2012]November 19, 2012, is limited to the amount of funds allocated under Section 1933 of Title XIX of the Social Security Act in effect [April 4, 2012]November 19, 2012, for a given year, or as subsequently authorized by Congress under the American Taxpayer Relief Act, Pub. L. No. 112 240, signed into law on January 2, 2013. The eligibility agency [will]shall deny coverage to applicants when the uncommitted allocated funds are insufficient to provide such coverage.

(9) To determine eligibility under Section 1902(a)(10)(A)(ii)(XIII), if the countable income of the individual and the individual's family does not exceed 250% of the federal poverty guideline for the applicable family size, the [Department]eligibility agency shall disregard an amount of earned and unearned income of the individual, the individual's spouse, and a minor individual's parents that equals the difference between the total income and the Supplemental Security Income maximum benefit rate payable.

(10) The ~~[Department]~~eligibility agency shall require individuals eligible under Section 1902(a)(10)(A)(ii)(XIII) to apply for cost-effective health insurance that is available to them.

R414-303-5. 12[-]-Month Transitional Family Medicaid.

~~[The Department covers households that lose eligibility for 1931 Family Medicaid, in accordance with the provisions of Title XIX of the Social Security Act, Sections 1925 and 1931 (c)(2).]The Department provides transitional Medicaid coverage in accordance with the provisions of Title XIX of the Social Security Act Section 1925 for households that lose eligibility for 1931 Family Medicaid as described in Section 1931(c)(2).~~

R414-303-6. Four[-]-Month Transitional Family Medicaid.

(1) The Department adopts 42 CFR 435.112 and 435.115(f), (g) and (h), ~~[2001]~~2011 ed., and Title XIX of the Social Security Act, Section 1931(c)(1) and Section 1931(c)(2) in effect ~~[January 1, 2001]~~November 19, 2012, which are incorporated by reference.

(2) Changes in household composition do not affect eligibility for the four[-]-month extension period. New household members may be added to the case only if they meet the AFDC or AFDC two-parent criteria for being included in the household if they were applying in the current month. Newborn babies are considered household members even if they were unborn the month the household became ineligible for Family Medicaid under Section 1931 of the Social Security Act. New members added to the case will lose eligibility when the household loses eligibility. Assistance shall be terminated for household members who leave the household.

KEY: income, coverage groups, independent foster care adolescent

Date of Enactment or Last Substantive Amendment: ~~[October 1, 2012]~~2013

Notice of Continuation: January 23, 2013

Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5

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.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period, and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends April 1, 2013.

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 between paragraphs (.) indicates that unaffected text, either whole sections or subsections, 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.

From the end of the 30-day waiting period through June 29, 2013, an 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 the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective 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. 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** by the end of the 120-day period after publication, 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 Section 63G-3-303; 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

Environmental Quality, Air Quality R307-208 Outdoor Wood Boilers

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 36481

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule recently went through a second public comment period from 12/01/2012 to 12/31/2012. The Division of Air Quality (DAQ) received comments from industry that DAQ staff evaluated and responded to. Based on those comments and DAQ's responses, the Utah Air Quality Board has proposed changes to the proposed rule.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, the deadline in which a person can sell, offer for sale, supply, install, purchase or transfer an outdoor wood boiler is extended from 03/01/2013 to 05/01/2013. Section R307-208-2 is changed by adding language to clarify that EPA Phase 2 qualified wood boilers and EPA Phase 2 qualified wood pellet outdoor boilers can be sold and purchased outside of the area described in Subsection R307-208-5(1) after 05/01/2013. Certain new boiler labeling requirements are removed from Section R307-208-4. Language is added in Section R307-208-5 to clarify that inside a nonattainment or maintenance area, owners of existing outdoor wood boilers may only replace existing ones with an EPA Phase 2 qualified wood pellet outdoor wood boiler. (DAR NOTE: This is the second change in proposed rule (CPR) for Rule R307-208. The original proposed new rule upon which the first CPR was based was published in the August 1, 2012, issue of the Utah State Bulletin, on page 12. The first CPR upon which this second CPR is based was published in the December 1, 2012, issue of the Utah State Bulletin, on page 56. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike out indicates text that has been deleted. You must view the first CPR, the second CPR, and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-101 and Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The changes in the proposed rule do not create any new requirements on the state; therefore, there are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** There are no new requirements for local government; therefore, there are no anticipated costs or savings.

◆ **SMALL BUSINESSES:** These changes will limit what kinds of wood boilers and wood pellet outdoor boilers small businesses can sell. However, since Utah is not a large market base for these units and because these units are maintained in ready stock, the impact should be minimal.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** As this CPR now limits what kinds of outdoor wood boilers and pellet wood boilers can be sold, purchased, installed, or transferred in certain parts of the state, there may be some costs or savings to persons other than small businesses, businesses, or local government entities; however, it is difficult to estimate what those would be.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be some costs for those living in nonattainment and maintenance areas to replace an existing outdoor wood boiler with a new outdoor wood boiler, as those units will need to be replaced with an EPA Phase 2 qualified wood pellet outdoor boiler. However, those units are competitively priced, and the costs should be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In nonattainment and maintenance areas, businesses will be limited to selling and installing only EPA Phase 2 qualified wood pellet outdoor wood boilers. Because Utah is not a large market base for these units, costs should be minimal.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-208. Outdoor Wood Boilers.

R307-208-1. Definitions.

The following additional definitions apply to R307-208:

"Clean wood" means wood that has not been painted, stained, or treated with any coatings, glues or preservatives, including, but not limited to, chromated copper arsenate, creosote, alkaline copper quaternary, copper azole or pentachlorophenol.

"Commercial new outdoor wood boiler" means a new outdoor wood boiler with a thermal output rating greater than [2]350,000 BTU per hour.

"Outdoor wood boiler" means a fuel burning device also known as a wood-fired hydronic heater:

- (1) Designed to burn wood or other approved solid fuels;
- (2) Specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and
- (3) Designated to heat building space or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

"New outdoor wood boiler" means an outdoor wood boiler that commences operation on or after March 1, 2013.

"Sole source of heat" means the solid fuel burning device is the only available source of heat for the entire residence or business, except for small portable heaters.

"Residential new outdoor wood boiler" means a new outdoor wood boiler that has a thermal output rating of 250,000 BTU per hour or less.

