UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

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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: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at https://rules.utah.gov/.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit https://rules.utah.gov/ for additional information.

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NOTICES OF
PROPOSED RULES

A state agency may file a **Proposed Rule** when it determines the need for a substantive change to an existing rule. With a **Notice of Proposed Rule**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between August 02, 2019, 12:00 a.m., and August 15, 2019, 11:59 p.m. are included in this, the September 01, 2019, 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 (example). Deletions made to existing rules are struck out with brackets surrounding them ([~~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 Rules being repealed are completely struck out.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 usually printed. If a **Proposed Rule** is too long to print, the Office of Administrative Rules may 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 Office 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 October 1, 2019. 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 December 30, 2019, the agency may notify the Office 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 Office of Administrative Rules does not receive a **Notice of Effective Date** or a **Change in Proposed Rule**, the **Proposed Rule** lapses.

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, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Commerce, Consumer Protection
R152-32a
Pawnshop and Secondhand Merchandise Transaction Information Act Rule

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 43991
FILED: 08/14/2019

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Former Subsections 13-32a-102(26)(b)(ii) and 13-32a-112.5(1)(a) authorized the Utah Division of Consumer Protection (Division) to make rules that exempted specific classes of businesses from regulation under Title 13, Chapter 32a. Those subsections were amended by H.B. 394, passed in the 2019 General Session, and the Division no longer has authority to exempt specific classes of businesses from regulation. Thus, the Division is repealing this rule.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 13-2-5 and Section 13-32a-102 and Section 13-32a-112.5

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated net impact to the state budget.
♦ LOCAL GOVERNMENTS: There is no anticipated net impact on local governments.
♦ SMALL BUSINESSES: No fiscal impact to small businesses is expected because this rule has been statutorily superseded.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated net impact to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated change in compliance costs for affected persons. All classes of businesses that were exempted by this rule are now exempt by statute, see Subsection 13-32a-102(29)(c).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to non-small businesses is expected because Rule R152-32a has been statutorily superseded. The repeal of this rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures that were not already accounted for by the fiscal note related to H.B. 394 (2019).

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Daniel Larsen by phone at 801-530-6145, or by Internet E-mail at dblarsen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Daniel O'Bannon, Director

Appendix 1: Regulatory Impact Summary Table

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0

Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
No fiscal impact to non-small businesses is expected because Rule R152-32a has been statutorily superseded. The repeal of this rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures that were not already accounted for by the fiscal note to H.B. 394, passed in the 2019 General Session.

The head of the Department of Commerce, Francine A. Giani, has reviewed and approved this fiscal analysis.

R152. Commerce, Consumer Protection.
[~~R152-32a. Pawnshop and Secondhand Merchandise Transaction Information Act Rule.~~
~~R152-32a-1. Authority.~~
~~These rules are promulgated pursuant to Utah Code 13-2-5(1) and 13-32a-102.5(1) to facilitate the orderly administration of the Pawnshop and Secondhand Merchandise Transaction Information Act, Utah Code Title 13, Section 32a.~~

~~R152-32a-2. Exempt Businesses.~~
~~(1) The owner or operator of a business that is not a pawnbroker is exempt from the requirements of Title 13, Chapter 32a if the owner or operator deals exclusively in one or more of the following consumer products:~~
~~(a) scrap metal acquired by a scrap metal processor pursuant to Section 76-6-1402(10);~~
~~(b) antique items as defined in Section 13-32a-102(2);~~
~~(c) used furniture;~~
~~(d) used appliances;~~
~~(e) used games (i.e., card games, table-top games, and magic tricks), except as specified in this Subsection (3); and~~
~~(f) used children's products, except as specified in this Subsection (3).~~
~~(2) The owner or operator of a business that is not a pawnbroker shall comply with Title 13, Chapter 32a if the owner or operator buys or sells a used or secondhand item that is other than an exempt item pursuant to this Subsection (1).~~
~~(3) Notwithstanding the exemptions listed in this Subsection (1), the following consumer products are not exempt from the registration, uploading, retention, and other requirements of Title 13, Chapter 32a:~~
~~(a) sports trading cards;~~
~~(b) electronic games, video games, and gaming systems;~~
~~(c) electronic and acoustic musical instruments (non-toys);~~
~~(d) motorized ride-on scooters/vehicles, whether titled or non-titled;~~
~~(e) bicycles/scooters designed for use on a public street;~~
~~(f) golfing, snow skiing, snowboarding, or water skiing equipment (non-toys);~~
~~(g) rare or collectible toys (i.e., trading cards, original issue versions of classic games, and dolls or decorations that are signed or numbered);~~
~~(h) child transport devices, including:~~
~~(i) strollers and jogging strollers;~~
~~(ii) bicycle trailers;~~
~~(iii) car seats; and~~
~~(iv) baby backpacks, frontpacks, and similar strap-on carriers; and~~
~~(i) any item reasonably similar to a consumer product listed in this Subsection (3).~~

~~KEY: pawnshops, consumer protection, secondhand merchandise dealers~~
~~Date of Enactment or Last Substantive Amendment: October 16, 2014~~
~~Notice of Continuation: May 17, 2018~~
~~Authorizing, and Implemented or Interpreted Law: 13-2-5; 13-32a-102(23); 13-32a-112.5~~]

Commerce, Occupational and Professional Licensing
R156-24b
Physical Therapy Practice Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43954
FILED: 08/05/2019

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These proposed amendments update this rule to align with changes made in the 2019 General Session under H.B. 44, which permits an individual in the final term of a program of study in physical therapy to take the licensing exam before graduation. The Physical Therapy Licensing Board also recommends additional amendments to clarify this rule and streamline application procedures.

SUMMARY OF THE RULE OR CHANGE: In Section R156-24b-102, these proposed amendments clarify the definition of an "education program that is accredited by a recognized accreditation agency". In Section R156-24b-302a, these proposed amendments expand the methods by which an applicant can provide proof of graduation to the Division of Occupational and Professional Licensing (Division) and provides a process for application via endorsement. In Section R156-24b-302b, these proposed amendments permit an applicant for licensure as a Physical Therapist (PT) or Physical Therapist Assistant (PTA) who is in the final term of a program of study in physical therapy to take their licensing exam before graduation per Subsections 58-24-302(1)(d) and

58-24b-302(2)(d). It also provides a process for verifying an exam score for an application for licensure by endorsement.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-24b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These proposed changes update the existing rule to align with the Utah Code changes implemented by H.B. 44 (2019) are not expected to negatively or positively impact the state budget. There could be a small positive impact from the other proposed amendments if a PT or PTA gains employment at a state owned facility that employs PTs or PTAs. However, it is estimated that almost all new graduate PTs and PTAs will seek employment in the private sector. There will be a minimal cost to the Division of approximately $75 to print and distribute this rule and a total of 4 hours x $30 per hour = $120 to update the PT and PTA online and paper application forms once the proposed amendments are made effective.
♦ LOCAL GOVERNMENTS: These proposed rule changes are not expected to have a fiscal impact on local governments because they will not affect local governments.
♦ SMALL BUSINESSES: These proposed amendments are not expected to have a negative fiscal impact on small businesses (NAICS 621399 and 621340). However, a positive fiscal impact may result from the newly streamlined application procedures, if the new graduate PT or PTA can begin employment earlier due to not having to wait to take the national exam or the wait for their school's registrar to post the transcripts and send the results to the Division. This could eliminate open positions, reduce overtime to cover open positions, and allow patients to receive therapy services in a timelier manner. It is projected that 50% of the 105 annual PT graduates will work for a small business which equates to 53 PT graduates. It is also projected that 50% of the 72 annual PTA graduates will work for a small business which equates to 36 PTA graduates. The total fiscal benefit of filling the open positions is not able to be estimated since the estimated number of open PT or PTA positions is not readily available from employers and the cost of overtime is unknown.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These proposed amendments are not expected to have a negative fiscal impact on other persons. However, a positive impact may result from the newly streamlined application procedures, since the graduate will be able to take the national exam earlier, and may obtain a signed statement of program completion instead of waiting for the school's registrar to send the official transcripts to the Division. The waiting time for a registrar to send the transcripts could take up to an average of three weeks. It is estimated that these proposed changes to Subsections R156-24b 302(a) and (b) will allow applicants to apply for licensure three weeks earlier. It is estimated that these proposed amendments could affect up 105 Physical Therapist and 72 Physical Therapist Assistant applicants on an annual basis. It is further estimated that recent PT graduates earn $32 per hour for initial employment. Each work week is based upon 40 hours. Therefore, if one Physical Therapists could begin employment 3 weeks sooner, each PT could earn 3 weeks X 40 hours per week X $32 per hour = $3,840. The potential benefit if all 105 PTs could work 3 weeks earlier would be $403,200. The annual potential benefit is projected to raise 2% per year due to cost of living/demand. Additionally, it is further estimated that recent PTA graduates earn $21 per hour for initial employment. Each work week is based upon 40 hours. Therefore, if one Physical Therapist Assistant could begin employment 3 weeks sooner, each PT could earn 3 weeks X 40 hours per week X $21 per hour = $2,520. The potential benefit if all 72 Physical Therapy Assistants could work three weeks earlier would be $181,440. The annual potential benefit is projected to raise 2% per year due to cost of living/demand.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments are not expected to have any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed amendments update this rule to align with changes made by H.B. 44 (2019), which permit an individual in the final term of a program of study in physical therapy to take the licensing exam before graduation. The Physical Therapy Licensing Board also recommends additional amendments to clarify this rule and streamline application procedures. Small Businesses: These proposed amendments are not expected to have a negative fiscal impact on small businesses (NAICS 621399 and 621340). However, a positive fiscal impact may result from the newly streamlined application procedures, if the new graduate physical therapist or physical therapist assistant can begin employment earlier due to not having to wait to take the national exam or wait for their school's registrar to post the transcripts and send the results to the Division. This could eliminate open positions, reduce overtime to cover open positions, and allow patients to receive therapy services in a timelier manner. The total fiscal benefit if filling the open positions is not able to be estimated. Non-small businesses: These proposed amendments are not expected to have a negative fiscal impact on non-small businesses (NAICS 621399 and 621340).

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeff Busjahn by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at jbusjahn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 09/18/2019 09:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 475 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$195	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$195**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$584,640	$596,333	$608,259
Total Fiscal Benefits:	**$584,640**	**$596,333**	**$608,259**
Net Fiscal Benefits:	**$584,445**	**$596,333**	**$608.259**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact to Non-Small Businesses
These proposed amendments are not expected to have a negative fiscal impact for non-small business (NAICS 621399 and 621340). However, a positive fiscal impact may result from the newly streamlined application procedures, if the new graduate PT or PTA can begin employment earlier due to not having to wait to take the national exam or the wait for their school's registrar to post the transcripts and send the results to DOPL. This could eliminate open positions, reduce overtime to cover open positions, and allow patients to receive therapy services in a timelier manner. It is projected that 50% of the 105 annual PT graduates will work for a non-small business which equates to 52 PT graduates. It is also projected that 50% of the 72 annual PTA graduates will work for a non-small business which equates to 36 PTA graduates. The total fiscal benefit of filling the open positions is not able to be estimated since the estimated number of open PT or PTA positions is not readily available from employers and the cost of overtime is unknown.

The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing.
R156-24b. Physical Therapy Practice Act Rule.
R156-24b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 24b, as used in Title 58, Chapters 1 and 24b or this rule:

(1) "An education program that is accredited by a recognized accreditation agency", as used in Subsections 58-24b-302(1)(c) and (d), (2)(c) and (d), and (3)(c), means [~~a college or university~~]an education program that is, at the time of an applicant's graduation:

(a) accredited by CAPTE; or

(b) a foreign education program which is equivalent to a CAPTE accredited program as determined by the FCCPT.

(2) "Credential evaluation", as used in Subsections R156-24b-302a(2) and (3), means the appropriate Course Work Tool (CWT) adopted by the Federation of State Boards of Physical Therapy. The appropriate CWT means the CWT in place at the time the foreign educated physical therapist or physical therapist assistant graduated from the physical therapy program.

(3) "CAPTE" means Commission on Accreditation in Physical Therapy Education.

(4) "FCCPT" means the Foreign Credentialing Commission on Physical Therapy.

(5) "FSBPT" means the Federation of State Licensing Boards of Physical Therapy.

(6) "Joint mobilization", as used in Subsection 58-24b-102(15)(d), means a manual therapy technique comprising a continuum of skilled passive movements to the joints and/or related soft tissues that are applied at varying speeds and amplitudes, including a small-amplitude/high velocity therapeutic movement.

(7) "Routine assistance", as used in Subsections 58-24b-102(10) and 58-24b-401(3)(b) means:

(a) engaging in assembly and disassembly, maintenance and transportation, preparation and all other operational activities relevant to equipment and accessories necessary for treatment; and

(b) providing only that type of elementary and direct patient care which the patient and family members could reasonably be expected to learn and perform.

(8) "Supportive personnel", as used in Subsection R156-24b-503(1), means a physical therapist assistant or a physical therapy aide and does not include a student in a physical therapist or physical therapist assistant program.

(9) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 24b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-24b-502.

R156-24b-302a. Qualifications for Licensure - Education Requirements.

(1) [~~In accordance with Subsection 58-24b-302(1)(c), the accredited school of physical therapy for a physical therapist shall be accredited by CAPTE at the time of graduation.~~]In accordance with Subsections 58-24b-302(1) and (2), an applicant for licensure as a physical therapist or physical therapist assistant who completed their physical therapy education in the United States shall document their education by providing:

(a) a transcript sent directly to the Division from the degree-granting institution showing completion of the accredited education program as defined in Subsection R156-24b-102(1)(a); or

(b) a statement signed by the program director or other authorized school official with the school seal affixed, stating that the applicant has successfully completed the accredited education program as defined in Subsection R156-24b-102(1)(a).

(2) In accordance with Subsections 58-24b-302(2) and (4), an applicant who holds a current unrestricted physical therapist or physical therapist assistant license issued by another state, district, or territory of the United States, other than Utah, may document their education by providing either:

(a) the documentation under Subsection (1); or

(b) a score transfer from FSBPT sent directly to the Division from the provider.

([~~2~~]3) In accordance with Subsection 58-24b-302(3), an applicant for licensure as a physical therapist who is educated outside the United States shall document that the applicant's education is equal to a CAPTE accredited degree and that the applicant is able to read, write, speak, understand, and be understood in the English language by submitting to the Division a Type I review from the FCCPT.

(a) Only educational deficiencies in pre-professional subject areas may be corrected by completing college level credits in the deficient areas or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas.

(b) Pre-professional subject areas include the following:

([~~a~~]i) humanities;

([~~b~~]ii) social sciences;

([~~c~~]iii) liberal arts;

([~~d~~]iv) physical sciences;

([~~e~~]v) biological sciences;

([~~f~~]vi) behavioral sciences;

([~~g~~]vii) mathematics; or

([~~h~~]viii) advanced first aid for health care workers.

([~~3~~]4) In accordance with Subsection 58-24b-302(2)(c), an applicant for licensure as a physical therapist assistant shall:

(a) have received an associate's, bachelor's, or master's degree from a CAPTE accredited physical therapy education program;[~~complete one of the following CAPTE accredited physical therapy education programs:~~

~~(a) an associates, bachelors, or masters program; or~~]

(b) in accordance with Section 58-1-302, [~~an~~]if the applicant [~~for a license as a physical therapist assistant who~~]has been licensed in a foreign country [~~whose~~]but received a degree [~~was~~]not accredited by CAPTE, [~~shall~~]document that the applicant's education is substantially [~~equivalent~~]equal to a CAPTE accredited degree by submitting to the Division a credential evaluation from the [~~Foreign Credentialing Commission on Physical Therapy~~]FCCPT.

(i) Only educational deficiencies in pre-professional subject areas may be corrected by completing college level credits in the deficient areas or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas.

(ii) Pre-professional subject areas include the subject areas listed in Subsection (3)(b).[~~following:~~

~~(a) humanities;~~

~~(b) social sciences;~~

~~(c) liberal arts;~~

~~(d) physical sciences;~~

~~(e) biological sciences;~~

~~(f) behavioral sciences;~~

~~(g) mathematics; or~~

~~(h) advanced first aid for health care workers.~~]

([~~4~~]5) An applicant who has met all requirements for licensure as a physical therapist except passing the FSBPT National Physical Therapy Examination-Physical Therapist may apply for licensure as a physical therapist assistant.

R156-24b-302b. Qualifications for Licensure - Examination Requirements.

(1)(a) In accordance with Subsection[~~s~~] 58-24b-302(1)(d) [~~, (2)(d) and (3)(d), each~~] an applicant for licensure as a physical therapist [~~or physical therapist assistant~~]who is educated in the United States shall pass the FSBPT's National Physical Therapy Examination - Physical Therapist (NPTE-PT) with a passing score as established by the FSBPT, after submitting proof [~~of graduation~~]that the applicant is in the final term of, or has graduated from, a professional physical therapist education program [~~that is~~]accredited by [~~a recognized accreditation agency~~]CAPTE.

(b) In accordance with Subsections 58-24b-302(3)(d) and (g), an applicant for licensure as a physical therapist who is educated outside the United States shall pass the FSBPT's National Physical Therapy Examination - Physical Therapist (NPTE-PT) with a passing score as established by the FSBPT, after submitting proof of compliance with Subsection 58-24b-302(3)(c).

(2) In accordance with Subsection 58-24b-302(2)(d), an applicant for licensure as a physical therapist assistant shall pass the FSBPT's National Physical Therapy Examination - Physical Therapist Assistant (NPTE-PTA), with a passing score as established by the FSBPT, after submitting proof that the applicant is in the final term of, or has graduated from, an accredited physical therapist assistant education program as defined in Subsection R156-24b-102(1)(a).

(3)(a) A passing score on the FSBPT's National Physical Therapy Examination shall be verified through [~~a score transfer from the~~]FSBPT.

(b) An applicant for licensure by endorsement may verify the applicant's score by providing a score transfer from FSBPT sent directly to the Division from the provider.

([~~2~~]4) An applicant for licensure as a physical therapist who fails the FSBPT's [~~National Physical Therapy Examination-Physical Therapist~~]NPTE-PT is eligible to sit for the FSBPT's [~~National Physical Therapy Examination-Physical Therapist Assistant~~]NPTE-PTA after registering with FSBPT.[~~submitting an application for licensure as a Physical Therapist Assistant.~~]

KEY: licensing, physical therapy, physical therapist, physical therapist assistant

Date of Enactment or Last Substantive Amendment: [~~December 11, 2017~~]2019

Notice of Continuation: October 6, 2016

Authorizing, and Implemented or Interpreted Law: 58-24b-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and Professional Licensing
R156-31c
Nurse Licensure Compact Rule

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 43953
FILED: 08/05/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The new Enhanced Nurse Licensure Compact, enacted in Title 58, Chapter 31e, as the Nurse Licensure Compact-Revised (NLC), became effective 07/20/2017, was implemented in 2018, and has superseded the old Title 58, Chapter 31c, Nurse Licensure Compact (see S.B. 48, 2017 General Session). Pursuant to Chapters VII and VIII of Section 58-31e-102, new NLC Final Rules have now been adopted by the Interstate Commission of Nurse Licensure Administrators Compact, effective 01/01/2019. Accordingly, the Division of Occupational and Professional Licensing (Division) proposes repealing Rule R156-31c in its entirety because Rule R156-31c has been superseded by the new NLC and new NLC final rules.

SUMMARY OF THE RULE OR CHANGE: In accordance with Section 58-31e-102; Article VII, Subsection (g)(1); and Article VIII; and in accordance with Subsection 58-31e-103(2), Rule R156-31c is repealed in its entirety. The new NLC final rules, effective 01/01/2019, adopted by the Interstate Commission of Nurse Licensure Compact Administrators, which supersede Rule R156-31c, are available on the National Council of State Boards of Nursing (NCSBN) website at https://www.ncsbn.org/nlcrules.htm. This link will be posted on the Division's website (www.dopl.utah.gov).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31c-103 and Subsection 58-1-106(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: No fiscal impact to the state is expected because Rule R156-31c has been statutorily superseded by the new NLC and new NLC final rules.
♦ LOCAL GOVERNMENTS: No fiscal impact to local governments is expected because Rule R156-31c has been statutorily superseded by the new NLC and new NLC final rules.
♦ SMALL BUSINESSES: No fiscal impact to small businesses is expected because Rule R156-31c has been statutorily superseded by the new NLC and new NLC final rules.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are approximately 35,890 licensed nurses in Utah that could potentially be impacted by this repeal. No fiscal impact to these persons is expected because Rule R156-31c has been statutorily superseded by the new NLC and new NLC final rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs to any affected persons is expected because Rule R156-31c has been statutorily superseded by the new NLC and new NLC final rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In accordance with Section 58-31e-102; Article VII, Subsection (g)(1); and Article VIII; and in accordance with Subsection 58-31e-103(2), Rule R156-31c is repealed in its entirety. The new National Licensure Compact (NLC) final rules, effective 01/01/2019 as adopted by the Interstate Commission of Nurse Licensure Compact Administrators, now apply. Small Businesses: No fiscal impact to small businesses is expected because Rule R156-31c has been statutorily superseded by the new NLC and new NLC rules. Non-Small Businesses: No fiscal impact to non-small businesses is expected because Rule R156-31c has been statutorily superseded by the new NLC and new NLC rules.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeff Busjahn by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at jbusjahn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 09/18/2019 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 475 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0

Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	60
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact to Non-Small Businesses
No fiscal impact to non-small businesses is expected because Rule R156-31c has been statutorily superseded by the new Nurse Licensure Compact (NLC) and new NLC rules.

The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing.

[~~R156-31c. Nurse Licensure Compact Rule.~~

~~R156-31c-101. Title.~~

~~This rule is known as the "Nurse Licensure Compact Rule".~~

~~R156-31c-102. Definitions.~~

~~In addition to the definitions in Title 58, Chapters 1 and 31c, as used in Title 58, Chapter 31c or this rule:~~

~~(1) "Board", as used in this rule, means the party state's regulatory body responsible for issuing nurse licenses.~~

~~(2) "Business days", as used in Subsection R156-31c-201(9), means scheduled work days for the nurse licensing agency of the new home state.~~

~~(3) "Information system", as used in this rule, means the coordinated licensure information system as defined in Section 58-31c-102.~~

~~(4) "Primary state of residence", as used in this rule, means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.~~

~~(5) "Public", as used in this rule, means any individual or entity other than designated staff or representatives of party state Boards or the National Council of State Boards of Nursing, Inc.~~

~~R156-31c-103. Authority - Purpose.~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 31c.~~

~~R156-31c-104. Organization - Relationship to Rule R156-1.~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.~~

~~R156-31c-201. Issuing a License.~~

~~(1) As of July 1, 2005 no applicant for initial licensure will be issued a compact license granting a multi-state privilege to practice unless the applicant first obtains a passing score on the applicable NCLEX examination or any predecessor examination used for licensure.~~

~~(2) A nurse applying for a license in a home party state shall produce evidence of the nurse's primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include:~~

~~(a) driver's license with a home address;~~

~~(b) voter registration card displaying a home address;~~

~~(c) federal income tax return declaring the primary state of residence;~~

~~(d) military form no. 2058 - state of legal residence certificate; or~~

~~(e) W-2 form from the United States government or any bureau, division or agency thereof indicating the declared state of residence.~~

~~(3) A nurse on a visa from another country applying for licensure in a party state may declare either the country of origin or the party state as the primary state of residence. If the foreign country is declared the primary state of residence, a single state license will be issued by the party state.~~

~~(4) A license issued by a party state is valid for practice in all other party states unless clearly designated as valid only in the state which issued the license.~~

~~(5) When a party state issues a license authorizing practice only in that state and not authorizing practice in other party states (i.e. a single state license), the license shall be clearly marked with words indicating that it is valid only in the state of issuance.~~

~~(6) A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multi-state privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed 90 days.~~

~~(7) The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the 90 day period in Subsection (6) shall be stayed until resolution of the pending investigation.~~

~~(8) The former home state license shall be expired and no longer valid upon the issuance of a new home state license.~~

~~(9) If a decision is made by the new home state denying licensure the new home state shall notify the former home state within ten business days and the former home state shall take action in accordance with that state's laws and rules.~~

~~R156-31c-302. Limitations on Multi-state Licensure Privilege - Discipline.~~

~~(1) Home state Boards shall include in all licensure disciplinary orders and stipulation agreements that limit practice or require monitoring the requirement that the licensee subject to said order or stipulation will agree to limit the licensee's practice to the home state during the pendency of the order or stipulation. This requirement may, in the alternative, allow the nurse to practice in other party states with prior written authorization from both the home state and such other party state Boards.~~

~~(2) An individual who had a license which was surrendered, revoked, suspended, or an application denied for cause in a prior state of residence may be issued a single state license in a new primary state of residence until such time as the individual would be eligible for an unrestricted license by the prior state(s) of~~

~~adverse action. Once eligible for licensure in the prior state, a multistate license may be issued.~~

~~**R156-31c-401. Information System.**~~
~~(1) Levels of Access:~~
~~(a) The public shall have access to nurse licensure information limited to:~~
~~(i) the nurse's name;~~
~~(ii) jurisdiction(s) of licensure;~~
~~(iii) license expiration date(s);~~
~~(iv) licensure classification(s) and status(es);~~
~~(v) public emergency and final disciplinary actions, as defined by the contributing state authority; and~~
~~(vi) the status of multi-state licensure privileges.~~
~~(b) Non-party state Boards shall have access to all Information System data except current significant investigative information and other information as limited by the contributing party state authority.~~
~~(c) Party state Boards shall have access to all Information System data contributed by the party states and other information as limited by contributing non-party states' authority.~~
~~(2) The licensee may request in writing to the home state Board to review the data relating to the licensee in the Information System. In the event a licensee asserts that any data relating to him is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The Board shall verify and within ten business days correct inaccurate data to the Information System.~~
~~(3) The Board shall report to the Information System within ten business days:~~
~~(a) disciplinary action, stipulation or order requiring participation in alternative programs or which limit practice or require monitoring (except agreements relating to participation in alternative programs required to remain nonpublic by the contributing state authority);~~
~~(b) dismissal of a complaint; and~~
~~(c) changes in status of disciplinary action, or licensure encumbrance.~~
~~(4) Current significant investigative information shall be deleted from the Information System within ten business days upon report of disciplinary action, stipulation or order requiring participation in alternative programs or stipulations which limit practice or require monitoring or dismissal of a complaint.~~
~~(5) Changes to licensure information in the Information System shall be completed within ten business days upon notification by a Board.~~

~~**KEY: nurses, licensing**~~
~~**Date of Enactment or Last Substantive Amendment: December 22, 2014**~~
~~**Notice of Continuation: June 17, 2019**~~
~~**Authorizing, and Implemented or Interpreted Law: 58-31c-103; 58-1-106(1)(a)**~~]

Commerce, Occupational and Professional Licensing
R156-60
Mental Health Professional Practice Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43993
FILED: 08/15/2019

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On June 17, 2019, Governor Herbert directed Francine Giani, the Executive Director of the Utah Department of Commerce, who oversees the Division of Occupational and Professional Licensing (Division), to have the Psychologist Licensing Board provide guidance, based on the best available science, for rules on the ethical and professional practice of psychology concerning interventions for minor children regarding their sexual orientation and gender identity. To avoid duplication of efforts and confusion, Governor Herbert directed the Psychologist Licensing Board to take the lead, after which the three other boards that advise the licensing of the mental health professions in Utah -- the Social Worker Licensing Board, the Clinical Mental Health Counselor Licensing Board, and the Marriage and Family Therapist Licensing Board -- were to take up this issue. In July 2019, the Psychologist Licensing Board conducted an extensive review of the professional literature, consulted with national experts, and coordinated with the American Psychological Association to draft amendments to their Rule R156-61. These amendments defined, clarified, and established current professional definitions and standards with respect to sexual orientation and gender identity, and in particular defined as unprofessional conduct the practice of sexual orientation change efforts or gender identity change efforts with a client who is less than 18 years old. Thereafter, the Social Worker Licensing Board, the Clinical Mental Health Counselor Licensing Board, and the Marriage and Family Therapist Licensing Board each separately reviewed these draft rules and language in light of each Board's professional field of study and any guidelines, position statements, studies, etc. considered by their own professional associations. On August 1, 2019, the Social Worker Licensing Board met and conducted an extensive review and discussion of professional literature and research, including the National Association of Social Workers (NASW) May 2015 Position Statement against sexual orientation change efforts and conversion therapy. The Board approved of the language drafted by the Psychologist Licensing Board

and voted to file similar proposed amendments to their own Rule R156-60. (The Social Worker Licensing Board also voted to expand their Rule R156-60's definition of "unprofessional conduct" to include referring clients to practitioners or programs claiming therapies and treatments designed to change sexual orientation or gender identity. However, for consistency and to avoid confusion, the Division has not included in the subject filing this expanded definition of unprofessional conduct to include SOCE (sexual orientation change efforts) or GICE (gender identity change efforts) referrals.) On August 7, 2019, the Clinical Mental Health Counselor Licensing Board met to review these issues, and after discussion that Board also approved of the language drafted by the Psychologist Licensing Board, and voted in favor of filing similar proposed amendments to Rule R156-60. On August 8, 2019, the Marriage and Family Therapist Licensing Board met to review these issues. After an extensive review and discussion, the Board voted to accept the language put forward by the Psychologist Licensing Board for filing similar proposed amendments to Rule R156-60. (Additionally, that Board voted to further review these issues in subsequent meetings, to find a way to support what was put forward but to do it in a way that is mindful in a systemic nature of the issues as they impact families.)

SUMMARY OF THE RULE OR CHANGE: In Section R156-60-102, the proposed amendments update references, and define the terms "gender identity", "sexual orientation", "gender identity change efforts" (GICE), and "sexual orientation change efforts" (SOCE). In Section R156-60-502, the proposed amendments update references, and add to the definition of unprofessional conduct "engaging in, or attempting to engage in the practice of sexual orientation change efforts or gender identity change efforts with a client who is less than 18 years old".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Division estimates that these proposed amendments may result in a potential increase of two additional complaints of unprofessional conduct each year, requiring two investigations consisting of approximately 20 hours per investigation. This may result in a cost to Division investigations of approximately $1,000 per fiscal year ongoing. These amendments are not expected to impact existing Division practices or procedures, or other state practices or procedures. Additionally, as described below in the analysis for small businesses and non-small businesses, the Division does not expect any state agencies that may be acting as employers of licensed individuals engaging in the practice of mental health therapy to experience any measurable fiscal impact. Except as described above, the Division estimates that these proposed amendments will have no measurable impact on state government revenues or expenditures, beyond a minimal cost to the Division of approximately $75 to disseminate this rule once these proposed amendments are made effective.

♦ LOCAL GOVERNMENTS: The Division estimates that these proposed amendments will have no measurable impact on local governments' revenues or expenditures. None of these amendments are expected to impact local governments practices or procedures. Additionally, as described below in the analysis for small businesses and non-small businesses, the Division does not expect any local governments that may be acting as employers of licensed individuals engaging in the practice of mental health therapy to experience any measurable fiscal impacts.

♦ SMALL BUSINESSES: These proposed amendments will regulate individuals licensed under Title 58 who are practicing within their respective licensing acts and engage in the practice of mental health therapy. These amendments may therefore indirectly affect the estimated 1,132 small businesses in Utah comprising establishments of licensees engaged in the practice of mental health therapy or who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 624190). However, these proposed amendments are not expected to result in any measurable fiscal impact for small businesses. First, the amendments update this rule in accordance with clear practice guidelines and position statements already existing in the industry, including from the American Psychological Association, the American Psychiatric Association, the National Association of Social Workers, and the Substance Abuse and Mental Health Services Administration. The practices of most small businesses are, or should be, already consistent with these existing professional practice guidelines and position statements. Second, the proposed amendments will only affect licensees who violate the rules and are disciplined for unprofessional conduct, and as described below for other persons it is estimated that for the typical licensee, the proposed amendments will have no direct or indirect fiscal impact. Accordingly, any impact from non-compliance will never be uniformly felt across the industry, and most small businesses will never be impacted. Finally, although a small business employing a licensee who is disciplined for unprofessional conduct may face indirect financial costs for such noncompliance, it is impossible to estimate what such indirect costs might be with any accuracy at present, not only because any such violations are unforeseeable, but because any indirect costs from such unforeseen violations that any small business may potentially experience from any potential sanctions will vary widely depending on the unique characteristics of the employer and the individual characteristics and actions of each licensee. This relevant data is unavailable and the cost of acquiring any such data is prohibitively expensive. In sum, the scope of these proposed amendments is so narrow that they will not affect the vast majority of small business, and will not result in a measurable fiscal impact to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The following individuals licensed under Title 58 may be

affected by these proposed amendments: Approximately 4,209 licensed clinical social workers, 1,384 licensed certified social workers, and 30 licensed certified social worker interns. Approximately 1,485 licensed clinical mental health counselors, 2 licensed volunteer clinical mental health counselors, 382 licensed associate clinical mental health counselors, and 7 licensed associate clinical mental health counselor externs. Approximately 787 licensed marriage and family therapists, 181 licensed associate marriage and family therapists, and 3 associate marriage and family therapist externs. Finally, approximately 135 APRNs (advanced practice registered nurses) specializing in psychiatric mental health nursing, 1,198 osteopathic physicians (DOs) of which 25 are DO psychiatrists, and 11,221 physicians and surgeons (MDs) of which 290 are MD psychiatrists. However, no measurable fiscal impact to any of these persons is expected. First, the proposed amendments will only affect licensees who violate the rules and are sanctioned, so that most licensees will never be impacted. These amendments update this rule in accordance with practice guidelines and position statements already existing across the mental health professions, and the practices of most licensees are or should be already consistent with existing professional practice guidelines and position statements. Further, the goal of the rules is to provide a deterrent, such that there is no net impact on all parties involved and minimal occasions to sanction a licensee for noncompliance. Therefore, for the typical licensee, the proposed amendments are expected to have no direct or indirect fiscal impact. Second, although a licensee who is disciplined for unprofessional conduct may experience a fiscal impact, it is impossible to estimate what such costs might be with any accuracy at present, both because they would apply only in cases of unforeseeable violations, and because any potential costs would depend on the unique characteristics and actions of each individual licensee. This relevant data is unavailable and the cost of acquiring any such data is prohibitively expensive.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As described above for other persons, the Division does not anticipate any compliance costs for any affected persons from these proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In Section R156-60-102, the proposed amendments update references, and define the terms "gender identity", "sexual orientation", "gender identity change efforts" (GICE), and "sexual orientation change efforts" (SOCE). In Section R156-60-502, the proposed amendments update references, and add to the definition of unprofessional conduct "engaging in, or attempting to engage in the practice of sexual orientation change efforts or gender identity change efforts with a client who is less than 18 years old". Small Businesses: These proposed amendments will regulate individuals licensed under Title 58 who are practicing within their respective licensing acts and engage in the practice of mental health therapy. These amendments may therefore indirectly affect the estimated 1,132 small businesses in Utah comprising establishments of licensees engaged in the practice of mental health therapy or who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, and 624190). However, these proposed amendments are not expected to result in any measurable fiscal impact for small businesses. Non-Small Businesses: These proposed amendments will regulate individuals licensed under Title 58 who are practicing within their respective licensing acts and engage in the practice of mental health therapy. These amendments may therefore indirectly affect the estimated 72 non-small businesses in Utah comprising establishments of licensees engaged in the practice of mental health therapy or who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, and 624190). However, these proposed amendments are not expected to result in any measurable fiscal impact.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 09/26/2019 09:00 AM, Heber Wells Bldg, 160 E 300 S, North Conference Room (first floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$1,075	$1,000	$1,000
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$1,075**	**$1,000**	**$1,000**
Fiscal Benefits			