"Unseasoned wood" means wood that has not been allowed to dry for at least six months.

"Wood pellet outdoor boiler" means an outdoor wood boiler with an automatic pellet feed mechanism.

R307-208-2. Prohibition.

(1) Prohibited fuels. No person shall burn any of the following items in an outdoor wood boiler:

- (a) Wood that does not meet the definition of clean wood;
- (b) Unseasoned wood;
- (c) Garbage;
- (d) Tires;
- (e) Yard waste, including lawn clippings;
- (f) Materials containing plastic;
- (g) Materials containing rubber;
- (h) Waste petroleum products;
- (i) Paints or paint thinners;
- (j) Household or laboratory chemicals;
- (k) Coal;
- (l) Glossy or colored paper;
- (m) Construction and demolition debris;
- (n) Plywood;
- (o) Particleboard;
- (p) Fiberboard;
- (q) Oriented strand board;
- (r) Manure;
- (s) Animal carcasses;
- (t) Asphalt products;

(2) No person shall operate an outdoor wood boiler within 1000 feet of a private or public school, hospital or day care facility.

(3) Setback. A new residential outdoor wood boiler shall not be located less than 100 feet from the nearest property boundary line. A new commercial outdoor wood boiler shall not be located less than 200 feet from the nearest property boundary nor 300 feet from a property boundary of a residentially zoned property.

(4) Stack height. A new outdoor wood boiler shall have a permanent stack extending five feet higher than the peak of any roof structure within 150 feet of the outdoor wood boiler.

(5) In areas other than those described in R307-208-5(1), no person shall sell, offer for sale, supply, install, purchase, or transfer an outdoor wood boiler after ~~March~~ May 1, 2013, unless it is EPA Phase 2 qualified wood boiler or ~~a~~ EPA Phase 2 qualified wood pellet outdoor boiler.

R307-208-3. Visible Emission Standard.

(1) Visible emissions for all outdoor wood boilers shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:

- (a) An initial fifteen minute start-up period; and
- (b) A period of fifteen minutes in any three-hour period in which emissions may exceed the 20% opacity limitation for refueling.

R307-208-4. New Boiler Labeling.

(1) A permanent label shall be affixed to all new outdoor wood boilers by the manufacturer.

- (a) The label material shall be durable to last the lifetime of the new unit.
- (b) The label shall be affixed so that it cannot be removed.
- (c) The label shall be affixed so that it is readily visible.
- (d) The following information shall be displayed on the label:

- (i) ~~Name and address of the manufacturer;~~
- (ii) ~~Date of manufacture;~~
- (i) Model name ~~and~~ or number;
- (ii) Serial number;
- (iv) Thermal output rating in BTU per hour; and
- (v) ~~Certified~~ Particulate emission rate in pounds per million BTU heat output.

R307-208-5. Particulate Matter Nonattainment and Maintenance Plan Areas.

(1) R307-208-5 applies in all regions of Salt Lake and Davis counties; all portions of the Cache Valley; all regions in Weber and Utah counties west of the Wasatch mountain range; in Box Elder County, from the Wasatch mountain range west to the Promontory mountain range and south of Portage; and in Tooele County, from the northernmost part of the Oquirrh mountain range to the northern most part of the Stansbury mountain range and north of Route 199.

(2) No person shall sell, install or resell an outdoor wood boiler commencing ~~March~~ May 1, 2013, with the exception of persons who register an outdoor wood boiler under R307-208-5(3).

(3) Owners of an existing outdoor wood boiler wishing to replace it after ~~March~~ May 1, 2013, shall:

(a) Register the existing outdoor wood boiler with the director by ~~March~~ May 1, 2013;

(b) Replace the existing outdoor wood boiler with an EPA Phase 2 qualified wood pellet outdoor wood boiler; and

(c) Comply with the provisions of R307-208-2 and 3.

(4) Persons unable to meet setback requirements in R307-208-2(3) because of existing land use limitations must request a waiver from the director before installing an outdoor wood boiler. Such waiver must include written approval from surrounding neighbors within the setback areas described in R307-208-2(3).

R307-208-6. Air Quality Action and Alert Days.

(1) By ~~March~~ August 1, 2013, sole sources of residential or commercial heating using an outdoor wood boiler must be registered with the director in order to be exempt from R307-208-6(2).

(2) No person shall operate an outdoor wood boiler on an air quality action or alert day ~~as established under R307-302~~ as described in R307-302, except those that are registered with the director as sole source of heat.

KEY: air pollution, outdoor wood boilers, prohibition
Date of Enactment or Last Substantive Amendment: 2013
Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104

Environmental Quality, Air Quality **R307-303** Commercial Cooking

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 36480

FILED: 02/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 12/05/2012, the Utah Air Quality Board directed the Division of Air Quality (DAQ) staff to fix a discrepancy found between the Board memo and the proposed rule brought to the Board regarding the catalyst control efficiency requirements in the rule. During the public comment period, DAQ staff determined that an opacity reading is all that is necessary to determine if a catalyst is installed and operating correctly. Therefore, to resolve the Board's concern, the proposed rule is being amended by removing the efficiency requirement.

SUMMARY OF THE RULE OR CHANGE: The 75% catalytic oxidizer efficiency requirement in Section R307-303-4 is removed from the proposed rule. (DAR NOTE: This is the second change in proposed rule (CPR) for Rule R307-303. The original proposed new rule upon which the first CPR was based was published in the August 1, 2012, issue of the Utah State Bulletin, on page 13. The first CPR upon which this second CPR is based was published in the December 1, 2012, issue of the Utah State Bulletin, on page 60. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike out indicates text that has been deleted. You must view the first CPR, the second CPR, and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-101

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This change in proposed rule does not create any new requirements for the state; therefore, there are no anticipated costs or savings to the state budget.
 ♦ **LOCAL GOVERNMENTS:** There are no new requirements to local government; therefore, there are no anticipated costs or savings.
 ♦ **SMALL BUSINESSES:** While the 75% catalytic oxidizer efficiency certification requirement is removed, small businesses will still be required to install, maintain, and

operate a catalytic oxidizer; therefore, there are no anticipated costs or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The changes to the rule do not affect persons other than small businesses, businesses, or local government entities. Therefore, there are no anticipated costs or savings to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: While the 75% catalytic oxidizer efficiency certification requirement is removed, affected persons will still be required to install, maintain, and operate a catalytic oxidizer; therefore, there are no changes in compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: While the 75% catalytic oxidizer efficiency certification requirement is removed, businesses will still be required to install, maintain, and operate a catalytic oxidizer; therefore, there are no changes in compliance costs for businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-303. Commercial Cooking.