State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**($1,075)**	**($1,000)**	**($1,000)**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact to Non-Small Businesses

These proposed amendments will regulate individuals licensed under Title 58 who are practicing within their respective licensing acts and engage in the practice of mental health therapy. These amendments may therefore indirectly affect the estimated 72 non-small businesses in Utah comprising establishments of licensees engaged in the practice of mental health therapy or who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 624190). However, these proposed amendments are not expected to result in any measurable fiscal impact for non-small business. First, the amendments update the rule in accordance with clear practice guidelines and position statements already existing in the industry, including from the American Psychological Association, the American Psychiatric Association, the National Association of Social Workers, and the Substance Abuse and Mental Health Services Administration. The practices of most non-small businesses are, or should be, already consistent with existing professional practice guidelines and position statements. Second, the proposed amendments will only affect licensees who violate the rules and are disciplined for unprofessional conduct, and as described for other persons it is estimated that for the typical licensee, the proposed amendments will have no direct or indirect fiscal impact. Accordingly, any impact from non-compliance will never be uniformly felt across the industry, and most non-small businesses will never be impacted. Finally, although a non-small business employing a licensee who is disciplined for unprofessional conduct may face indirect financial costs for such noncompliance, it is impossible to estimate what such indirect costs might be with any accuracy at present, not only because any such violations are unforeseeable, but because any indirect costs from such unforeseen violations that any non-small business may potentially experience from any potential sanctions will vary widely depending on the unique characteristics of the employer and the individual characteristics and actions of each licensee. This relevant data is unavailable and the cost of acquiring any such data is prohibitively expensive. In sum, the scope of these proposed amendments is so narrow that they will not affect the vast majority of non-small business, and will not result in a measurable fiscal impact to non-small business.

The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing.
R156-60. Mental Health Professional Practice Act Rule.
R156-60-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, or this rule:

(1) "Approved diagnostic and statistical manual for mental disorders" means the following:

(a) Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition: DSM-5 [~~or Fourth Edition: DSM-IV~~] published by the American Psychiatric Association;

(b) [~~2013~~]2015 ICD-[~~9~~]10-CM for Physicians, [~~Volumes 1 and 2~~]Professional Edition published by the American Medical Association; or

(c) ICD-10-CM [~~2013~~]2019: The Complete Official Draft Code Set published by the American Medical Association.

(2) "Client or patient" means an individual who, when competent requests, or when not competent to request is lawfully provided professional services by a mental health therapist when the mental health therapist agrees verbally or in writing to provide professional services to that individual, or without an overt agreement does in fact provide professional services to that individual.

(3) "Direct supervision" of a supervisee in training, as used in Subsection 58-60-205(1)(f), 58-60-305(1)(f), and 58-60-405(1)(f), means:

(a) a supervisor meeting with the supervisee when both are physically present in the same room at the same time; or

(b) a supervisor meeting with the supervisee remotely via real-time electronic methods that allow for visual and audio interaction between the supervisor and supervisee under the following conditions:

(i) the supervisor and supervisee shall enter into a written supervisory agreement which, at a minimum, establishes the following:

(A) frequency, duration, reason for, and objectives of electronic meetings between the supervisor and supervisee;

(B) a plan to ensure accessibility of the supervisor to the supervisee despite the physical distance between their offices;

(C) a plan to address potential conflicts between clinical recommendations of the supervisor and the representatives of the agency employing the supervisee;

(D) a plan to inform a supervisee's client or patient and employer regarding the supervisee's use of remote supervision;

(E) a plan to comply with the supervisor's duties and responsibilities as established in rule; and

(F) a plan to physically visit the location where the supervisee practices on at least a quarterly basis during the period of supervision or at a lesser frequency as approved by the Division in collaboration with the Board;

(ii) the supervisee submits the supervisory agreement to the Division and obtains approval before counting direct supervision completed via live real-time methods toward the 100 hour direct supervision requirement; and

(iii) in evaluating a supervisory agreement, the Division shall consider whether it adequately protects the health, safety, and welfare of the public.

(4) "Employee" means an individual who is or should be treated as a W-2 employee by the Internal Revenue Service.

(5) "Gender expression" means an individual's presentation and behaviors that express aspects of gender, including gender identity or gender role.

(6) "Gender identity" means an individual's experience of their gender, including one's view of oneself as a man, woman, or any other gender.

(7) "Gender identity change efforts" means methods, practices, procedures, or techniques with the goal of changing an individual's gender identity, gender expression, or any of the associated components of these.

([~~5~~]8) "General supervision" means that the supervisor is available for consultation with the supervisee by personal face to face contact, or direct voice contact by telephone, radio, or some other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged.

([~~6~~]9) "On-the-job training program" means a program that:

(a) is applicable to individuals who have completed all courses required for graduation in a degree or formal training program that would qualify for licensure under this chapter;

(b) starts immediately upon completion of all courses required for graduation;

(c) ends 45 days from the date it begins, or upon licensure, whichever is earlier, and may not be extended or used a second time;

(d) is completed while the individual is an employee of a public or private agency engaged in mental health therapy or substance use disorder counseling; and

(e) is under supervision by a qualified individual licensed under this chapter which includes supervision meetings on at least a weekly basis when the supervisee and supervisor are physically present in the same room at the same time.

(10) "Sexual orientation" means an individual's gendered patterns in attraction or behavior, identity related to these patterns, or associated components.

(11) "Sexual orientation change efforts" means methods, practices, procedures, or techniques with the goal of changing an individual's sexual orientation or any of its components, including gendered patterns in attraction or behavior and identity related to these patterns.

(12) The terms "sexual orientation change efforts" and "gender identity change efforts" do not include methods, practices, procedures, or techniques that:

(a) do not have the goal of changing an individual's sexual orientation or gender identity; and

(b) have any of the following goals:

(i) reducing an individual's internalized stigma;

(ii) providing acceptance, support, and comprehensive assessment of an individual;

(iii) facilitating an individual's active coping, social support, and identity exploration and development;

(iv) assisting an individual undergoing gender transition; or

(v) preventing or addressing an individual's unlawful conduct or unsafe sexual practices in a manner that is neutral with respect to the sexual orientation and gender identity of the individual.

R156-60-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) when providing services remotely:

([~~1~~]a) failing to practice according to professional standards of care in the delivery of services remotely;

([~~2~~]b) failing to protect the security of electronic, confidential data and information; or

([~~3~~]c) failing to appropriately store and dispose of electronic, confidential data and information; or

(2) engaging in, or attempting to engage in the practice of sexual orientation change efforts or gender identity change efforts with a client who is less than 18 years old.

KEY: licensing, mental health, therapists
Date of Enactment or Last Substantive Amendment: [~~September 21, 2015~~]2019
Notice of Continuation: February 26, 2019
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-60-101

Commerce, Occupational and Professional Licensing
R156-61
Psychologist Licensing Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43994
FILED: 08/15/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On June 17, 2019, Governor Herbert directed Francine Giani, the Executive Director of the Utah Department of Commerce, who oversees the Division of Occupational and Professional Licensing (Division), to have the Psychologist Licensing Board provide guidance, based on the best available science, for rules on the ethical and professional practice of psychology concerning interventions for minor children regarding their sexual orientation and gender identity. After an extensive review of the professional literature, consultation with national experts, and coordination with the American Psychological Association, the Utah Psychologist Licensing Board recommends these amendments to update this rule to define, clarify, and establish current professional definitions and standards with respect to sexual orientation and gender identity, and in particular to define as unprofessional conduct the practice of sexual orientation change efforts or gender identity change efforts with a client who is less than 18 years old. In support of this filing, the Psychologist Licensing Board declares as follows: "It is our conclusion that practices intended to change sexual orientation or gender identity are not demonstrated to be effective, and are associated with harm and the risk of harm, including significant increases in depression, suicidal ideation and suicide attempts in minors. Interventions undertaken in the name of mental health treatment that harm — and risk harm — to others are contrary to the ethical principles and standards of our profession; chief among these ethical imperatives is our responsibility to "Do No Harm." As such, it is our determination that psychologists participating in these

practices are engaging in unprofessional conduct. These conclusions are consistent with practice guidelines and position statements by the American Psychological Association, the American Psychiatric Association, the National Association of Social Workers, the Substance Abuse and Mental Health Services Administration, and many other health and mental health organizations. Therefore, we have drafted a proposed rule change to address this issue."

SUMMARY OF THE RULE OR CHANGE: In Section R156-61-102, the proposed amendments update references, and define the terms "gender identity", "sexual orientation", "gender identity change efforts" (GICE), and "sexual orientation change efforts" (SOCE). In Section R156-61-502, the proposed amendments update references and add to the definition of unprofessional conduct "engaging in, or attempting to engage in the practice of sexual orientation change efforts or gender identity change efforts with a client who is less than 18 years old".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-61-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

MATERIALS INCORPORATED BY REFERENCE:

- Updates ASPPB Code of Conduct, published by Association of State and Provincial Psychology Boards (ASPPB), January 1, 2018
- Updates Ethical Principles of Psychologists and Code of Conduct, published by American Psychological Association (APA), January 1, 2017

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Division estimates that these proposed amendments may result in a potential increase of two additional complaints of unprofessional conduct each year, requiring two investigations consisting of approximately 20 hours per investigation. This may result in a cost to Division investigations of approximately $1,000 per fiscal year ongoing. The amendments are not expected to impact existing Division practices or procedures or other state practices or procedures. Additionally, as described below in the analysis for small businesses and non-small businesses, the Division does not expect any state agencies that may be acting as employers of licensed psychologists to experience any measurable fiscal impacts. Except as described above, the Division estimates that these proposed amendments will have no measurable impact on state government revenues or expenditures, beyond a minimal cost to the Division of approximately $75 to disseminate this rule once the proposed amendments are made effective.

♦ LOCAL GOVERNMENTS: The Division estimates that these proposed amendments will have no measurable impact on local governments' revenues or expenditures. None of these amendments are expected to impact local governments practices or procedures. Additionally, as described below in the analysis for small businesses and non-small businesses, the Division does not expect any local governments that may be acting as employers of licensed psychologists to experience any measurable fiscal impacts.

♦ SMALL BUSINESSES: These proposed amendments will regulate licensed psychologists practicing in Utah, which may indirectly affect the estimated 1,132 small businesses in Utah comprising establishments of licensees engaged in the practice of psychology or who may employ licensed psychologists, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 624190). However, these proposed amendments are not expected to result in any measurable fiscal impact for small business. First, the amendments update this rule in accordance with clear practice guidelines and position statements already existing in the industry, including from the American Psychological Association, the American Psychiatric Association, the National Association of Social Workers, and the Substance Abuse and Mental Health Services Administration. The practices of most small businesses are, or should be, already consistent with existing professional practice guidelines and position statements. Second, the proposed amendments will only affect licensees who violate the rules and are disciplined for unprofessional conduct, and as described below for other persons it is estimated that for the typical licensee, the proposed amendments will have no direct or indirect fiscal impact. Accordingly, any impact from non-compliance will never be uniformly felt across the industry, and most small businesses will never be impacted. Finally, although a small business employing a licensee who is disciplined for unprofessional conduct may face indirect financial costs for such noncompliance, it is impossible to estimate what such indirect costs might be with any accuracy at present, not only because any such violations are unforeseeable, but because any indirect costs from such unforeseen violations that any small business may potentially experience from any potential sanctions will vary widely depending on the unique characteristics of the employer and the individual characteristics and actions of each licensee. This relevant data is unavailable and the cost of acquiring any such data is prohibitively expensive. In sum, the scope of these proposed amendments is so narrow that they will not affect the vast majority of small businesses, and will not result in a measurable fiscal impact to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are approximately 1,058 licensed psychologists and 36 licensed psychology residents in Utah that will be affected by these proposed amendments. No measurable fiscal impact to these persons is expected. First, the proposed amendments will only affect licensees who violate the rules and are sanctioned, so that most licensees will never be impacted. The amendments update the rule in accordance with clear practice guidelines and position statements already existing in the industry, and the practices of most licensees are or should be already consistent with existing professional practice guidelines and position statements. Further, the goal of the rules is to provide a deterrent, such that there is no net impact on all parties involved and minimal occasions to

sanction a licensee for noncompliance. Therefore, for the typical licensee, the proposed amendments are expected to have no direct or indirect fiscal impact. Second, although a licensee who is disciplined for unprofessional conduct may experience a fiscal impact, it is impossible to estimate what such costs might be with any accuracy at present, both because they would apply only in cases of unforeseeable violations, and because any potential costs would depend on the unique characteristics and actions of each individual licensee. This relevant data is unavailable and the cost of acquiring any such data is prohibitively expensive.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As described above for other persons, the Division does not anticipate any compliance costs for any affected persons from these proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Utah Psychologist Licensing Board recommends these amendments to update the rule to define, clarify and establish current professional definitions and standards with respect to sexual orientation and gender identity, and in particular to define as unprofessional conduct the practice of sexual orientation change efforts or gender identity change efforts with a client who is less than 18 years old. Small Businesses: These proposed amendments will regulate licensed psychologists in Utah, which may indirectly affect the estimated 1,132 small businesses in Utah comprising establishments of licensees engaged in the practice of psychology or who may employ licensed psychologists, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, and 624190). However, these proposed amendments are not expected to result in any measurable fiscal impact for small businesses. Non-Small Businesses: These proposed amendments will regulate licensed psychologists practicing in Utah, which may indirectly affect the estimated 72 non-small businesses in Utah comprising establishments of licensees engaged in the practice of psychology or who may employ licensed psychologists, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, and 624190). However, these proposed amendments are not expected to result in any measurable fiscal impact for non-small businesses.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 09/26/2019 09:00 AM, Heber Wells Bldg, 160 E 300 S, North Conference Room (first floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$1,075	$1,000	$1,000
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$1,075**	**$1,000**	**$1,000**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**($1,075)**	**($1,000)**	**($1,000)**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact to Non-Small Businesses

These proposed amendments will regulate licensed psychologists practicing in Utah, which may indirectly affect the estimated 72 non-small businesses in Utah comprising establishments of licensees engaged in the practice of psychology or who may employ licensed psychologists, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 624190). However, these proposed amendments are not expected to result in any measurable fiscal impact for non-small business. First, the amendments update the rule in accordance with clear practice guidelines and position statements already existing in the industry, including from the American Psychological Association, the American Psychiatric Association, the National Association of Social Workers, and the Substance Abuse and Mental Health Services Administration. The practices of most non-small businesses are, or should be, already consistent with existing professional practice guidelines and position statements. Second, the proposed amendments will only affect licensees who violate the rules and are disciplined for unprofessional conduct, and as described above for other persons it is estimated that for the typical licensee, the proposed amendments will have no direct or indirect fiscal impact. Accordingly, any impact from non-compliance will never be uniformly felt across the industry, and most non-small businesses will never be impacted. Finally, although a non-small business employing a licensee who is disciplined for unprofessional conduct may face indirect financial costs for such noncompliance, it is impossible to estimate what such indirect costs

might be with any accuracy at present, not only because any such violations are unforeseeable, but because any indirect costs from such unforeseen violations that any non-small business may potentially experience from any potential sanctions will vary widely depending on the unique characteristics of the employer and the individual characteristics and actions of each licensee. This relevant data is unavailable and the cost of acquiring any such data is prohibitively expensive. In sum, the scope of these proposed amendments is so narrow that they will not affect the vast majority of non-small business, and will not result in a measurable fiscal impact to non-small business.