R307-303-1. Purpose.

The purpose of this rule is to reduce volatile organic compound (VOC) and PM2.5 emissions from commercial cooking equipment.

R307-303-2. Applicability.

R307-303 shall apply to Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

R307-303-3. Definitions.

"Catalytic oxidizer" means an emission control device that employs a catalyst fixed onto a substrate to oxidize air contaminants in an exhaust stream.

"Chain-driven charbroiler" means a semi-enclosed charbroiler designed to mechanically move food on a grated grill through the broiler.

"Charbroiler" means a cooking device composed of a grated grill and a heat source, where food resting on the grated grill

cooks as the food receives direct heat from the heat source or a radiant surface.

R307-303-4. Performance Standards and Recordkeeping.

(1) No later than September 1, 2013, owners or operators of all chain-driven charbroilers in food service establishments shall install, maintain and operate a catalytic oxidizer, ~~that reduces uncontrolled PM2.5 and VOC by at least 75%, according to manufacturer specified removal efficiencies.~~

(2) Any emission control device installed and operated under this rule shall be operated, cleaned, and maintained in accordance with the manufacturer's specifications. Manufacturer specifications for all emission controls must be maintained onsite.

(3) The owner or operator shall maintain on the premises of the food service establishment records of each of the following:

- (a) The date of installation of the emission control device;
 - (b) When applicable, the date of the catalyst replacement;
- and
- (c) For a minimum of five years, the date, time, and a brief description of all maintenance performed on the emission control device, including, but not limited to, preventative maintenance, breakdown repair, and cleaning.
 - (4) Opacity of exhaust stream shall not exceed 20% opacity using EPA Method 9.

KEY: charbroilers, commercial cooking, PM2.5, VOC
Date of Enactment or Last Substantive Amendment: 2013
Authorizing, and Implemented or Interpreted Law: 19-2-101

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 agency is required to review the rule. This review is intended 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 upon filing.

NOTICES are governed by Section 63G-3-305.

Agriculture and Food, Plant Industry **R68-5** Grain Inspection

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37249
FILED: 02/05/2013

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: Rule R68-5 is promulgated under Subsections 4-2-2(1)(a)(b) and 4-2-2(4) of the Utah Code. Fees are authorized under Subsection 4-2-2(2). The Department is authorized to promulgate this rule to administer the agricultural laws of the State of Utah and to establish standards for safflower products.

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 supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Plant Industry requires this rule to establish fees for grain inspection and to establish standards for safflower since there is no federal standard. The standard for safflower provides a basis for fair payment of the grain between a farmer and a purchaser. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 02/05/2013

Commerce, Occupational and Professional Licensing **R156-49** Dietitian Certification Act Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37273
FILED: 02/07/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 49, provides for

the certification of dietitians. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-49-3(3) provides that the Dietitian Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 49, with respect to dietitians.

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 this rule was last reviewed in March 2008, no amendments have been made to the rule and no written comments have been received by the Division with respect to this rule.

REASONED JUSTIFICATION FOR THE 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 certification as allowed under statutory authority provided in Title 58, Chapter 49, with respect to dietitians. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum certification requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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:
 ♦ Sally Stewart by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at sstewart@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 02/07/2013

**Commerce, Occupational and
 Professional Licensing
 R156-53
 Landscape Architects Licensing Act
 Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION
 DAR FILE NO.: 37274
 FILED: 02/07/2013**

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 53, provides for the licensure of landscape architects. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-53-201(3) provides that the Landscape Architect Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 53, with respect to landscape architects.

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 March 2008, it has been amended one time in October 2011. The Division has received no written comments with respect to this rule or any amendments which were proposed and made effective in October 2011.

REASONED JUSTIFICATION FOR THE 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 53, with respect to landscape architects. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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:
 ♦ Rich Oborn by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 02/07/2013

**Commerce, Occupational and
Professional Licensing
R156-68**

**Utah Osteopathic Medical Practice Act
Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37272
FILED: 02/07/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 68, provides for the licensure of osteopathic physicians and surgeons. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-68-201(3)(a) provides that the Osteopathic Physician and Surgeon's Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 68, with respect to osteopathic physicians and surgeons.

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 March 2008, it has been amended two times. The Division received an email in December 2011 from Hunter Finch the rules analyst of the Governor's Office of Planning and Budget in which he recommended some changes and corrections to the proposed rule amendments. The Division made Mr. Finch's suggestions in a change in proposed rule filing which was filed on 01/05/2012 with all amendments being made effective in 03/09/2012. No other written comments have been received by the Division with respect to this rule.

REASONED JUSTIFICATION FOR THE 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 68, with respect to osteopathic physicians and surgeons. The rule should also be continued as it provides information to ensure applicants for licensure are

adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 02/07/2013

**Environmental Quality, Air Quality
R307-102**

**General Requirements: Broadly
Applicable Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37261
FILED: 02/06/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules regarding emission of air pollutants, and Subsection 19-2-104(1)(c) sets forth the kinds of information that sources of air pollution must provide, as addressed in Section R307-102-1. Section R307-102-4 is authorized by Section 19-2-113, and sets forth conditions under which the Air Quality Board may authorize variances from Title R307. The federal Clean Air Act, 42 U.S.C. 7401, requires that sources of air pollution not reduce the pay of any employee under certain circumstances, as addressed in Section R307-102-5.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-102 is needed to specify the conditions for issuing variances, for confidentiality of information submitted, and to require that information be made available to the Air Quality Board; and should be continued. In addition, Rule R307-102 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/06/2013

Environmental Quality, Air Quality **R307-115** General Conformity

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37260
 FILED: 02/06/2013

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: As specified in Subsection 19-2-104(3)(q), the Air Quality Board may "meet the requirements of federal air pollution laws." One of those laws is 40 CFR Part 93, Subpart B, which is incorporated by reference by Rule R307-115. 40 CFR Part 93 Subpart B requires that no agency of the federal government support in any way any activity, with some exceptions, that does not conform to any state's implementation plan to protect air quality. 40 CFR 93.150 states that the provisions of 40 CFR Part 93 Subpart B "...establish the conformity criteria and procedures necessary to meet the (Clean Air) Act requirements until such time as the required conformity revision (by the State) is approved by the Environmental Protection Agency (EPA). A

state's conformity provisions must contain criteria and procedures that are no less stringent than the requirements established in this subpart." Utah chose to meet this requirement by incorporating by reference the federal provisions.

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 on this rule since its last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-115 is required by 40 CFR Part 93, Subpart B. In addition, Rule R307-115 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
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 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/06/2013

Environmental Quality, Air Quality **R307-170** Continuous Emission Monitoring Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37259
 FILED: 02/06/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Air Quality Board is allowed by Subsection 19-2-104(1)(c) to make rules "...requiring

persons engaged in operations which result in air pollution to: (i) install, maintain, and use emission monitoring devices, as the board finds necessary; (ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant; and (iii) provide access to records relating to emissions which cause or contribute to air pollution." Also, Subsection 19-2-104(3)(q) allows the Board to "...meet the requirements of federal air pollution laws." Federal provisions that require certain sources to conduct continuous monitoring include federal Clean Air Act Title IV, the Acid Rain program. In addition, 40 CFR Part 51, Appendix P, states that "This appendix P sets forth the minimum requirements for continuous emission monitoring and recording that each State Implementation Plan must include in order to be approved under the provisions of 40 CFR 51.165(b)." Rule R307-170 meets these provisions by specifying how certain sources of air pollution must comply with federal and state requirements to install and operate equipment that continuously monitors certain pollutants; it is approved by EPA as a part of Utah's state implementation plan.

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 were received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-170 ensures that large sources of air pollution do not exceed emission limits for air pollutants that are harmful to human health. In addition, Rule R307-170 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/06/2013

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

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37258
FILED: 02/06/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-220 incorporates by reference the Utah Plans written to meet this requirement.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There was one comment received when Section R307-220-3 was amended in 2012. The commenter pointed out that Stericycle had no emissions listed for Dioxin/Furans and Volatile Organic Compounds in Appendix A of the Designated HMIWI Plan, which is incorporated by reference in this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-220 is required by 42 U.S.C. 7411(d) (Clean Air Act 111(d)). Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

EFFECTIVE: 02/06/2013

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

**Environmental Quality, Air Quality
R307-221**

**Emission Standards: Emission Controls
for Existing Municipal Solid Waste
Landfills**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 37257
FILED: 02/06/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-221 implements the standards for existing Municipal Solid Waste Landfills, as required by 40 CFR 60.30c through 60.36c. The corresponding plan is incorporated by reference in Section R307-220-2. Rule R307-221 also includes necessary definitions, emission restrictions, control device specifications, and a compliance schedule, as required by 40 CFR 60.30c through 60.36c.

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 other comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-221 is required by 40 CFR 60.30c through 60.36c. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/06/2013

**Environmental Quality, Air Quality
R307-222**

**Emission Standards: Existing
Incinerators for Hospital, Medical,
Infectious Waste**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 37258
FILED: 02/06/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-222 implements the standards for existing Incinerators for Hospital, Medical, Infectious Waste, as required by 40 CFR Subpart Ce. The corresponding plan is incorporated by reference in Section R307-220-3. Rule R307-222 also includes necessary definitions, emission restrictions, control device specifications, and a compliance schedule, as required by 40 CFR 60 Subpart Ce.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-222 is required by 40 CFR Part 60, Subpart Ce and the Clean Air Act, 42 U.S.C. 7411(d). Therefore, this rule should be continued.

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DURING REGULAR BUSINESS HOURS, AT:

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/06/2013

Environmental Quality, Air Quality **R307-223**

Emission Standards: Existing Small Municipal Waste Combustion Units

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37255

FILED: 02/06/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-223 implements the standards for existing Incinerators for Small Municipal Waste Combustion Units, as required by 40 CFR Part 60, Subpart BBBB. The corresponding plan is incorporated by reference in Section R307-220-4. Rule R307-223 also includes necessary definitions, emission restrictions, control device specifications, and a compliance schedule, as required by 40 CFR Part 60, Subpart BBBB. The only source in Utah that is regulated by the Plan and Rule R307-223 is Wasatch Energy Systems in Davis County.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-223 is required by 40 CFR Part 60, Subpart BBBB. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/06/2013

Environmental Quality, Air Quality **R307-224**

Mercury Emission Standards: Coal- Fired Electric Generating Units

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37254

FILED: 02/06/2013

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: As specified in Subsection 19-2-104(3)(q), the Air Quality Board may "meet the requirements of federal air pollution laws." Nationwide reductions of mercury (Hg) emissions from certain coal-fired electric generating units are required by 40 CFR Part 60, subparts B and HHHH, and by the Designated Facilities Plan for coal-fired electric generating units, incorporated by reference at Section R307-220-5. Rule R307-224 regulates mercury emissions from any coal-fired electric generating unit as defined in 40 CFR 60.24.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-224 is required by 40 CFR Part 60, subparts B and HHHH. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/06/2013