The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing.
R156-61. Psychologist Licensing Act Rule.
R156-61-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 61, as used in Title 58, Chapters 1 and 61 or this rule:

(1) "Approved diagnostic and statistical manual for mental disorders" means the following:

(a) Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition: DSM-5 [~~or Fourth Edition: DSM-IV~~] published by the American Psychiatric Association;

(b) [~~2013~~]2015 ICD-[~~9~~]10-CM for Physicians, [~~Volumes 1 and 2~~]Professional Edition published by the American Medical Association; or

(c) ICD-10-CM [~~2013~~]2019: The Complete Official Draft Code Set published by the American Medical Association.

(2) "CoA" means Committee on Accreditation of the American Psychological Association.

(3) "Direct supervision" of a supervisee in training, as used in Subsection 58-61-304(1)(f), means:

(a) a supervisor meeting with the supervisee when both are physically present in the same room at the same time; or

(b) a supervisor meeting with the supervisee remotely via real-time electronic methods that allow for visual and audio interaction between the supervisor and supervisee under the following conditions:

(i) the supervisor and supervisee shall enter into a written supervisory agreement which, at a minimum, establishes the following:

(A) frequency, duration, reason for, and objectives of electronic meetings between the supervisor and supervisee;

(B) a plan to ensure accessibility of the supervisor to the supervisee despite the physical distance between their offices;

(C) a plan to address potential conflicts between clinical recommendations of the supervisor and the representatives of the agency employing the supervisee;

(D) a plan to inform a supervisee's client or patient and employer regarding the supervisee's use of remote supervision;

(E) a plan to comply with the supervisor's duties and responsibilities as established in rule; and

(F) a plan to physically visit the location where the supervisee practices on at least a quarterly basis during the period of supervision or at a lesser frequency as approved by the Division in collaboration with the Board;

(ii) the supervisee submits the supervisory agreement to the Division and obtains approval before counting direct supervision completed via live real-time methods toward the 40 hour direct supervision requirement; and

(iii) in evaluating a supervisory agreement, the Division shall consider whether it adequately protects the health, safety, and welfare of the public.

(4) "Gender expression" means an individual's presentation and behaviors that express aspects of gender, including gender identity or gender role.

(5) "Gender identity" means an individual's experience of their gender, including one's view of oneself as a man, woman, or any other gender.

(6) "Gender identity change efforts" means methods, practices, procedures, or techniques with the goal of changing an individual's gender identity, gender expression, or any of the associated components of these.

([~~4~~]7) "On-the-job training program approved by the Division", as used in Subsection 58-61-301(1)(b), means a program that meets the standards established in Section R156-61-601.

([~~5~~]8)(a) "Predoctoral internship" refers to a formal training program that meets the minimum requirements of the Association of Psychology Postdoctoral and Internship Centers (APPIC) offered to culminate a doctoral degree in clinical, counseling, or school psychology.

(b) A training program may be a full-time one year program or a half-time two year program.

([~~6~~]9)(a) "Program accredited by the CoA", as used in Subsections R156-61-302a(1), means a psychology department program that, as of the date on which a student completes a doctoral psychology degree program:

(i) has obtained an accreditation from the CoA; or

(ii)(A) has applied to the CoA for accreditation;

(B) has been approved by the CoA for a site visit, which is to occur within the ensuing six years; and

(C) has not previously been denied accreditation by the CoA.

([~~7~~]10)(a) "Program of respecialization", as used in Subsection R156-61-302a(3), is a formal program designed to prepare someone with a doctoral degree in psychology with the necessary skills to practice psychology.

(b) The respecialization activities shall include substantial requirements that are formally offered as an organized sequence of course work and supervised practicum leading to a certificate (or similar recognition) by an educational body that offers a doctoral degree qualifying for licensure in the same area of practice as that of the certificate.

(11)(a) "Psychology training", as used in Subsection 58-61-304(1)(e), means practical training experience providing direct services in the practice of mental health therapy and psychology under supervision. All activities in full-time internships and full-time post-doctoral positions devoted solely to mental health delivery meet this definition.

(b) Activities not directly related to the practice of psychology, even if commonly performed by psychologists, do not meet the definition of psychology training under Subsection 58-61-304(1)(e). Examples of ineligible activities include psychology coursework, analog clinical activities (e.g. role plays), activities required for business purposes (e.g. billing), supervision of others engaged in activities other than practice of psychology (e.g. supervising adolescents in wilderness settings), and activities commonly performed by non-psychologists(e.g. teaching of psychology on topics not of a professional nature).

([8]12) "Qualified faculty", as used in Subsection 58-1-307(1)(b), means a university faculty member who provides pre-doctoral supervision of clinical or counseling experience in a university setting who:

(i) is licensed in Utah as a psychologist; and

(ii) is training students in the context of a doctoral program leading to licensure.

([9]13) "Residency program", as used in Subsection 58-61-301(1)(b), means a program of post-doctoral supervised clinical training necessary to meet licensing requirements as a psychologist.

[

~~(10)(a) "Psychology training", as used in Subsection 58-61-304(1)(c), means practical training experience providing direct services in the practice of mental health therapy and psychology under supervision. All activities in full-time internships and full-time post-doctoral positions devoted solely to mental health delivery meet this definition.~~

~~(b) Activities not directly related to the practice of psychology, even if commonly performed by psychologists, do not meet the definition of psychology training under Subsection 58-61-304(1)(c). Examples of ineligible activities include psychology coursework, analog clinical activities (e.g. role plays), activities required for business purposes (e.g. billing), supervision of others engaged in activities other than practice of psychology (e.g. supervising adolescents in wilderness settings), and activities commonly performed by non-psychologists (e.g. teaching of psychology on topics not of a professional nature).~~]

(14) "Sexual orientation" means an individual's gendered patterns in attraction or behavior, identity related to these patterns, or associated components.

(15) "Sexual orientation change efforts" means methods, practices, procedures, or techniques with the goal of changing an individual's sexual orientation or any of its components, including gendered patterns in attraction or behavior and identity related to these patterns.

(16) The terms "sexual orientation change efforts" and "gender identity change efforts" do not include methods, practices, procedures, or techniques that:

(a) do not have the goal of changing an individual's sexual orientation or gender identity; and

(b) have any of the following goals:

(i) reducing an individual's internalized stigma;

(ii) providing acceptance, support, and comprehensive assessment of an individual;

(iii) facilitating an individual's active coping, social support, and identity exploration and development;

(iv) assisting an individual undergoing gender transition; or

(v) preventing or addressing an individual's unlawful conduct or unsafe sexual practices in a manner that is neutral with respect to the sexual orientation and gender identity of the individual.

R156-61-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) violation of any provision of the "Ethical Principles of Psychologists and Code of Conduct" of the American Psychological Association (APA) as adopted by the APA, [~~June 1, 2010~~]January 1, 2017 edition, which is adopted and incorporated by reference;

(2) violation of any provision of the "ASPPB Code of Conduct" of the Association of State and Provincial Psychology Boards (ASPPB) as adopted by the ASPPB, [~~2005~~]January 1, 2018 edition, which is adopted and incorporated by reference;

(3) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-61-302d and R156-61-302e;

(4) engaging in and aiding or abetting conduct or practices which are dishonest, deceptive or fraudulent;

(5) engaging in or aiding or abetting deceptive or fraudulent billing practices;

(6) failing to establish and maintain appropriate professional boundaries with a client or former client;

(7) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;

(8) engaging in sexual activities or sexual contact with a client with or without client consent;

(9) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;

(10) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition which could reasonably be expected to place the client at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and the client;

(11) engaging in sexual activities or sexual contact with client's relatives or other individuals with whom the client maintains a relationship when that individual is especially vulnerable or susceptible to being disadvantaged because of his personal history, current mental status, or any condition which could reasonably be expected to place that individual at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and that individual;

(12) physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;

(13) engaging in or aiding or abetting sexual harassment or any conduct which is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(14) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;

(15) exploiting a client for personal gain;

(16) using a professional client relationship to exploit a client or other person for personal gain;

(17) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

(18) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records;

(19) failure to cooperate with the Division during an investigation

(20) participating in a residency program or other post degree experience without being certified as a psychology resident for post-doctoral training and experience;

(21) supervising a residency program of an individual who is not certified as a psychology resident;[~~or~~]

(22) when providing services remotely:

(a) failing to practice according to professional standards of care in the delivery of services remotely;

(b) failing to protect the security of electronic, confidential data and information; or

(c) failing to appropriately store and dispose of electronic, confidential data and information; or

(23) engaging in, or attempting to engage in the practice of sexual orientation change efforts or gender identity change efforts with a client who is less than 18 years old.

KEY: licensing, psychologists
Date of Enactment or Last Substantive Amendment: [~~June 15, 2015~~]2019
Notice of Continuation: September 18, 2018
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-61-101

Education, Administration
R277-318
Teacher Salary Supplement Program

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 43983
FILED: 08/13/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-318 was adopted to replace a previous rule governing the Teacher Salary Supplement Program and to implement legislative changes passed through H.B. 236 in the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: Rule R277-318 establishes application and appeal procedures for administration of the Teacher Salary Supplement Program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-2-504 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Previously, the rule for the Teacher Salary Supplement Program was Rule R277-523 which is being repealed. This rule is being numbered within the new licensing rule numbering system and updated to reflect changes made by H.B. 236 and S.B. 208 (2019). This rule will not impact state government revenues or expenditures because the program is funded with a state appropriation, and the program changes are statutory and were covered with an increase in the legislative appropriation for the program. (EDITOR'S NOTE: The proposed repeal of Rule R277-523 is under Filing No. 43986 in this issue, September 1, 2019, of the Bulletin.)
♦ LOCAL GOVERNMENTS: This rule is not expected to have any fiscal impact on local governments' revenues or expenditures. This rule will not impact local governments because the program is funded with a state appropriation, and the program changes are statutory and were covered with an increase in the legislative appropriation for the program.
♦ SMALL BUSINESSES: This rule is not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule applies to the Teacher Salary Supplement Program which is state funded and thus does not apply to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule is not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule applies to the Teacher Salary Supplement Program which is state funded and thus does not apply to other individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impacts on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses. This proposed rule has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
R277-318. Teacher Salary Supplement Program.
R277-318-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-504, which directs the Board to make rules regarding the administration of the Teacher Salary Supplement Program.

(2) The purpose of this rule is to establish application and appeal procedures for administration of the Teacher Salary Supplement Program.

R277-318-2. Definitions.

(1) "Eligible teacher" means the same as that term is defined in Subsection 53F-2-504(1)(c).

(2) "Substantially equivalent" means commonly recognized by a Utah university for a degree in a specific subject.

(3) "Teacher Salary Supplement Program" or "TSSP" means the salary supplement program authorized by the Legislature in Section 53F-2-504.

R277-318-3. Program Administration.

(1) The Superintendent shall allocate funds for salary supplements to eligible teachers in accordance with Subsection 53F-2-504(3).

(2) The Superintendent shall maintain an online application system for the TSSP and make it available to educators no later than October 1 of each school year.

(3) In order to receive an award under this program, an applicant for the TSSP shall apply to the Superintendent by the following deadlines for each school year in which the applicant is an eligible teacher:

(a) for trimester payments to the educator, prior to November 15;

(b) for semester payments to the educator, prior to January 31; and

(c) for an annual payment to the educator, prior to April 30.

(4)(a) If an applicant is denied funds under this rule, the applicant may submit a written appeal to the Superintendent prior to June 1 of each school year.

(b) An appeal under Subsection (4)(a) is limited to the following issues:

(i) whether the applicant has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in Section 53F-2-504;

(ii) whether the applicant has met the qualifying teaching background requirements described in Section 53F-2-504;

(iii) whether the Superintendent's initial denial was inconsistent with Section 53F-2-504 or this Rule R277-318; or

(iv) whether the Superintendent's initial denial was based on inaccurate or incomplete information.

(c) The Superintendent may designate a panel of at least two Board staff members to review an appeal made under Subsection (4)(a) and make a recommendation to the Superintendent.

(i) A panel designated in accordance with Subsection (4)(c) shall make a recommendation in accordance with the provisions of Section 53F-2-504 or this Rule R277-318.

(ii) The panel shall make a recommendation on an appeal within 30 days of receipt of the written appeal.

(5) The Superintendent shall issue a ruling on an appeal within 15 days of receipt of the panel's recommendation.

(6) The decision of the Superintendent on an appeal is the final Board administrative action.

(7) If the appropriation for TSSP is insufficient to cover all eligible teachers entitled to awards, the Superintendent shall reduce all awards by the same ratio and proportion.

KEY: Teacher Salary Supplement Program, salary
Date of Enactment of Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-2-504

Education, Administration
R277-402
School Readiness Initiative

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 43984
FILED: 08/13/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 166, School Readiness Amendments, passed in the 2019 General Session, transferred authority for the High Quality School Readiness Grant Program to the School Readiness Board housed within the Department of Workforce Services (DWS). The School Readiness Initiative rule will no longer be housed within the Utah State Board of Education and is being removed from Title R277.

SUMMARY OF THE RULE OR CHANGE: Rule R277-402 is no longer necessary and the Utah State Board of Education recommends Rule R277-402 be repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Subsection 53E-3-401(4) and Subsection 53F-6-305(13)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule repeal is not expected to have any fiscal impact on state government revenues or expenditures. However, the grant program itself remains in statute and is state-funded and thus, this rule repeal will not have a fiscal impact.
♦ LOCAL GOVERNMENTS: This rule repeal is not expected to have any fiscal impact on local governments' revenues or expenditures. The grant program itself remains in statute and is state-funded and thus, this rule repeal will not have a fiscal impact.
♦ SMALL BUSINESSES: This rule repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule applies to the High Quality School Readiness Grant Program which is state funded and thus, does not apply to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule repeal is not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule applies to the High Quality School Readiness Grant Program which is state funded and thus, does not apply to other individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses. This rule repeal has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule repeal is not expected to have any fiscal impacts on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

[~~R277-402. School Readiness Initiative.~~

~~R277-402-1. Definitions.~~

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

~~B. "Economically disadvantaged status" means public education students who satisfy criteria of Section 53F-6-301(2).~~

~~C. "Eligible LEA," for purposes of this rule, means an LEA that meets requirements of Subsection 53F-6-301(4).~~

~~D. "LEA" means local education agency, including local school boards/ public school districts and charter schools.~~

~~E. "School Readiness Board" means the board established under Section 53F-6-302.~~

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

~~R277-402-2. 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, Subsection 53F-6-305(13) that requires the Board to make rules to effectively administer and monitor the high quality school readiness grant program, and Subsection 53E-3-401(4) which permits the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to provide for appointments of School Readiness Board members by public education entities, provide timelines for USOE review and Board approval of proposals for the High Quality School Readiness Programs, and provide for program monitoring, evaluation and reporting as required by law.~~

~~R277-402-3. Board and Board-related Responsibilities.~~

~~A. The Board shall appoint one member to the School Readiness Board.~~

~~B. The Chair of the State Charter School Board shall appoint one member of the School Readiness Board.~~

~~C. The Board shall solicit proposals from eligible LEAs on the following timeline:~~

~~(1) the USOE shall convene a committee (expert committee) composed of members with early childhood experience or expertise;~~

~~(2) eligible LEAs shall submit proposals to the USOE by June 1 annually;~~

~~(3) the expert committee shall use a USOE-developed rubric to review proposals from eligible LEAs and make recommendations to the Board for funding based on point scores of applications before July 1 annually; and~~

~~(4) the Board shall make recommendations to the School Readiness Board before August 1 annually.~~

~~D. LEA grant recipients shall provide reports annually to the Board, consistent with Subsection 53F-6-305(11).~~

~~E. The Board shall share information with the School Readiness Board for the School Readiness Board's report to the Education Interim Committee, consistent with Section 53F-6-310.~~

~~F. The Board may adjust application timelines from year to year as necessary.~~

~~**R277-402-4. LEA Responsibilities.**~~

~~A. LEAs shall submit proposals consistent with the USOE application and the timeline in R277-402-3(2).~~

~~B. LEAs that receive school readiness grants, shall assign each student that participates in the school readiness initiative a unique student identifier, in consultation with the USOE, before September 20 annually.~~

~~C. LEAs that receive school readiness grants shall report annually to the Board and the School Readiness Board.~~

~~D. LEA grant recipients shall cooperate with Board and School Readiness Board requests for data to satisfy monitoring and reporting requirements.~~

~~**KEY: schools, readiness, initiatives, grants**~~
~~**Date of Enactment or Last Substantive Amendment: October 9, 2014**~~
~~**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-6-305(3); 53E-3-401(4)]**~~

Education, Administration
R277-407
School Fees

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43990
FILED: 08/14/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-407 is being amended due to the passage of H.B. 250, School Fee Revisions, passed in the 2019 General Session, and requests for clarification from school districts and charter schools. Since the Utah State Board of Education (Board) passed amendments to Rule R277-407 in February, Board members and staff have received feedback and questions from LEAs and other stakeholders with accompanying requests for clarification on certain issues in Rule R277-407.

SUMMARY OF THE RULE OR CHANGE: In addition to the required amendments from H.B. 250 (2019), amendments have been made to clarify definitions and clarify language throughout this rule. Changes in this rule provide additional clarity on certain issues including more detailed definitions of items such as instructional equipment, instructional supply, and school equipment. These rule changes also clarify that local education agencies (LEAs) may charge a fee for supplemental kindergarten and that the fee is subject to fee waiver, the process for an LEA to amend the LEA's fee schedule, and that the Superintendent shall annually establish income levels for fee waiver eligibility which will be published on the Board's website.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53G-7-504 and Subsection 53E-3-401(4) and Subsection 53G-7-503(2)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These rule changes are not expected to have any fiscal impact on state government revenues or expenditures because this rule is about fees and fee waiver requirements for LEAs, and all regulatory functions are already funded.
♦ LOCAL GOVERNMENTS: These rule changes are not expected to have any material impact on local governments' revenues or expenditures. This rule is being updated to reflect H.B. 250 (2019), and in response to feedback from LEAs and other stakeholders.
♦ SMALL BUSINESSES: These rule changes are not expected to have any material fiscal impact on small businesses' revenues or expenditures because this rule is about fees and fee waiver requirements for LEAs and thus will not impact small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any material fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule is being updated to reflect H.B. 250 (2019), and in response to feedback from LEAs and other stakeholders.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses. These rule changes have no fiscal impact on LEAs and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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Appendix 2: Regulatory Impact to Non-Small Businesses
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The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
R277-407. School Fees.
R277-407-1. Authority and Purpose.

(1) This rule is authorized under:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Article X, Section 2 of the Utah Constitution, which provides that:

(i) public elementary schools shall be free; and

(ii) secondary schools shall be free, unless the Legislature authorizes the imposition of fees;

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(d) Subsection 53G-7-503(2), which requires the Board to adopt rules regarding student fees; and

(e) Subsection 53G-7-504 which authorizes waiver of fees for eligible students with appropriate documentation.

(2) This rule also serves to comply with the order arising from the Permanent Injunction issued in Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994).

(3) The purpose of this rule is to:

(a) permit the orderly establishment of a system of reasonable fees;

(b) provide adequate notice to students and families of fees and fee waiver requirements; and

(c) prohibit practices that would:

(i) exclude those unable to pay from participation in school-sponsored activities; or

(ii) create a burden on a student or family as to have a detrimental impact on participation.

R277-407-2. Definitions.

(1) "Co-curricular activity" means an activity, course, or program, outside of school hours, that also includes a required regular school day program or curriculum.

(2) "Extracurricular activity" means an activity or program for students, outside of the regular school day, that:

(a) is sponsored, recognized, or sanctioned by an LEA; and

(b) supplements or compliments, but is not part of, the LEA's required program or regular curriculum.

(3)(a) "Fee" means something of monetary value requested or required by an LEA as a condition to a student's participation in an activity, class, or program provided, sponsored, or supported by a school.

(b) "Fee" includes money or something of monetary value raised by a student or the student's family through fund[-]raising.

(4)(a) "Fundraiser," "fundraising," or "fundraising activity" means an activity or event provided, sponsored, or supported by a school that uses students to generate funds to raise money to:

(i) provide financial support to a school or any of the school's classes, groups, teams, or programs; or

(ii) benefit a particular charity or for other charitable purposes.

(b) "Fundraiser," "fundraising," or "fundraising activity" may include:

(i) the sale of goods or services;

(ii) the solicitation of monetary contributions from individuals or businesses; or

(iii) other lawful means or methods that use students to generate funds.

(c) "Fundraiser," "fundraising," or "fundraising activity" does not include an alternative method of raising revenue without students.

(5) "Group fundraiser" or "group fundraising" means a fundraising activity where the money raised is used for the [~~mutual~~] benefit of the group, team, or organization.

(6) "Individual fundraiser" or "individual fundraising" means a fundraising activity where money is raised by each individual student to pay the individual student's fees.

[~~(7)(a) "Instructional equipment" means equipment or supplies required for a student to use as part of a secondary course that become the property of the student upon exiting the course.~~

~~(b) "Instructional equipment" includes course related tools or instruments.~~]

(7)(a) "Instructional equipment" means an activity, course, or program-related tool or instrument that:

(i) is required for a student to use as part of a secondary activity, course, or program;

(ii) typically becomes the property of the student upon exiting the activity, course, or program; and

(iii) is subject to fee waiver.

(b) "Instructional equipment" includes:

(i) shears or styling tools;

(ii) a band instrument;

(iii) a camera;

(iv) a stethoscope; and

(v) sports equipment, including a bat, mitt, or tennis racquet.

(c) "Instructional equipment" does not include school equipment.

(8)(a) "Instructional supply" means a consumable or non-reusable supply that is necessary for a student to use as part of a secondary activity, course, or program.

(b) "Instructional supply" includes:

(i) prescriptive footwear;

(ii) brushes or other art supplies, including clay, paint, or art canvas;

(iii) wood for wood shop;

(iv) Legos for Lego robotics;

(v) film; and

(vi) filament used for 3D printing.

[~~(8)~~](9) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

[~~(9)~~](10) "Noncurricular club" has the same meaning as that term is defined in Section 53G-7-701.

[~~(10)~~](11) "Non-waivable charge" means a cost, payment, or expenditure that:

(a) is a personal discretionary charge or purchase, including:

(i) a charge for insurance, unless the insurance is required for a student to participate in an activity, class, or program;

(ii) a charge for college credit related to the successful completion of:

(A) a concurrent enrollment class; or

(B) an advanced placement examination; or

(iii) except when requested or required by an LEA, a charge for a personal consumable item such as a yearbook, class ring, letterman jacket or sweater, or other similar item;

(b) is subject to sales tax as described in Utah State Tax Commission Publication 35, Sales Tax Information for Public and Private Elementary and Secondary Schools; or

(c) by Utah Code, federal law, or Board rule is designated not to be a fee, including:

(i) a school uniform as provided in Section 53G-7-801;

(ii) a school lunch; or

(iii) a charge for a replacement for damaged or lost school equipment or supplies.

[~~(11)~~](12)(a) "Provided, sponsored, or supported by a school" means an activity, class, program, fundraiser, club, camp, clinic, or other event that:

(i) is authorized by an LEA or school, according to local education board policy; or

(ii) satisfies at least one of the following conditions:

(A) the activity, class, program, fundraiser, club, camp, clinic, or other event is managed or supervised by an LEA or school, or an LEA or school employee;

(B) the activity, class, program, fundraiser, club, camp, clinic, or other event uses, more than inconsequentially, the LEA or school's facilities, equipment, or other school resources; or

(C) the activity, class, program, fund[-]raising event, club, camp, clinic, or other event is supported or subsidized, more than inconsequentially, by public funds, including the school's activity funds or minimum school program dollars.

(b) "Provided, sponsored, or supported by a school" does not include an activity, class, or program that meets the criteria of a noncurricular club as described in Title 53G, Chapter 7, Part 7, Student Clubs.

[~~(12)~~](13)(a) "Provision in lieu of fee waiver" means an alternative to fee payment or waiver of fee payment.

(b) "Provision in lieu of fee waiver" does not include a plan under which fees are paid in installments or under some other delayed payment arrangement.

[~~(13)~~](14) "Regular school day" has the same meaning as the term "school day" described in Section R277-419-2.

[~~(14)~~](15) "Requested or required by an LEA as a condition to a student's participation" means something of monetary value that is impliedly or explicitly mandated or necessary for a student, parent, or family to provide so that a student may:

(a) fully participate in school or in a school activity, class, or program;

(b) successfully complete a school class for the highest grade; or

(c) avoid a direct or indirect limitation on full participation in a school activity, class, or program, including limitations created by:

(i) peer pressure, shaming, stigmatizing, bullying, or the like; or

(ii) withholding or curtailing any privilege that is otherwise provided to any other student.

(16) "School day" has the same meaning as defined in R277-419-2.

(17)(a) "School equipment" means a durable school-owned machine, equipment, or tool used by a student as part of a secondary activity, course, or program.

(b) "School equipment" includes a saw, machine, and 3D printer.

[~~(15)~~](18)(a) "Something of monetary value" means a charge, expense, deposit, rental, fine, or payment, regardless of how the payment is termed, described, requested or required directly or indirectly, in the form of money, goods or services.

(b) "Something of monetary value" includes:

(i) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;

(ii) payments made to a third party that provide a part of a school activity, class, or program;

(iii) classroom supplies or materials; and

(iv) a fine, except for a student fine specifically approved by an LEA for:

(A) failing to return school property;

(B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior; or

(C) improper use of school property, including a parking violation.

[~~(16)~~](19)(a) "Student supplies" means items which are the personal property of a student which, although used in the instructional process, are also commonly purchased and used by persons not enrolled in the class or activity in question and have a high probability of regular use in other than school-sponsored activities.

(b) "Student supplies" include:

(i) pencils;

(ii) paper;

(iii) notebooks;

(iv) crayons;

(v) scissors;

(vi) basic clothing for healthy lifestyle classes; and

(vii) similar personal or consumable items over which a student retains ownership.

(c) "Student supplies" does not include items listed in Subsection [~~(16)~~](18)(b) if the requirement from the school for the student supply includes specific requirements such as brand, color, or a special imprint in order to create a uniform appearance not related to basic function.

(20) "Supplemental kindergarten" means an LEA program for students in kindergarten who voluntarily elect to receive additional hours of instruction beyond the LEA's regular school day for kindergarten students for an additional fee.

[~~(17)~~](21) "Supplemental Security Income for children with disabilities" or "SSI" means a benefit administered through the Social Security Administration that provides payments for qualified children with disabilities in low income families.

[~~(18)~~](22) "Temporary Assistance for Needy Families" or "TANF," means a program, formerly known as AFDC, which provides monthly cash assistance and food stamps to low-income families with children under age 18 through the Utah Department of Workforce Services.

[~~(19)~~](23)(a) "Textbook" means instructional material necessary for participation in a course or program, regardless of the format of the material.

[~~(b) "Textbook" does not include instructional equipment.~~]

(b) "Textbook" includes:

(i) hardcopy book or printed pages of instructional material, including a consumable workbook;

(ii) computer hardware, software, or digital content;

(iii) the cost of wifi to access school required digital content; and

(iv) the maintenance costs of school equipment.

(c) "Textbook" does not include:

(i) instructional equipment; or

(ii) instructional supplies.

[~~(20)~~](24) "Waiver" means a full [~~or partial~~]release from the requirement of payment of a fee and from any provision in lieu of fee payment.

R277-407-3. Classes and Activities During the Regular School Day.

(1) No fee may be charged in kindergarten through grade six for:

(a) materials;

(b) textbooks;

(c) supplies, except for student supplies described in Subsection (6); or

(d) any class or regular school day activity, including assemblies and field trips.

(2)(a) An LEA may charge a fee in connection with an activity, class, or program provided, sponsored, or supported by a school for a student in a secondary school that takes place during the regular school day if the fee is approved as provided in this R277-407.

(b) All fees are subject to the fee waiver provisions of Section R277-407-8.

(3)(a) Notwithstanding, Subsection (1) and except as provided in Subsection (3)(b), a school may charge a fee to a student in grade six if the student attends a school that includes any of grades seven through twelve.

(b) A school that provides instruction to students in grades other than grades six through twelve may not charge fees for grade six unless the school follows a secondary model of delivering instruction to the school's grade six students.

(c) If a school charges fees in accordance with Subsection (3)(a), the school shall annually provide notice to parents that the school will collect fees from grade six students and that the fees are subject to waiver.

(4) If a class is established or approved, which requires payment of fees or purchase of items in order for students to participate fully and to have the opportunity to acquire all skills and knowledge required for full credit and highest grades, the fees or costs for the class shall be subject to the fee waiver provisions of Rule R277-407-8.

(5)(a) In project related courses, projects required for course completion shall be [~~free to all students~~]included in the course fee.

(b) A school may require a student at any grade level to provide materials or pay for an additional discretionary project if the student chooses a project in lieu of, or in addition to a required classroom project.

(c) A school shall avoid allowing high cost additional projects, particularly if authorization of an additional discretionary project results in pressure on a student by teachers or peers to also complete a similar high cost project.

(d) A school may not require a student to select an additional project as a condition to enrolling, completing, or receiving the highest possible grade for a course.

(6) An elementary school or elementary school teacher may provide to a student's parent or guardian, a suggested list of student supplies for use during the regular school day so that a parent or guardian may furnish, on a voluntary basis, student supplies for student use, provided that, in accordance with Section 53G-7-503, the following notice is provided with the list: "NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

(7) A school may require a secondary student to provide student supplies, subject to the provisions of Section R277-407-8.

(8) Except as provided in Subsection (9), if a school requires special shoes or items of clothing that meet specific requirements, including requesting a specific color, style, fabric, or imprints, the cost of the special shoes or items of clothing are:

(a) considered a fee; and

(b) subject to fee waiver.

(9) As provided in Subsection 53G-7-802(4), an LEA's school uniform policy, including a requirement for a student to wear a school uniform, is not considered a fee for either an elementary or a secondary school if the LEA's school uniform policy is consistent with the requirements of Title 53G, Chapter 7, Part 8, School Uniforms.

R277-407-4. School Activities Outside of the Regular School Day.

(1) A school may charge a fee, subject to the provisions of Section R277-407-8, in connection with any school-sponsored activity, that does not take place during the regular school day, regardless of the age or grade level of the student, if participation in the activity is voluntary and does not affect a student's grade or ability to participate fully in any course taught during the regular school day.

(2) A fee related to a co-curricular or extracurricular activity may not exceed the maximum fee amounts for the co-curricular or extracurricular activity adopted by the LEA governing board as described in Subsection R277-407-6(3).

(3) A school may only collect a fee for an activity, class, or program provided, sponsored, or supported by a school consistent with LEA policies and state law.

(4) An LEA that provides, sponsors, or supports an activity, class, or program outside of the regular school day or school calendar is subject to the provisions of this rule regardless of the time or season of the activity, class, or program.

(5)(a) An LEA may charge a charge fee related to a student's enrollment in supplemental kindergarten.

(b) An LEA's fee for supplemental kindergarten described in Subsection (5)(a) is subject to fee waiver.

R277-407-5. Fee-Waivable Activities, Classes, or Programs Provided, Sponsored, or Supported by a School.

Fees for the following are waivable:

(1) an activity, class, or program that is:

(a) primarily intended to serve school-age children; and

(b) taught or administered, more than inconsequentially, by a school employee as part of the employee's assignment;

(2) an activity, class, or program that is explicitly or implicitly required:

(a) as a condition to receive a higher grade, or for successful completion of a school class or to receive credit, including a requirement for a student to attend a concert or museum as part of a music or art class for extra credit; or

(b) as a condition to participate in a school activity, class, program, or team, including, a requirement for a student to participate in a summer camp or clinic for students who seek to participate on a school team, such as cheerleading, football, soccer, dance, or another team;

(3) an activity or program that is promoted by a school employee, such as a coach, advisor, teacher, school-recognized volunteer, or similar person, during school hours where it could be reasonably understood that the school employee is acting in the employee's official capacity;

(4) an activity or program where full participation in the activity or program includes:

(a) travel for state or national educational experiences or competitions;

(b) debate camps or competitions; or

(c) music camps or competitions; and

(5) a concurrent enrollment, CTE, or AP course.

R277-407-6. LEA Requirements to Establish a Fee Schedule -- Maximum Fee Amounts -- Notice to Parents.

(1) An LEA, school, school official, or employee may not charge or assess a fee or request or require something of monetary value in connection with an activity, class, or program provided, sponsored, or supported by a including for a co-curricular or extracurricular activity, unless the fee:

(a) has been set and approved by the LEA's governing board;

(b) is equal to or less than the maximum fee amount established by the LEA governing board as described in Subsection (4); and

(c) is included in an approved fee schedule or notice in accordance with this rule.

(2)(a) If an LEA charges a fee, on or before April 1 and in consultation with stakeholders, the LEA governing board shall annually adopt a fee schedule and fee policies for the LEA in a regularly scheduled public meeting.

(b) Before approving the LEA's fee schedule described in this Section, an LEA shall provide an opportunity for the public to comment on the proposed fee schedule during a minimum of two public LEA governing board meetings.

(c) An LEA shall:

(i) provide public notice of the meetings described in Subsections (2)(a) and (b) in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) encourage public participation in the development of fee schedules and waiver policies.