Environmental Quality, Air Quality **R307-250** Western Backstop Sulfur Dioxide Trading Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37253
FILED: 02/06/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source." Subsection 19-2-104(3)(e) states that the board may "prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state." Rule R307-250 is required to implement the provisions of the State Implementation Plan (SIP), Section XX, the Regional Haze Plan. The Plan is required under 40 CFR Part 51, Subpart P, Visibility. The Plan requires a backstop trading program for emissions of sulfur dioxide from large sources, and Rule R307-250 sets forth the requirements sources will have to meet if the program is ever triggered.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-250 was amended once since the last five-year review (DAR No. 31559). Comments were received from EPA Region 8 and from Kathy Van Dame of the Wasatch Clean Air Coalition. A summary of their comments, along with DAQ responses to those comments follows. Comment 1 (EPA Region 8): Subsection R307-250-4(1)(a) describes the applicability of the backstop trading rule. Utah has deleted paragraph (a) which would have included "all BART-eligible sources defined in 40 CFR 51.301 that are BART eligible due to sulfur dioxide emissions." Utah needs to add this section back into the model rule. Response to No. 1: Subsection R307-250-4(1)(a) has been changed as recommended. Comment 2 (EPA Region 8): Utah's SIP was updated to refer to the allowance tracking system as the "WEB Emissions and Allowance Tracking System (WEB EATS)." Utah should do a word search and correct the trading rule. On a separate but related issue, the Division noticed that the trading rule refers to two different tracking systems – "allowance tracking system" and "emissions tracking database." In a trading program, there should only be one tracking system, the WEB EATS. It appears the term "emissions tracking database" may be referring to the tracking system during the pre-trigger period. While the SIP may need both terms because it covers pre-trigger and post-trigger periods, that would not be true for the trading rule which only covers post-trigger periods. Therefore, Utah should also replace the term "emissions tracking database" in the trading rule with "WEB EATS." Response to No. 2: Rule R307-250 has been changed to reference the "WEB EATS" as recommended. Comment 3 (EPA Region 8): Utah needs to add a date for the submittal of a monitoring plan revision that is referenced in Model Rule provision I2(a)(3). The model rule has a submittal deadline of 90 days after implementing the change. The date should go into Subsection R307-250-9(6)(b). Response to No. 3: Subsection R307-250-9(6)(b) has been changed as recommended. Comment 4 (Kathy Van Dame, Wasatch Clean Air Coalition): SIP XX.E.3.a (1) (a) (i) and (ii) apparently refer to Subsections R307-250-4(1)(a) and (b). In XX the different types of sources are named "Category 1" and "Category 2". In Section R307-250-4, there is no such simple descriptor. In XX, Category 2 sources are described as "WEB sources that commenced operation on January 1, 2008 or a later date" while in Subsection R307-250-4(1)(b) they are described as "A new source that begins operation after the program trigger date." If in fact, the two descriptions refer to each other, they should be harmonized. In any case, the reference within XX.E.3.a(1)(a) to Rule R307-250 should be to a specific part of Rule R307-250. Response to No. 4: The two descriptions referred to in the comment are not intended to mean the same thing and do not need to be harmonized. The applicability language in the rule identifies the sources that are subject to the trading program. Applicability is determined based on actual emissions for existing sources and Potential to Emit (PTE) for new sources. The language in the SIP further divides the sources that are subject to the

program into Category 1 and Category 2 sources. Category 1 sources will receive their floor allocation from either the utility or non-utility pool of allowances. These sources will also be eligible for a reducible allocation. Category 2 sources will receive their floor allowances from the new source set-aside, and will not be eligible for a reducible allocation. The reference within SIP Section XX.E.3.a(1)(a) has been changed as recommended to refer to Section R307-250-2 where the term "WEB source" is defined. Comment 5 (Kathy Van Dame, Wasatch Clean Air Coalition): In SIP XX.E.3.a (1)(c)(i) "early reduction credit", XX E.3. "early reduction allocation", and the title of Subsection R307-250-7(5) "Early Reduction Bonus Allocation," these terms apparently all refer to the same item; if so, they should be harmonized. In the case of multiple, interlocking documents, lack of uniformity of terms contributes to misunderstandings and disputes. Response to No. 5: The SIP and rule text have been modified as recommended to use a consistent terminology "early reduction bonus allocation." Comment 6 (Kathy Van Dame, Wasatch Clean Air Coalition): Emission threshold is undefined in Sections R307-205-6 and R307-250-9. Also because there is a procedure spelled out for a source that exceeds by accident, and can prove they have fixed the problem, R307-250-4(2), the issue of a threshold is muddy and care is needed on this point. Response to No. 6: R307-250-6 and R307-250-9 have been modified as recommended to clarify that the threshold is 100 tons/year of SO₂ as required by Section R307-250-4.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-250 is required to implement the provisions of the State Implementation Plan (SIP), Section XX, the Regional Haze Plan, required under 40 CFR Part 51, Subpart P. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/06/2013

Environmental Quality, Air Quality **R307-801** Utah Asbestos Rule

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37252
 FILED: 02/06/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(d) states that the Air Quality Board may make rules to implement Subchapter II, Asbestos Hazard Emergency Response Act (AHERA), of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), and to review and approve asbestos management plans submitted by local education agencies. Subsections 19-2-104(3)(r) and (s) allow the Board to establish work practice, certification, and clearance air sampling requirements for persons who: (i) contract to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections; or (ii) conduct such work in areas to which the public has access or in school buildings subject to AHERA; and to establish certification requirements for inspectors, management planners, abatement project designers, contractors, or workers under AHERA. Rule R307-801 establishes procedures and requirements for asbestos projects and training programs, for certification of persons engaged in asbestos activities, and work practice standards for such work.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-801 was amended once since the last five-year review (DAR No. 36176). The Division of Air Quality (DAQ) received several comments on the proposed amendment. The comments came from representatives of the asbestos industry and from the Office of Legislative Research and General Council representing Representative Larry B. Willey. The comments submitted on the amendment provided recommendations to clarify language in the proposed rule. No other comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without Rule R307-801, Utah would not have authority to implement the federal asbestos requirements and

implementation would be carried out by the Environmental Protection Agency. The specific authorizations in Subsections 19-2-104(1)(d) and 19-2-104(3)(r) and (s) clearly indicate that the Legislature prefers that the DAQ implement the program. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/06/2013

**Environmental Quality, Solid and
 Hazardous Waste
 R315-301**

**Solid Waste Authority, Definitions, and
 General Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37282
 FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires the Solid and Hazardous Waste Control Board to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-301 contains the definitions and the basic prohibitions against disposal of waste except in sites that are approved and contain the necessary design, engineering, and closure elements that will provide protection to public health and the environment. The rule is also the foundation of the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ♦ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
 ♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
 Hazardous Waste
 R315-302**

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

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37283
 FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board

require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-302 contains siting requirements for solid waste disposal facilities and the general outline of the operations, monitoring, closure, and post-closure care of a solid waste disposal facility. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

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

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION
DAR FILE NO.: 37284
FILED: 02/13/2013**

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-303 contains requirements for solid waste disposal facilities performance requirements, design standards, operation, and maintenance standards. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
Hazardous Waste**

R315-304

**Industrial Solid Waste Landfill
Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37285
FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-304 is necessary to implement the requirements of the statute to review plans for facilities that dispose of nonhazardous solid waste. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
♦ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
Hazardous Waste**