(d) In addition to the notice requirements of Subsection(2)(c), an LEA shall provide notice to parents and students of the meetings described in Subsections (2)(a) and (b) using the same form of communication regularly used by the LEA to communicate with parents, including notice by e-mail, text, flyer, or phone call.

(e) An LEA shall keep minutes of meetings during which fee and waiver policies are developed or adopted, together with copies of approved policies, in accordance with Section 52-4-203.

(3) After the fee schedule described in Subsection (2)(a) is adopted, an LEA may amend the LEA's fee schedule if the LEA follows the process described in Subsection (2) before approving the amended fee schedule.

[~~(3)~~](4)(a) As part of an LEA's fee setting process, the LEA shall establish a per student annual maximum fee amount that the LEA's schools may charge a student for the student's participation in all courses, programs, and activities provided, sponsored, or supported by a school for the year.

(b) An LEA shall establish:

(i) a maximum fee amount per student for each activity; and

(ii) a maximum total aggregate fee amount per student per school year.

(c) The amount of revenue raised by a student through an individual fundraiser shall be included as part of the maximum fee amount per student for the activity and maximum total aggregate fee amount per student.

(d) An LEA may establish a reasonable number of activities, courses, or programs that will be covered by the annual maximum fee amount described in Subsection (4)(a).

[~~(4)~~](5) As part of an LEA's fee setting process described in this Section, the LEA may review and consider the following per school:

(a) the school's cost to provide the activity, class, or program;

(b) the school's student enrollment;

(c) the median income of families:

(i) within the school's boundary; or

(ii) enrolled in the school;

(d) the number and monetary amount of fee waivers, designated by individual fee, annually granted within the prior three years;

(e) the historical participation and school interest in certain activities;

(f) the prior year fee schedule;

(g) the amount of revenue collected from each fee in the prior year;

(h) fund-raising capacity;

(i) prior year community donors; and

(j) other resources available, including through donations and fundraising.

[~~(5)~~](6)(a) An LEA shall annually provide written notice to a parent or guardian of each student who attends a school within the LEA of all current and applicable fee schedules and fee waiver policies.

[~~(6)~~](7)(a) If an LEA charges a fee, the LEA shall:

(i) annually publish the LEA's fee waiver policies and fee schedule, including the fee maximums described in Subsection [~~(3)~~](4), on each of the LEA's schools' websites;

(ii) annually include a copy of the LEA's fee schedule and fee waiver policies with the LEA's registration materials; and

(iii) provide a copy of the LEA's fee schedule and fee waiver policies to a student's parent who enrolls a student after the initial enrollment period.

(b) If an LEA's student or parent population in a single language other than English exceeds 20%, the LEA shall also publish the LEA's fee schedule and fee waiver policies in the language of those families.

(c) An LEA representative shall meet personally with each student's parent or family and make available an interpreter for the parent to understand the LEA's fee waiver schedules and policies if:

(i) the student or parent's first language is a language other than English; and

(ii) the LEA hasn't published the LEA's fee schedule and fee waiver policies in the parent's first language.

[~~(7)~~](8) A notice described in Subsection (6)(a) shall:

(a) be in a form approved by the Board; and

(b) include the following:

(i) for a school serving elementary students:

(A) School Fees Notice for Families of Children in Elementary School;

(B) Fee Waiver applications (Elementary School);

(C) Fee Waiver Decision and Appeals Form; and

(D) the Board's elementary school poster; and

(ii) for a school serving secondary students:

(A) School Fees Notice For Families of Students in a Secondary School;

(B) Fee Waiver Application (Secondary School);

(C) Application for Fee Waivers and Community Service (Secondary School);

(D) Community Service Assignments and Notice of Appeal Rights;

(E) Appeal of Community Service Assignment; and

(F) the Board's secondary school poster.

[~~(8)~~](9)(a) An LEA policy shall include easily understandable procedures for obtaining a fee waiver and for appealing an LEA's denial of a fee waiver, as soon as possible before the fee becomes due.

(b) If an LEA denies a student or parent request for a fee waiver, the LEA shall provide the student or parent:

(i) the LEA's decision to deny a waiver; and

(ii) the procedure for the appeal in the form approved by the Board.

[~~(9)~~](10)(a) A school may not deny a present or former student receipt of transcripts or a diploma, nor may a school refuse to issue a grade for a course for failure to pay school fees.

(b) A school may impose a reasonable charge to cover the cost of duplicating, mailing, or transmitting transcripts and other school records.

(c) A school may not charge for duplicating, mailing, or transmitting copies of school records to an elementary or secondary school in which a former student is enrolled or intends to enroll.

[~~(10)~~](11) To preserve equal opportunity for all students and to limit diversion of money and school and staff resources from the basic school program, each LEA's fee policies shall be designed to limit student expenditures for school-sponsored activities, including expenditures for activities, uniforms, clubs, clinics, travel, and subject

area and vocational leadership organizations, whether local, state, or national.

R277-407-7. Donations in lieu of Fees.

(1)(a) A school may not request or accept a donation in lieu of a fee from a student or parent unless the activity, class, or program for which the donation is solicited will otherwise be fully funded by the LEA and receipt of the donation will not affect participation by an individual student.

(b) A donation is a fee if a student or parent is required to make the donation as a condition to the student's participation in an activity, class, or program.

(c) An LEA may solicit and accept a donation or contribution in accordance with the LEA's policies, but all such requests must clearly state that donations and contributions by a student or parent are voluntary.

(2) If an LEA solicits donations, the LEA:

(a) shall solicit and handle donations in accordance with policies established by the LEA; and

(b) may not place any undue burden on a student or family in relation to a donation.

(3) An LEA may raise money to offset the cost to the LEA attributed to fee waivers granted to students through the LEA's foundation.

(4) An LEA shall direct donations provided to the LEA through the LEA's foundation in accordance with the LEA's policies governing the foundation.

[~~(5) An LEA may not accept a donation that would create a significant inequity among the schools within the LEA.~~](5) If an LEA accepts a donation, the LEA shall prevent potential inequities in schools within the LEA when distributing the donation.

R277-407-8. Fee Waivers.

(1)(a) All fees are subject to waiver.

(b) Fees charged for an activity, class, or program held outside of the regular school day, during the summer, or outside of an LEA's regular school year are subject to waiver.

(c) Non-waivable charges are not subject to waiver.

(2)(a) Except as provided in Subsection (2)(b), beginning with the 2020-21 school year, an LEA may not use revenue collected through fees to offset the cost of fee waivers by requiring students and families who do not qualify for fee waivers to pay an increased fee amount to cover the costs of students and families who qualify for fee waivers.

(b) An LEA may notify students and families that the students and families may voluntarily pay an increased fee amount or provide a donation to cover the costs of other students and families.

(c) For an LEA with multiple schools, the LEA shall distribute the impact of fee waivers across the LEA so that no school carries a disproportionate share of the LEA's total fee waiver burden.

(3) An LEA shall provide, as part of any fee policy or schedule, for adequate waivers or other provisions in lieu of fee waivers to ensure that no student is denied the opportunity to participate in a class or school-sponsored or supported activity because of an inability to pay a fee.

(4) An LEA shall designate at least one person at an appropriate administrative level in each school to review and grant fee waiver requests.

(5) An LEA shall administer the process for obtaining a fee waiver or pursuing an alternative fairly, objectively, without delay, and in a manner that avoids stigma, embarrassment, undue attention, and unreasonable burdens on students and parents.

(6) An LEA may not treat a student receiving a fee waiver or provision in lieu of a fee waiver differently from other students.

(7) A school may not identify a student on fee waiver to students, staff members, or other persons who do not need to know.

(8)(a) An LEA shall ensure that a fee waiver or other provision in lieu of fee waiver is available to any student whose parent is unable to pay a fee.

(b) A school or LEA administrator shall verify fee waivers consistent with this rule.

(9) An LEA shall submit school fee compliance forms to the Superintendent for each school that affirm compliance with the permanent injunction, consistent with Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994).

(10) An LEA shall adopt a fee waiver policy for review and appeal of fee waiver requests which:

(a) provides parents the opportunity to review proposed alternatives to fee waivers;

(b) establishes a timely appeal process, which shall include the opportunity to appeal to the LEA or its designee; and

(c) suspends any requirement that a given student pay a fee during any period for which the student's eligibility for waiver is under consideration or during which an appeal of denial of a fee waiver is in process.

(11) An LEA may pursue reasonable methods for collecting student fees, but may not, as a result of unpaid fees:

(a) exclude a student from a school, an activity, class, or program that is provided, sponsored, or supported by a school during the regular school day;

(b) refuse to issue a course grade; or

(c) withhold official student records, including written or electronic grade reports, diplomas or transcripts.

(12)(a) A school may withhold student records in accordance with Subsection 53G-8-212(2)(a).

(b) Notwithstanding Subsection (12)(a), a school may not withhold any records required for student enrollment or placement in a subsequent school.

(13) A school is not required to waive a non-waivable charge.

R277-407-9. Service In Lieu of Fees -- Voluntary Requests for Installment Plans.

(1) Subject to the provisions of Subsection (2), an LEA may allow a student to perform [~~community~~]service in lieu of a fee, but [~~community~~]service in lieu of a fee may not be required.

(2) An LEA may allow a student to perform [~~community~~] service in lieu of a fee if:

(a) the LEA establishes a [~~community~~]service policy that ensures that a [~~community~~]service assignment is appropriate to the:

(i) age of the student;

(ii) physical condition of the student; and

(iii) maturity of the student;

(b) the LEA's [~~community~~]service policy is consistent with state and federal laws, including:

(i) Section 53G-7-504; and

(ii) the Federal Fair Labor Standards Act, 29 U.S.C. 201;

(c) the [~~community~~]service can be performed within a reasonable period of time; and

(d) the service is at least equal to the minimum wage for each hour of service.

(3)(a) A student who performs [~~community~~]service may not be treated differently than other students who pay a fee.

(b) The [~~community~~]service may not create an unreasonable burden for a student or parent and may not be of such a nature as to demean or stigmatize the student.

(4) An LEA shall transfer a student's [~~community~~]service credit to:

(a) another school within the LEA; or

(b) another LEA upon request of the student.

(5)(a) An LEA may make an installment payment plan available to a parent or student to pay for a fee.

(b) An installment payment plan described in Subsection (5)(a) may not be required in lieu of a fee waiver[~~instigated by the school but must be voluntarily requested by the student or parent~~].

(6) An LEA that charges fees shall adopt policies that include at least the following:

(a) a process for obtaining waivers or pursuing alternatives that is administered fairly, objectively, and without delay, and avoids stigma and unreasonable burdens on students and families;

(b) a process with no visible indicators that could lead to identification of fee waiver applicants;

(c) a process that complies with the privacy requirements of The Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 123g (FERPA);

(d) a student may not collect fees or assist in the fee waiver approval process;

(e) a standard written decision and appeal form is provided to every applicant; and

(f) during an appeal the requirement that the fee be paid is suspended.

R277-407-10. Individual and Group Fundraising Requirements.

(1) An LEA governing board shall establish a fundraising policy that includes a fundraising activity approval process.

(2) An LEA's fundraising policy described in Subsection (1):

(a) may not authorize, establish, or allow for required individual fundraising;

(b) may provide optional individual fundraising opportunities for students to raise money to offset the cost of the student's fees;

(c) may allow for required group fundraisers;

(d) [~~shall prohibit denying~~]may not deny a student membership [~~in or participation~~]on a team or group, or in an activity, based on the student's non-participation in a fundraiser; and

(e) shall require compliance with the requirements of Rule R277-113 when using alternative methods of raising revenue that do not include students.

R277-407-11. Fee Waiver Eligibility.

(1) A student is eligible for fee waiver if an LEA receives verification that:

(a) based on the family income levels established by the Superintendent as described in Subsection (2)[~~, the student qualifies for free school lunch under United States Department of Agriculture child nutrition program regulations~~];

(b) the student to whom the fee applies receives SSI;

(c) the family receives TANF funding;

(d) the student is in foster care through the Division of Child and Family Services; or

(e) the student is in state custody.

(2) The Superintendent shall annually establish income levels for fee waiver eligibility and publish the income levels on the Board's website.

(3) In lieu of income verification, an LEA may require alternative verification under the following circumstances:

(a) If a student's family receives TANF, an LEA may require a letter of decision covering the period for which a fee waiver is sought from the Utah Department of Workforce Services;

(b) If a student receives SSI, an LEA may require a benefit verification letter from the Social Security Administration;

(c) If a student is in state custody or foster care, an LEA may rely on the youth in care required intake form and school enrollment letter or both provided by a case worker from the Utah Division of Child and Family Services or the Utah Juvenile Justice Department.

(d) An LEA may not subject a family to unreasonable demands for re-qualification.

[~~(3)~~](4) A school may grant a fee waiver to a student, on a case by case basis, who does not qualify for a fee waiver under Subsection (1), but who, because of extenuating circumstances is not reasonably capable of paying the fee.

[~~(4)~~](5) An LEA may charge a proportional share of a fee or reduced fee if circumstances change for a student or family so that fee waiver eligibility no longer exists.

R277-407-12. Fees for Textbooks and Remediation.

(1) Beginning with the [~~2020-21~~]2022-23 school year, an LEA may not charge a fee for:

(a) a textbook as provided in Section 53G-7-603, except for a textbook used for a concurrent enrollment or advanced placement course as described in Subsection (2); or

(b) a remediation course, if, as described in Subsection 53G-7-504(1)(b):

(i) the student or the student's parent is financially unable to pay the fee;

(ii) the fee for remediation would constitute an extreme financial hardship on the student or student's parent; or

(iii) the student has suffered a long-term illness, death in the family, or other major emergency.

(2)(a) An LEA may charge a fee for a textbook used for a concurrent enrollment or advanced placement.

(b) A fee for a textbook used for a concurrent enrollment or advanced placement course is fee waivable as described in Section R277-407-8.

R277-407-13. Budgeting and Spending Revenue Collected Through Fees -- Fee Revenue Sharing Requirements.

(1) An LEA shall follow the general accounting standards described in Rule R277-113 for treatment of fee revenue.

(2) An LEA shall:

(a) establish a spend plan for the revenue collected from each fee charged; and

(b) if the LEA has two or more schools within the LEA, share revenue lost due to fee waivers across the LEA.

(3)(a) Financial inequities or disproportional impact of fee waivers may not fall inequitably on any one school within an LEA.

(b) An LEA that has multiple schools shall establish a procedure to identify and address potential inequities due to the impact of the number of students who receive fee waivers within each of the LEA's schools.

R277-407-14. Fee Waiver Reporting Requirements.

(1) An LEA shall attach the following to the LEA's annual year end report for inclusion in the Superintendent's annual report:

(a) a summary of:

(i) the number of students in the LEA given fee waivers;

(ii) the number of students who worked in lieu of a waiver; and

(iii) the total dollar value of student fees waived by the LEA;

(b) a copy of the LEA's fee and fee waiver policies;

(c) a copy of the LEA's fee schedule for students; and

(d) the notice of fee waiver criteria provided by the LEA to a student's parent or guardian.

(e) a fee waiver compliance form approved by the Superintendent for each school and LEA.

R277-407-15. Superintendent and LEA Policy and Training Requirements.

(1) The Superintendent shall provide ongoing training, informational materials, and model policies, as available, for use by LEAs.

(2) The Superintendent shall provide online training and resources for LEAs regarding:

(a) an LEA's fee approval process;

(b) LEA notification requirements;

(c) LEA requirements to establish maximum fees;

(d) fundraising practices;

(e) fee waiver eligibility requirements, including requirements to maintain student and family confidentiality; and

(f) community service or fundraising alternatives for students and families who qualify for fee waivers.

(3) An LEA governing board shall annually review the LEA's policies on school fees, fee waivers, fundraising, and donations.

(4) An LEA shall develop a plan for, at a minimum, annual training of LEA and school employees on fee related policies enacted by the LEA specific to each employee's job function.

R277-407-16. Enforcement.

(1) The Superintendent shall monitor LEA compliance with this rule:

(a) through the compliance reports provided in Section R277-407-14; and

(b) by such other means as the Superintendent may reasonably request at any time.

(2) If an LEA fails to comply with the terms of this rule or request of the Superintendent, the Superintendent shall send the LEA a first written notice of non-compliance, which shall include a proposed corrective action plan.

(3) Within 45 days of the LEA's receipt of a notice of non-compliance, the LEA shall:

(a) respond to the allegations of noncompliance described in Subsection (2); and

(b) work with the Superintendent on the Superintendent's proposed corrective action plan to remedy the LEA's noncompliance.

(4)(a) Within fifteen days after receipt of a proposed corrective action plan described in Subsection (3)(b), an LEA may request an informal hearing with the Superintendent to respond to allegations of noncompliance or to address the appropriateness of the proposed corrective action plan.

(b) The form of an informal hearing described in Subsection (4)(a) shall be as directed by the Superintendent.

(5) The Superintendent shall send an LEA a second written notice of non-compliance and request for the LEA to appear before a Board standing committee if:

(a) the LEA fails to respond to the first notice of non-compliance within 60 days; or

(b) the LEA fails to comply with a corrective action plan described in Subsection (3)(b) within the time period established in the LEA's corrective action plan.

(6) If an LEA that failed to respond to a first notice of non-compliance receives a second written notice of non-compliance, the LEA may:

(a)(i) respond to the notice of non-compliance described in Subsection (5); and

(ii) work with the Superintendent on a corrective action plan within 30 days of receiving the second written notice of non-compliance; or

(b) seek an appeal as described in Subsection (8)(b).

(7) If an LEA that failed to respond to a first notice of non-compliance fails to comply with either of the options described in Subsection (6), the Superintendent shall impose one of the financial consequences described in Subsection (10).

(8)(a) Prior to imposing a financial consequence described in Subsection (10), the Superintendent shall provide an LEA thirty days' notice of any proposed action.

(b) The LEA may, within fifteen days after receipt of a notice described in Subsection (8)(a), request an appeal before the Board.

(9) If the LEA does not request an appeal described in Subsection (8)(b), or if after the appeal the Board finds that the allegations of noncompliance are substantially true, the Superintendent may continue with the suggested corrective action, formulate a new form of corrective action or additional terms and conditions which must be met and may proceed with the appropriate remedy which may include an order to return funds improperly collected.

(10) A financial consequence may include:

(a) requiring an LEA to repay an improperly charged fee, commensurate with the level of non-compliance;

(b) withholding all or part of an LEA's monthly Minimum School Program funds until the LEA comes into full compliance with the corrective action plan; and

(c) suspending the LEA's authority to charge fees for an amount of time specified by the Superintendent or Board in the determination.

(11) The Board's decision described in Subsection (9) is final and no further appeals are provided.

R277-407-17. [~~Effective~~]Enforceable Date.

(1) This rule will be [~~effective~~]enforceable beginning January 1, 2020.

KEY: education, school fees
Date of Enactment or Last Substantive Amendment: [~~April 8, ~~]2019
Notice of Continuation: July 19, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 2; Art X Sec 3; 53E-3-401(4); 53G-7-503; Doe v. Utah State Board of Education, Civil No. 920903376

Education, Administration
R277-474
School Instruction and Sex Education

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43968
FILED: 08/08/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah State Board of Education is amending Rule R277-474 in accordance with H.B. 71, Health Education Amendments, passed in the 2019 General Session which clarifies the law regarding instruction on the use of contraceptives in health class.

SUMMARY OF THE RULE OR CHANGE: These amendments to Rule R277-474 make the corresponding changes to clarify the law regarding instruction on the use of contraceptives in health class.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Subsection 53E-3-401(4) and Subsections 53G-10-402(2), (4) and (5)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These rule changes are not expected to have any fiscal impact on state government revenues or expenditures. This rule is being updated to reflect H.B. 71 (2019), which clarifies the law regarding instruction on the use of contraceptives in health class. These rule changes make the corresponding changes to this rule.
♦ LOCAL GOVERNMENTS: These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures. This rule is being updated to reflect H.B. 71 (2019), which clarifies the law regarding instruction on the use of contraceptives in health class. These rule changes make the corresponding changes to this rule.
♦ SMALL BUSINESSES: These rule changes are not expected to have any material fiscal impact on small businesses' revenues or expenditures because this rule is on health education instruction and therefore does not apply to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any material fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures because this rule is on health education instruction and therefore does not apply to other individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses. These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
R277-474. School Instruction and Sex Education.
R277-474-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsections 53G-10-402[~~(1) and (3)~~](2), (4) and (5), which direct the Board to adopt rules to allow local boards to adopt sex education materials or programs as described in this Rule R277-474 and provide sex education instruction as provided in Section 53G-10-402; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide:

(a) requirements for LEAs and individual educators to select instructional materials about sex education and maturation;

(b) notice to parents of proposed sex education and maturation discussions and instruction; and

(c) direction to public education employees regarding instruction and discussion of maturation and sex education with students.

R277-474-2. Definitions.

(1) "Curriculum materials review committee" or "committee" means a curriculum materials review committee formed at the school district or charter school level as described in Section R277-474-5.

(2) "Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g" or "FERPA" means a federal law designed to protect the privacy of students' education records.

(3) "Sex education instruction or instructional programs" means any course, unit, class, activity or presentation that provides instruction or information to students as outlined under Section 53G-10-403(1)([~~b~~]a)[~~- about sexual abstinence, human sexuality, human reproduction, reproductive anatomy, physiology, pregnancy, marriage, childbirth, parenthood, contraception, or HIV/AIDS, other sexually transmitted diseases, and refusal skills~~].

(4) "Instructional materials commission" means the advisory commission authorized under Section 53E-4-402.

(5) "LEA" for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.

(6) "Maturation education" means instruction and materials used to provide fifth or sixth grade students with age appropriate, medically accurate information regarding the physical and emotional changes associated with puberty, to assist in protecting students from abuse and to promote hygiene and good health practices.

(7) "Medically accurate" means verified or supported by a body of research conducted in compliance with scientific methods and published in journals that have received peer-review[~~, where appropriate~~], and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the American Medical Association.

(8) "Parental notification form" means a form developed by the Superintendent and used exclusively by LEAs or public schools for parental notification of subject matter identified in this rule.

(9) "Professional development" means training in which Utah educators may participate to renew a license, receive information or training in a specific subject area, teach in another subject area or teach at another grade level.

(10) "Utah educator" means an individual such as an administrator, teacher, counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public education system and who provides teaching or counseling to students.

(11) "Utah Professional Practices Advisory Commission" or "UPPAC" means a Commission established under Section 53E-6-501 and designated to review allegations against educators and recommend action against educators' licenses to the Board.

R277-474-3. General Provisions.

(1) The following may not be taught in Utah public schools through the use of instructional materials, direct instruction, or online instruction:

(a) the intricacies of intercourse, sexual stimulation or erotic behavior;

(b) the advocacy of premarital or extramarital sexual activity; or

(c) the advocacy or encouragement of the use of contraceptive methods or devices.

(2) A Utah educator may provide instruction consistent with Subsection 53G-10-402(2)(b)(iv);

([~~2~~]3) A Utah [~~E~~]educator[~~s are~~] is responsible to teach the values and information identified under Subsection 53G-10-402[~~(1)(b)~~](2)(a)and (b)(i)-(ii).

([~~3~~]4) A Utah educator[~~s~~] shall follow all provisions of federal and state law including the parental notification and prior written parental consent requirements described in Sections 76-7-322 and 76-7-323 when teaching any aspect of sex education.

([~~4~~]5) While sex education instruction and related topics are most likely to take place in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this Rule R277-474 applies to any course or class in which these topics are the focus of discussion.

R277-474-4. State Board of Education Responsibilities.

The Superintendent shall:

(1) develop and provide professional development and assistance with training for educators on law and rules specific to sex education instruction and related issues.

(2) develop, for Board approval, a parental notification form and timelines for use by LEAs.

(3) establish a review process for sex education instructional materials and programs using the instructional materials commission and requiring final Board approval of the instructional materials commission's recommendations.

(4) approve only medically accurate sex education instruction programs.

(5) receive and track parent and community complaints and comments received from LEAs related to sex education instructional materials and programs.

R277-474-5. LEA Responsibilities.

(1) An LEA shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of sex education instruction to attend professional development outlining the sex education curriculum and the criteria for sex education instruction in any courses offered in the public education system.

(2) An LEA governing board shall provide training consistent with Subsection R277-474-5(1) at least once during every three years of employment for Utah educators.

(3) An LEA governing board shall form a curriculum materials review committee at the school district or charter school level as described in Subsection (4).

(4)(a) An LEA governing board shall annually appoint and review members of the LEA's curriculum materials review committee on or before August 1.

(b) An LEA's curriculum materials review committee shall include parents, health professionals, school health educators, and administrators, with at least as many parents as school employees.

(c) The members of an LEA's committee shall:

(i) meet on a regular basis, as determined by the membership;

(ii) select officers; and

(iii) comply with Title 52, Chapter 4, Open and Public Meetings Act.

(5) An LEA's curriculum materials review committee shall:

(a) be organized consistent with Subsection R277-474-2(1);

(b) designate a chair and procedures; and

(c) review and approve all guest speakers and guest presenters and their respective materials relating to sex education instruction in any course and maturation education prior to their presentation.

(6) The committee may not authorize the use of any sex education instructional program or maturation education program not previously:

(a) approved by the Board;

(b) approved consistent with R277-474-6; or

(c) approved under Subsections 53G-10-402[~~(1)(c)(ii)~~](2)(f) and (g).

(7) The district superintendent or charter school administrator shall report educators who willfully violate the provisions of this rule to the Utah Professional Practices Advisory Commission (UPPAC) for investigation and possible discipline.

(8)(a) A [~~S~~]student[~~s~~] may not participate in sex education instruction, maturation education, or other instructional programs without prior affirmative parent consent, as evidenced by a completed parental notification form, on file.

(b) An LEA shall obtain parental consent from a student's parent using the common parental notification form or a form that satisfies all criteria of the law and Board rules and comply with timelines approved by the Board.

(9) The parental notification form shall:

(a) explain a parent's right to review proposed curriculum materials in a timely manner;

(b) request the parent's permission to instruct the parent's student in identified course material related to sex education or maturation education;

(c) allow the parent to exempt the parent's student from attendance for a class period where identified course material

related to sex education instruction or maturation education is presented and discussed;

(d) be specific enough to give parents fair notice of topics to be covered;

(e) include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;

(f) be retained on file with affirmative parental consent for each student prior to the student's participation in discussion of issues protected under Section 53G-10-402; and

(g) be maintained at the student's school for a reasonable period of time.

(10) An LEA shall develop a logging and tracking system of parental and community complaints and comments resulting from student participation in sex education instruction, to include the disposition of the complaints, and provide that information to the Superintendent upon request.

(11) If a student is exempted from course material required by the Board-approved Core Standards consistent with Section 53G-10-205(1), (2), and (3), the school shall:

(a) waive the participation requirement; or

(b) provide a reasonable alternative to the requirement.

R277-474-6. Local School Board or Charter School Governing Board Adoption of Sex Education and Maturation Education Instructional Materials.

(1) An LEA governing board may adopt the LEA's instructional materials if the instructional materials meet the requirements of Subsection 53G-10-402(2).

(2) Instructional materials adopted as described in Subsection (1) shall:

(a) comply with the criteria of Subsection 53G-10-402[~~(1)(e)(iii)~~](2)(h) and:

(b) be medically accurate;

(c) be approved by a majority vote of the LEA governing board present at a public meeting of the LEA governing board;

(d) be available for reasonable review opportunities to residents of the school district or parents of charter school students prior to consideration for adoption; and

(e) comply with the county data review requirements as outlined in Subsection 53G-10-402(8).

(3) An LEA shall comply with the reporting requirements of [~~Subsection 53G-10-402(1)(e)(iii)(D)~~]Section 53G-10-402.

(4) A report to the Board shall include:

(a) a copy of sex education instructional materials or maturation education materials not approved by the Instructional Materials Commission that the local board or local charter board seeks to adopt;

(b) documentation of the materials' adoption in a public board meeting;

(c) documentation that the materials or program meets the medically accurate criteria as defined in Subsection R277-474-2(7);

(d) documentation of the recommendation of the materials by the committee; and

(e) a statement of the local board's or local charter board's rationale for selecting materials not approved by the instructional materials commission.

(5) An LEA governing board's adoption process for sex education instructional materials and maturation education materials shall include:

(a) an appeals process for the adopted materials; and

(b) a process for annual review of the LEA governing board's decision.

R277-474-7. Utah Educator Responsibilities.

(1) A Utah educator[~~s~~] shall participate in training provided under Subsections R277-474-5(1) and (2).

(2) A Utah educator[~~s~~] shall use the common parental notification form or a form approved by the Utah educator's LEA, and follow timelines approved by the Board.

(3) A Utah educator[~~s~~] shall individually record parent and community complaints, comments, and the Utah educators' responses regarding sex education instructional programs.

(4) A Utah educator[~~s~~] may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding sex education.

KEY: health education, sex education, schools
Date of Enactment or Last Substantive Amendment: [~~November 7, 2018~~]2019
Notice of Continuation: September 13, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-10-402(1) and (3); 53E-3-401(4)

Education, Administration
R277-504
Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43985
FILED: 08/13/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-504 is amended to add a sunset date of June 30, 2020.

SUMMARY OF THE RULE OR CHANGE: Rule R277-504 is amended to make technical changes to the rule, including deleting outdated references to other rules, and to add a sunset date of June 30, 2020.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Subsection 53E-3-401(4) and Subsection 53E-3-501(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These rule changes are not expected to have any fiscal impact on state government revenues or expenditures.
♦ LOCAL GOVERNMENTS: These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures.
♦ SMALL BUSINESSES: These rule change are not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule applies to educator licensing and thus, does not apply to small businesses since the Utah State Board of Education is responsible for educator licensing.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There were no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These proposed rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses. These proposed rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These proposed rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
R277-504. Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure.
R277-504-1. Authority and Purpose.

[~~A.~~](1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests the general control and supervision of the public schools in the State Board of Education;[~~and by~~]

(b) Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the licensing of educators[~~;~~]; and

(c) Subsection 53E-3-401(4), which allows the Board to [~~adopt rules in accordance with its responsibilities~~]make rules to execute the Board's duties and responsibilities under the Utah constitution and state law.

[~~B.~~](2) The purpose of this rule is to:

([~~1~~]a) specify the requirements for Early Childhood (K-3), Elementary (K-6), Elementary (1-8), Secondary (6-12), Special Education (K-12), and Preschool Special Education (Birth-Age 5) licensing; and

([~~2~~]b) specify the standards which the Board expects a teacher preparation institution to meet in specific areas for the institution to receive Board approval of the program.

R277-504-2. Definitions.

[~~A. "Board" means the Utah State Board of Education.~~]

[~~B.~~](1)(a) "Council for Exceptional Children" or "CEC" is an international professional organization dedicated to improving the educational success of both individuals with disabilities and individuals with gifts and talents.

(b) CEC advocates for appropriate governmental policies, sets professional standards, provides professional development, advocates for individuals with exceptionalities, and helps professionals obtain conditions and resources necessary for effective professional practice.

[~~C.~~](2)(a) "Early Childhood license area of concentration" means an Early Childhood Education teaching license required for teaching kindergarten and permitting assignment in kindergarten through grade three.

(b) [~~It~~]An early childhood license area of concentration is recommended for those teaching in formal public school programs below kindergarten level.

[~~D.~~](3)(a) "Early intervention credential" is the highest qualified personnel standard established by the Department of Health that persons shall meet [~~in~~]to be able to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings.

(b) In order to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings, an individual shall have an Early Intervention Credential or a Preschool Special Education (Birth- Age 5) license.

[~~E.~~](4) "Elementary (1-8) license area of concentration" means an [~~E~~]elementary teaching license required for teaching grades one through eight.

[~~F.~~](5) "Elementary (K-6) license area of concentration" means an [~~E~~]elementary teaching license required for teaching grades kindergarten through six.

[~~G.~~](6) "Endorsement" means a specialty field or area listed on the teaching license which indicates the specific qualification of the holder.

[~~H.~~](7) "Highest requirements in the State applicable to a specific profession or discipline" means the highest entry-level academic degree needed for any State-approved or State-recognized certification, license, registration, or other comparable requirement that applies to that profession or discipline.

[~~I. "IEP" means a written statement of an individualized education program by an IEP team and developed, reviewed, and revised in accordance with Utah State Board of Education Special Education Rules and the Part B of the IDEA.~~]

[~~J.~~](8)(a) "Internship" means the placement of a teacher education student in an advanced stage of preparation, as a culminating experience, in employment in a school setting for a period of up to one school year during which the intern shall receive salary proportionate to the service rendered as determined by the LEA.

(b) An intern is supervised primarily by the school system but with a continuing relationship with college personnel and following a planned program designed to produce a demonstrably competent professional.

[~~K.~~](9) "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to applicants who have also met all ancillary requirements established by law or rule.

[~~L.~~](10) "Level 2 license" means a Utah professional educator license issued by the Board after satisfaction of:

(a) all requirements for a Level 1 license[~~and:~~];

([~~1~~]b) satisfaction of requirements under R277-522 for teachers whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;

([~~2~~]c) at least three years of successful education experience in a Utah public LEA or accredited private school or one year of successful education experience in a Utah public LEA or accredited private school and at least three years of successful education experience in a public LEA or accredited private school outside of Utah; and

([~~3~~]d) additional requirements established by law or rule.

[~~M.~~](11) "Preschool Special Education (Birth-Age 5) license area of concentration" means a teaching license required for teaching preschool students with disabilities.

[~~N.~~](12)(a) "Secondary license area of concentration" means a [~~S~~]secondary teaching license required for teaching grades six through twelve.

(b) Secondary license areas carry endorsements for the areas in which the holder is qualified to provide instruction.