R315-305

Class IV and VI Landfill Requirements

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37286
FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-305 contains requirements for solid waste disposal facilities performance requirements, design standards, operation, and maintenance standards. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act and is referenced by other solid waste rules. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
 ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmercerc@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
Hazardous Waste
R315-306
Incinerator Standards**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37287
FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-306 contains requirements for nonhazardous solid waste incineration facilities performance requirements, design standards, operation and maintenance standards. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
 ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmercerc@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
Hazardous Waste
R315-307
Landtreatment Disposal Standards**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37288
FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-307 contains requirements for solid waste disposal facilities performance requirements, design standards, operation, and maintenance standards. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ♦ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
 ♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
 Hazardous Waste
 R315-308
 Ground Water Monitoring
 Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37289
 FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the

procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-308 contains the requirements for ground water monitoring that are an integral part of the solid waste program to protect public health and the environment. Ground water monitoring must be included in a state solid waste program for that program to be approved by EPA. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ♦ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
 ♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
 Hazardous Waste
 R315-309
 Financial Assurance**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37290
 FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-309 contains the requirements for financial assurance. Financial assurance is a required part of a solid waste program that is to maintain EPA approval and also meets the requirement for financial assurance found in Subsection 19-6-108(9)(c). Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
 ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmercerc@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
 Hazardous Waste
 R315-310
 Permit Requirements for Solid Waste
 Facilities**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37291
 FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-310 contains the requirement for a permit to operate a nonhazardous facility. The permitting program is an integral part of the solid waste program and is required to maintain EPA program approval and to meet the requirements of Section 19-6-108. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
 ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmercerc@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

Environmental Quality, Solid and Hazardous Waste

R315-311

Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery and Incinerator Facilities

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37292

FILED: 02/13/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-311 is an integral part of the solid waste permitting program and defines major and minor modifications to permit and outlines the public comment process. Without the rule, the permit program would not meet the requirements of the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov

♦ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

Environmental Quality, Solid and Hazardous Waste

R315-312

Recycling and Composting Facility Standards

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37293

FILED: 02/13/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in December 2011. No comments were received. No comments in support or opposition to the rule were received during the last five-year-review period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-312 provides the standards for operation of recycling and compost facilities that are allowed by the Solid and Hazardous Waste Act. The rule also sets the standards that will assure that these facilities are operated in a way that protects human health and the environment. Therefore, this rule should be continued. Earlier in 2011, there was a rule change which eliminates the requirement that Recycling and Composting facilities be

placed on a compliance schedule. All existing facilities have approved plans of operation.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
Hazardous Waste
R315-313
Transfer Stations and Drop Box
Facilities**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37294
FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-313 provides the standards for operation of transfer stations and drop box facilities that are allowed by the Solid and Hazardous Waste Act. The rule also sets the standards that will assure that these facilities are operated in a way that protects human health and the environment. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmrcer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
Hazardous Waste
R315-314
Facility Standards for Piles Used for
Storage and Treatment**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37295
FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the

procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-314 provides the standards for operation of facilities that treat and store solid waste in piles as allowed by the Solid and Hazardous Waste Act. The rule also sets the standards that will assure that these facilities are operated in a way that protects human health and the environment. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ♦ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
 ♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmercerc@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
 Hazardous Waste
 R315-315
 Special Waste Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37296
 FILED: 02/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in December 2011. No comments were received during the comment period. No comments in support or opposition to the rule were received during the last five-year review period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-315 sets standards for the management of special wastes. These wastes can present special risks or require special handling which are set forth in Rule R315-315. When these standards are obeyed it will assure that these waste do not present an unacceptable risk to public health or the environment. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
 ♦ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
 ♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmmercerc@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
 Hazardous Waste
 R315-316
 Infectious Waste Requirements**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37297
FILED: 02/13/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in December 2009. One comment was received during the 2009 public notice period. The comments related to the change made in the rule were already addressed so it was recommended that the rule not be changed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-316 sets standards for the management of infectious waste. This waste can present special risks or require special handling which are set forth in Rule R315-316. When these standards are obeyed it will assure that these waste do not present an unacceptable risk to public health or the environment. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

Environmental Quality, Solid and
Hazardous Waste
R315-317

Other Processes, Variances, Violations,
and Petition for Rule Change

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37298
FILED: 02/13/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-317 sets the procedures for granting of variances, issuing of notices of violation, and procedures for rule change petitions. These are all an important part of the permit program for regulation solid waste management facilities. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
Hazardous Waste
R315-318
Permit by Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION
DAR FILE NO.: 37299
FILED: 02/13/2013**

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires that the Solid and Hazardous Waste Control Board require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility. Subsection 19-6-108(12) requires that operation plans be reviewed every five years. The rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

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 changes or public comments were received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Permitting of solid waste facilities is a requirement to receive program approval from the EPA and is also required by the Solid and Hazardous Waste Act. Rule R315-318 sets out the procedures and conditions that will allow facilities that are permitted under another state program to receive a permit by rule and be in compliance with the Solid and Hazardous Waste Act and the solid waste rules and not be burdened by regulation by two different agencies. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
- ◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
- ◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Environmental Quality, Solid and
Hazardous Waste**

**R315-320
Waste Tire Transporter and Recycler
Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION
DAR FILE NO.: 37300
FILED: 02/13/2013**

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-819(1) requires the Solid and Hazardous Waste Control Board to make rules implementing the Waste Tire Recycling act found in Sections 19-6-801 through 19-6-824. The rule sets out the procedures and information that must be submitted by waste tire recyclers and transporters.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in December 2011. No comments were received during the 2011 comment period. No written comments have been received on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-320 contains requirements for Waste Tire Transporter and Recycler Requirements. The rule forms the basis for the regulation of the waste tire program in Utah. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allan Moore by phone at 801-536-0211, by FAX at 801-536-0222, or by Internet E-mail at allanmoore@utah.gov
◆ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov
◆ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmercer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 02/13/2013

**Health, Disease Control and
Prevention, Environmental Services
R392-700**

Indoor Tanning Bed Sanitation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 37251
FILED: 02/06/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 26-15-2 directing the Utah Department of Health (UDOH) to adopt rules and enforce minimum sanitary standards for the operation and maintenance of tanning parlors.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The rule was last updated and changes enacted in October 2012 to address statutory legislation adopted and passed in the 2012 Utah Legislature directing the Department to modify the rule to require parental

consent for each tanning session for minors or a doctors note, updating the warning sign, and require a statewide uniform consent form. Since the modifications to the rule have been enacted, the UDOH has not received comments indicating a need to revise this rule further at this time. UDOH has received comments from local health departments indicating the need to continue statewide enforcement of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The public demand for services offered by indoor tanning facilities is continuing. With the findings of many studies which indicate an association between exposure to ultraviolet radiation and skin cancer, the need for regulation of these facilities continues to be important. Many stories in the national television news and news magazines have highlighted this issue. Regulations that require enforced sanitation and warning of patrons regarding the dangers of ultraviolet radiation in Utah are very important to protect the health of the public. Therefore, this rule should be continued.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ronald Marsden by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 02/06/2013

**Health, Family Health and
Preparedness, Licensing
R432-16**

Hospice Inpatient Facility Construction

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 37281
FILED: 02/11/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, is the health code that mandates the licensing of health facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department agrees with the need to continue the rule.

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

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 LICENSING
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 02/11/2013

Human Services, Aging and Adult Services

R510-105

"Out and About" Homebound Transportation Assistance Fund Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37277
 FILED: 02/08/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule is authorized by Section

62A-3-104 to administer the program authorized by Section 63A-3-110.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division has received no written comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to provide guidelines for the equitable distribution of funds collected as the result of the special services fund created in Section 62A-3-110 to provide public transportation assistance for seniors or people with disabilities. Therefore, this rule should be continued.

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

HUMAN SERVICES
 AGING AND ADULT SERVICES
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 02/08/2013

Human Services, Recovery Services
R527-260
 Driver License Suspension for Failure to Pay Support

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37303
 FILED: 02/14/2013

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 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. This rule is authorized by Section 62A-11-601, which is known as the Administrative

License Suspension Child Support Enforcement Act. Section 62A-11-603 authorizes ORS to suspend a non-custodial parent's (NCP) driver license if the NCP is delinquent on a child support obligation. In addition, the law provides notification requirements for this action as well as providing an informal adjudicative proceeding, which allows the NCP to contest the suspension of his driver license. The statute also permits the office to enter into payment agreements with the NCP to pay current child support and arrears that are owed. Notification requirements to suspend or rescind an order are found in Section 62A-11-604.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to provide information regarding ORS's ongoing responsibilities with driver license suspension. The rule provides the office criteria for suspending the NCP's driver license suspension, as well as the notification requirements to the NCP by sending a Notice of Agency Action. The rule provides information for entering into a repayment agreement with the NCP as well as the outcome for compliance or failure to comply with the agreement. The rule provides the office requirement to have approval from the ORS/Child Support Services Supervisory Review Panel prior to suspending the NCP's driver license. In addition, the rule provides the procedures for rescission of the driver license suspension. Therefore, this rule should be continued.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY, UT 84102-4211
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8509, or by Internet E-mail at lwilber@utah.gov

AUTHORIZED BY: Liesa Corbridge, Director

EFFECTIVE: 02/14/2013

Human Services, Recovery Services
R527-301
Non-IV-D Income Withholding

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37304
FILED: 02/14/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-11-502, which authorizes immediate income withholding for child support orders issued or modified on or after 01/01/1994 with withholding for child support orders issued or modified on or after 01/01/1994 with specific restrictions and regulations that the agency has implemented. Section 62A-11-504 authorizes the Office of Recovery Services (ORS) to commence income withholding when an obligor or obligee applies for IV-D services with the office. In addition, the rule provides information on enforcement upon a payor that fails to comply with the Notice to Withhold in accordance with Section 62A-11-506.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to provide information regarding ORS's ongoing responsibilities with Non-IV-D income withholding and it defines the office's limits to income withholding in regards to collection of child care expenses. This rule provides information to custodial and non-custodial parents when a payor fails to comply with the Notice to Withhold. The rule provides information regarding how income withholding may be terminated. In addition, the rule provides information on how income withholding payments will be handled when the custodial parent's mailing address is unknown. Therefore, this rule should be continued.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY, UT 84102-4211
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8509, or by Internet E-mail at lwilber@utah.gov

AUTHORIZED BY: Liesa Corbridge, Director

EFFECTIVE: 02/14/2013

Pardons (Board of), Administration
R671-312
Commutation Hearings for Death
Penalty Cases

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 37341
FILED: 02/15/2013

**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 77-19-7 states: The judge of a court where a judgment of death was had shall, immediately after the conviction, transmit to the chair of the Board of Pardons and Parole a statement of the conviction and judgment and a summary of the evidence given at trial. Art VII, Sec 12 states that: The Board of Pardons and Parole, by majority vote and upon other conditions as provided by statute, may commute punishments.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board of Pardons must have this rule in order to establish procedures applicable to commutation petitions for any person sentenced to the death penalty. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

Pardons (Board of), Administration
R671-509
Parole Progress / Violation Reports

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 37342
FILED: 02/15/2013

**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 77-27-11 states: The board may revoke the parole of any person who is found to have violated any condition of his parole.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board of Pardons must have this rule in order to receive information from the Department of Corrections that may be relevant in determining parole. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

Pardons (Board of), Administration
R671-510
Evidence for Issuance of Warrants

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**DAR FILE NO.: 37343
FILED: 02/15/2013**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 77-27-11 states that: Any member of the board may issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee, and may upon arrest or otherwise direct the Department of Corrections to determine if there is probable cause to believe that the parolee has violated the conditions of his parole.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the criteria and procedures for the issuance of Board warrants and ensures that offenders are given due process. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

Pardons (Board of), Administration
R671-512
Execution of the Warrant

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**DAR FILE NO.: 37344
FILED: 02/15/2013**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 77-27-11 states: Any member of the board may issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee, and may upon arrest or otherwise direct the Department of Corrections to determine if there is probable cause to believe that the parolee has violated the conditions of his parole. Section 77-27-27 states: The appropriate officer or officers of this state shall as soon as practicable, following termination of any hearing, report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state. Section 77-27-28 allows a hearing officer to hear cases of alleged parole or probation violation. Section 77-27-29 outlines the rights of the parolee. Section 77-27-30 outlines procedures for out-of-state parolees and supervision.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule ensures that when a warrant is executed, the parolee is provided with copies of the warrant, warrant request, Notice Regarding Parole Allegations, a Challenge to Probable Cause Determination, an Affidavit of Waiver and Plea of Guilt, and Waiver of Time. Timely delivery of these documents to the parolee ensures due process. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

**Pardons (Board of), Administration
R671-513**

**Expedited Determination on Parolee
Challenge to Probable Cause**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37346

FILED: 02/15/2013

**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 77-27-11 states that the board may revoke the parole of any person who is found to have violated any condition of his parole. Section 77-27-27 states that the appropriate officer or officers of this state shall as soon as practicable, following termination of any hearing, report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state. Section 77-27-28 states that any hearing pursuant to this act shall be heard by the administrator of the interstate compact for the supervision of parolees and probationers, a deputy of the administrator, or any other person authorized pursuant to the laws of this state to hear cases of alleged parole or probation violation, except that no hearing officer shall be the person making the allegation of violation. Section 77-27-29 outlines the rights of the parolee. Section 77-27-30 outlines hearing procedures as they relate to supervision in other states.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes a procedure that parolees may use in order to get a determination of probable cause and also requires that evidence is reviewed in a timely manner, ensuring due process. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jgreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

**Pardons (Board of), Administration
R671-514**

Waiver and Pleas of Guilt

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37347

FILED: 02/15/2013

**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 77-27-9 details the procedures of parole proceedings and Section 77-27-11 details the procedures of revoking parole.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures for parolees to enter pleas. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S

SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

**Pardons (Board of), Administration
R671-515
Timeliness of Parole Revocation
Hearings**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37348
FILED: 02/15/2013

**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 76-3-202 states that any person who violates the terms of parole, while serving parole, for any offense under Subsections 76-3-202(1), (2), or (3), shall at the discretion of the Board of Pardons and Parole be recommitted to prison to serve the portion of the balance of the term as determined by the Board of Pardons and Parole, but not to exceed the maximum term.

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 since the the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures which ensure that the parolees receive parole revocation hearings in a timely manner, thus preserving due process. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

**Pardons (Board of), Administration
R671-516
Parole Revocation Hearings**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37349
FILED: 02/15/2013

**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 77-27-5 establishes Board authority and jurisdiction, Section 77-27-9 establishes that the Board can hold pardon and parole proceedings and outlines the parameters for doing so, and Section 77-27-11 establishes that the Board can revoke parole.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines parole revocation hearing procedures and directs how the hearing should proceed, depending on the type of plea entered by the parolee. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

**Pardons (Board of), Administration
R671-517**

Evidentiary Hearings and Proceedings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37350
FILED: 02/15/2013

**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 77-27-5 establishes Board authority and jurisdiction, Section 77-27-9 establishes that the Board can hold parole and pardon proceedings and outlines the parameters for doing so, and Section 77-27-11 establishes that the Board can revoke parole and that the parolee can present witnesses and documentary evidence.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures for holding evidentiary hearings when a parolee has entered a not guilty plea to an allegation that parole has been violated and the board wishes to consider the allegation. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

**Pardons (Board of), Administration
R671-518**

**Conduct of Proceedings When a
Criminal Charge Results in Conviction**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37351
FILED: 02/15/2013

**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 77-27-5 establishes Board authority and jurisdiction, Section 77-27-9 establishes that the Board can hold parole and pardon proceedings and outlines the parameters for doing so, and Section 77-27-11 establishes that the Board can revoke parole.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule details the conditions under which parole can be revoked with regard to new convictions. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

Pardons (Board of), Administration
R671-519

Proceedings When Criminal Charges
Result in Acquittal

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37352
FILED: 02/15/2013

**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 77-27-5 establishes Board authority and jurisdiction, Section 77-27-9 establishes that the Board can hold parole and pardon proceedings and outlines the parameters for doing so, and Section 77-27-11 establishes the conditions under which the Board can revoke parole.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule details procedures for when criminal charges result in acquittal and establishes guidelines for evidence and personal appearance. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

Pardons (Board of), Administration
R671-520

Treatment of Confidential Testimony

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37353
FILED: 02/15/2013

**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 77-27-5 establishes Board authority and jurisdiction, Section 77-27-9 establishes that the Board can hold parole and pardon proceedings and outlines the parameters for doing so, and Section 77-27-11 establishes the conditions under which the Board can revoke parole.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the three-part procedure through which confidential testimony shall be admitted at an evidentiary hearing on an alleged parole violation. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

**Pardons (Board of), Administration
R671-522
Continuances Due to Pending Criminal
Charges**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37354
FILED: 02/15/2013

**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 77-27-5 establishes Board authority and jurisdiction, Section 77-27-9 establishes that the Board can hold parole and pardon proceedings and outlines the parameters for doing so, and Section 77-27-11 establishes the conditions under which the Board can revoke parole.

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 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines the conditions under which the Board may choose to continue hearings to allow for adjudication of new criminal charges. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

AUTHORIZED BY: Clark Harms, Chairman

EFFECTIVE: 02/15/2013

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Environmental Quality

Air Quality

No. 37037 (AMD): R307-401-15.Air Strippers and Soil

Venting Projects

Published: 12/01/2012

Effective: 02/07/2013

Health

Disease Control and Prevention, Health Promotion

No. 37028 (NEW): R384-201.School-Based Vision Screening for Students in Public Schools

Published: 12/01/2012

Effective: 02/20/2013

Human Services

Services for People with Disabilities

No. 37110 (AMD): R539-1.Eligibility

Published: 01/01/2013

Effective: 02/13/2013

No. 37111 (AMD): R539-2.Service Coordination

Published: 01/01/2013

Effective: 02/13/2013

Natural Resources

Wildlife Resources

No. 37097 (AMD): R657-37.Cooperative Wildlife

Management Units for Big Game or Turkey

Published: 01/01/2013

Effective: 02/07/2013

Transportation

Administration

No. 37094 (R&R): R907-64.Longitudinal and Wireless

Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities

Published: 01/01/2013

Effective: 02/07/2013

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, 2013 through February 15, 2013. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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: Because of space constraints, neither Index is included in this issue, March 1, 2013, of the Bulletin.

Questions regarding the index and the information it contains should be addressed to 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 (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).