[~~O.~~](13)(a) "Special Education license area of concentration (K-12)" means a [~~S~~]special [~~E~~]education teaching license required for teaching students with disabilities in kindergarten through grade twelve.

(b) Special Education areas of concentration carry endorsements in at least one of the following areas:

([~~1~~]i) Mild/Moderate Endorsement, which indicates that the holder's preparation focused on teaching students with mild/moderate learning and behavior problems;

([~~2~~]ii) Severe Endorsement, which indicates that the holder's preparation focused on teaching students with severe learning and behavior problems;

([~~3~~]iii) Deaf and Hard of Hearing Endorsement, which indicates that the holder's preparation focused on teaching students who are deaf or other hearing impaired;

([~~4~~]iv) Blind and Visually Impaired Endorsement, which indicates that the holder's preparation focused on teaching students who are blind or other visually impaired; and

([~~5~~]v) Deafblind Endorsement, which indicates that the holder's preparation focused on teaching students who are both blind or other visually impaired and deaf or other hearing impaired.

[~~P.~~](14) "Student teaching" means the placement of a teacher education student in an advanced stage of preparation for a period of guided teaching in a school setting during which the student assumes increasing responsibility for directing the learning of a group or groups of students over a period of time.

[~~Q. "USOE" means the Utah State Office of Education.~~]

R277-504-3. General Standards for Approval of Programs for the Preparation of Teachers.

[~~A.~~](1) The Board may approve the educator preparation program of an institution if the institution:

([~~1~~]a) prepares candidates to meet the Utah Effective Teaching Standards in R277-530;

([~~2~~]b) prepares candidates to teach the Utah Core Standards, the Utah Early Childhood Core Standards, and the Essential Elements as appropriate to the area of licensure as established by the Board;

([~~3~~]c) requires candidates to maintain a cumulative university GPA of 3.0 and receive a C or better in all education related courses and major required content courses:

[~~(a) This requirement applies to candidates admitted to the program after January 1, 2015.~~

~~(b) A candidate admitted to the program with a GPA below 3.0 under the 10 percent waiver provided in R277-502-3D shall maintain an overall GPA of 3.0 for all coursework completed after the candidate's admission to the program;~~]

([~~4~~]d) requires the study of:

([~~a~~]i) content and content-specific pedagogy appropriate for the area of licensure;

([~~b~~]ii) knowledge and skills designed to assist in the identification of students with disabilities and to meet the needs of students with disabilities in the regular classroom. Knowledge and skills shall include the following domains:

([~~i~~]A) knowledge of disabilities under IDEA and Section 504 of the Rehabilitation Act;

([~~ii~~]B) knowledge of the role of non-special-education teachers in the education of students with disabilities;

([~~iii~~]C) skills in providing tier one instruction on the Utah Core Standards and positive behavior supports to students with disabilities within a multi-tiered system of supports including:

([~~A~~]I) assessing and monitoring the education needs and progress of students with disabilities;

([~~B~~]II) implementing and assessing the results of interventions; and

([~~C~~]III) skills in the implementation of an educational program with accommodations and modifications established by an IEP or 504 plan for students with disabilities in the regular classroom; and

([e]iii) knowledge and skills designed to meet the needs of diverse student populations in the regular classroom. These skills for diverse student populations shall include the skills to:

([~~i~~]A) allow teachers to create an environment using a teaching model that is sensitive to multiple experiences and diversity;

([~~ii~~]B) design, adapt, and deliver instruction to address each student's diverse learning strengths and needs; and

([~~iii~~]C) incorporate tools of language development into planning and instruction for English language learners and support development of English proficiency; and

([~~5~~]e) requires a student teaching culminating experience that:

([~~a~~]i) requires a minimum of 400 clock hours with at least 200 clock hours in a single placement;

([~~b~~]ii) requires that student teachers meet the same contract hours as licensed teachers in the same LEA;

([e]iii) requires that the student teacher not be employed in any capacity by the LEA where he is placed except as provided in R277-504-7[~~B~~](3);

([~~d~~]iv) includes placement in all content or licensure areas in which the candidate shall be licensed unless:

([~~i~~]A) no viable student teaching placement in one or more of the candidate's endorsement areas is available; or

([~~ii~~]B) the candidate is seeking a license in Elementary (1-8) and is completing an elementary student teaching placement, but has also completed the USOE course requirements for an endorsement;

([e]v) includes intermittent supervision and evaluation by institution personnel;

([~~f~~]vi) includes direct supervision of the candidate by a classroom teacher that:

([~~i~~]A) has been jointly selected by the institution student teaching placement officer and the LEA-designated authority over student teaching placement;

([~~ii~~]B) has been deemed effective by an evaluation system meeting the standards of R277-531 or the LEA's equivalent; and

([~~iii~~]C) has received training from the institution on the role and responsibilities of a classroom mentor teacher for student teachers, including the standards of R277-515;

([~~g~~]vii) include meaningful self-reflection with review and feedback from both the classroom mentor teacher and institution personnel; or

([~~6~~]f) Requires an internship culminating experience that:

([~~a~~]i) consists of full-time employment as an educator for one school year with a minimum of 1260 clock hours at a single school site;

([~~b~~]ii) requires that interns meet the same contract teaching hours as licensed teachers in the same LEA;

([e]iii) includes placement in the major content or licensure area in which the candidate shall be licensed;

([d]iv) where possible, includes placement in all content or licensure areas in which the candidate shall be licensed unless:

([i]A) no viable internship in one or more of the candidate's non-major endorsement areas could be found; or

([ii]B) the candidate is seeking licensure in Elementary (1-8) and is completing an elementary internship, but has also completed the USOE course requirements for an endorsement;

([e]v) includes intermittent supervision and evaluation by institution personnel;

([f]vi) includes an LEA assigned mentor that:

([i]A) has been jointly selected by the institution internship placement officer and the LEA-designated authority over internship placement;

([ii]B) has been deemed effective by an evaluation system meeting the standards of R277-531 or the LEA's equivalent; and

([iii]C) provides direct support and supervision to the intern during the regular school day in addition to the standard LEA supports of new teachers.

([g]vii) includes meaningful self-reflection with review and feedback from both the assigned mentor and institution personnel;

[B.](2) The Board may accept the following for an individual candidate as completely or partially satisfying the student teaching/internship requirement:

([1]a) one year of full-time contract teaching experience in a teaching position [as defined in R277-503-4(C)(4)]in a public or accredited private school in the candidate's proposed licensure content areas may completely satisfy the requirement;

([2]b) teaching in a preschool or Headstart program may be accepted for up to one-half of the student teaching requirement;

([3]c) teaching experience in business or industry may be accepted for up to one-half of the student teaching requirement; and

([4]d) other experience accepted by the Board and designated as totally or partially fulfilling the requirement.

R277-504-4. Early Childhood Education (K-3) and Elementary (K-6) License Areas.

[A.](1) The Board may approve the Early Childhood Education (K-3), Elementary (K-6), or Elementary (1-8) teacher preparation program of an institution if the program:

([1]a) is aligned with:

(i) the 2010 National Association for the Education of Young Children Standards for Initial and Advanced Early Childhood Professional Preparation Programs; or

(ii) the 2007 Association for Childhood Education International Standards for Elementary Level Teacher Preparation, as appropriate;[and]

([2]b) requires study and experiences which provide appropriate content knowledge needed to teach:

([a]i) literacy including listening, speaking, writing, and reading;

([b]ii) mathematics;

([e]iii) physical and life science;

([d]iv) health and physical education;

([e]v) social studies; and

([f]vi) fine arts; and

([3]c) includes coursework specifically designed to prepare teachers:

([a]i) in the science of reading instruction including phonemic awareness, phonics, fluency, vocabulary and comprehension;

([b]ii) in the science of mathematics instruction including quantitative reasoning, problem solving, representation, and numeracy;

([e]iii) with the technical skills to utilize common education technology;

([d]iv) to integrate technology to support and meaningfully supplement the learning of students;

([e]v) to facilitate student use of software for personalized learning;

([f]vi) to teach effectively in traditional, online-only, and blended classrooms;

([g]vii) to design, administer, and review educational assessments in a meaningful and ethical manner;

([h]viii) in early childhood development and learning, if it is an Early Childhood Education (K-3), or Elementary (K-6); and

(ix) in a specific content area resulting in an endorsement added to the license area, if it is an Elementary (1-8) program.

[B.](2) The program shall apply the standards [shall be applied]to the specific age group or grade level for which the program of preparation is designed.

([1]a) An Early Childhood Education (K-3) program shall focus primarily on early childhood development and learning.

([2]b) An Elementary (K-6) program shall include both early childhood development and learning and elementary content and pedagogy.

([3]c) An Elementary (1-8) program shall focus primarily on elementary content and pedagogy.

[C.](3) A teacher holding an Elementary (1-8) license area may earn an Early Childhood (K-3) license area by completing specific coursework requirements established by [USOE]the Superintendent.

[D.](4) An Elementary (1-8) license permits the teacher to teach in any academic area in self-contained classes in grades 1-8.

[E.](5) An Elementary (1-8) license permits the teacher to teach specific content courses at the 7th or 8th grade level only if the teacher's license includes the appropriate endorsement.

R277-504-5. Secondary (6-12) License Area.

[A.](1) A Secondary (6-12) license area with an endorsement[(s)] is valid in grades six through twelve.

[B.](2) A Secondary (6-12) license area requires a major or major equivalent in a content area, but the teacher cannot teach in an elementary self-contained class.

[C.](3) The Board may approve the secondary educator preparation program of an institution if the program:

([1]a) is an undergraduate level program and requires candidates to have completed:

([a]i) an approved content area or teaching major consistent with subjects taught in Utah secondary schools; and

([b]ii) content coursework reasonably equivalent to that required for individuals completing a non-teaching degree in the subject; or

([~~2~~]b) Is a graduate level program and requires candidates to have completed:

([~~a~~]i) a bachelor's degree or higher from an accredited university; and

([~~b~~]ii) coursework equivalent to the minimum requirements for an endorsement as established by [~~USOE~~]the Superintendent, including the appropriate content knowledge assessment; and

([~~3~~]c) includes coursework specifically designed to prepare candidates:

([~~a~~]i) with the technical skills necessary to utilize common education technology;

([~~b~~]ii) to integrate technology to support and meaningfully supplement the learning of students;

([e]iii) to facilitate student use of software for personalized learning;

([~~d~~]iv) to teach effectively in traditional, online-only, and blended classrooms;

([e]v) to design, administer, and review educational assessments in a meaningful and ethical manner; and

([~~f~~]vi) to include literacy and quantitative learning objectives in content specific classes in alignment with the Utah Core Standards.

[~~D.~~](4) After completing a Board-approved Secondary (6-12) educator preparation program, the license area shall be endorsed for all subjects in which the candidate has met the course requirements for [~~the~~]an endorsement as established by [~~USOE~~]the Superintendent.

([~~1~~]5) A content area or teaching major require[~~s~~] not fewer than 30 semester hours of credit in one content area.

([~~2~~]6) An endorsement requires not fewer than 16 semester hours of credit in one content area.

R277-504-6. Special Education (K-12+) and Preschool Special Education (Birth-Age 5) License Areas.

[~~A.~~](1) The Board may approve an institution's special education teacher preparation program if the program is aligned with the 2011 Council for Exceptional Children Special Education Standards for Professional Practice and is focused in one or more of the following special education areas:

([~~1~~]a) Mild/Moderate Disabilities

([~~2~~]b) Severe Disabilities

([~~3~~]c) Deaf and Hard of Hearing;

([~~4~~]d) Blind and Visually Impaired;

([~~5~~]e) Deafblind; or

([~~6~~]f) Preschool Special Education (Birth-Age 5).

[~~B.~~](2) The Board may issue additional endorsements to teachers who hold Special Education (K-12+) license areas [~~additional endorsements~~]if all endorsement requirements are met.

(3) A [~~T~~]teacher[~~s~~] who holds only a Special Education (K-12+) license area may only be assigned as a teacher of record of students with disabilities.

[~~C.~~]4 The Board may approve a special education preparation program of an institution if the program includes coursework specifically designed to train candidates to:

([~~1~~]a) understand the legal and ethical issues surrounding special education;

([~~2~~]b) comply with IDEA and Utah State Board of Education Special Education Rules;

([~~3~~]c) work with other school personnel to implement and evaluate academic and positive behavior supports and interventions for students with disabilities within a multi-tiered system of supports;

([~~4~~]d) train and monitor education teachers, related service providers, and paraeducators in providing services and supports to students with disabilities;

([~~5~~]e) provide the necessary specialized instruction, as per IEPs, to students with disabilities, including:

([~~a~~]i) core content from the Utah Early Childhood Core Standards, [~~and~~]the Essential Elements, and content specific pedagogy;

([~~b~~]ii) skills in assessing and addressing the educational needs and progress of students with disabilities;

([e]iii) skills in implementing and assessing the results of research and evidence-based interventions for students with disabilities; and

([~~d~~]iv) skills in the implementation of an educational program with accommodations and modifications established by an IEP for students with disabilities.

[~~D.~~](5) The Board may issue Blind and Visually Impaired/Deaf and Hard of Hearing [~~E~~]endorsements required under this rule to meet the highest requirements in the State applicable to a specific profession or discipline required by the [~~Individuals with Disabilities Education Act of 2004 (~~]IDEA[~~), Pub. L. No. 108-446, hereby incorporated by reference~~].

[~~E.~~](6) Preschool Special Education (Birth-Age 5) license holders who teach children who are hearing impaired (Birth-Age 5) or vision impaired (Birth-Age 5), or both, in self-contained, categorical classrooms shall hold an endorsement for Deaf and Hard of Hearing (Birth-Age 5) or Blind and Visually Impaired (Birth-Age 5), or both.

R277-504-7. Miscellaneous.

[~~A.~~](1) [~~Beginning with the 2015-2016 school year, a~~]An LEA that employs intern teachers shall have a policy that includes the following:

([~~1~~]a) the maximum number of interns that may be supported by each LEA assigned mentor[~~,~~]; and

([~~2~~]b) a specific resource commitment to significant and quality LEA support services to interns.

[~~B.~~](2)(a) [~~The~~]A Middle Level license (5-9) continues to be valid[~~; however, the Board has not issued a middle level license (5-9) since April 1, 1989 and it~~]

(b) A Middle Level license (5-9) is no longer required of teachers or issued to teachers assigned to [~~the~~]a middle school.

[~~C.~~](3) Consistent with LEA and university policy and R277-508-[~~5E~~]4(4), a student teacher may work as a paid substitute in the classroom of the student teacher's classroom mentor teacher for no more than five days and no more than three consecutive days per university semester.

[~~D.~~](4) On the days a student teacher is working as a substitute teacher, the candidate's legal status as a substitute teacher/district employee will take precedence over the legal status as a teacher candidate.

[~~E.~~](5) A student teaching placement may be changed to an internship placement upon agreement of the student teacher, the university program, and the LEA.

R277-504-8. Sunset Clause.

(1) This rule will sunset on June 30, 2020.

(2) An individual enrolled in an approved preparation program prior to January 1, 2020 may receive a professional license by completing the program approved in accordance with this rule.

KEY: teacher licensing, professional education, accreditation
Date of Enactment or Last Substantive Amendment: [~~May 8, 2015~~]2019
Notice of Continuation: September 2, 2014
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a); 53E-3-401(4)

Education, Administration
R277-523
Teacher Salary Supplement Program

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 43986
FILED: 08/13/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed. The content is being moved to proposed Rule R277-318 to reflect H.B. 236, Teacher Salary Supplement Amendments, and S.B. 208, National Certification Teacher Incentive Amendments, that were passed in the 2019 General Session, which changed provisions related to the Teacher Salary Supplement Program. This program will be governed by Rule R277-318, Teacher Salary Supplement Program, going forward. (EDITOR'S NOTE: The proposed new Rule R277-318 is under Filing No. 43983 in this issue, September 1, 2019, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Rule R277-523 is being repealed in its entirety and content moved to proposed Rule R277-318 within the new licensing rule numbering system with amendments based on H.B. 236, and S.B. 208 (2019).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-2-504 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule repeal is not expected to have any fiscal impact on state government revenues or expenditures. This rule will not impact state government revenues or expenditures because the program is funded with a state appropriation and will continue to be state-funded.
♦ LOCAL GOVERNMENTS: This rule repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because the program is funded with a state appropriation and will continue to be state-funded.
♦ SMALL BUSINESSES: This rule repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule applies to the Teacher Salary Supplement Program which is state funded and thus, does not apply to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule repeal is not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule applies to the Teacher Salary Supplement Program which is state funded and thus, does not apply to other individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses. This rule repeal has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule repeal is not expected to have any fiscal impacts on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

[~~R277-523. Teacher Salary Supplement Program.~~

~~R277-523-1. Authority and Purpose.~~

~~(1) This rule is authorized by:~~

~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;~~

~~(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and~~

~~(c) Section 53F-2-504, which directs the Board to make rules regarding the administration of the Teacher Salary Supplement Program.~~

~~(2) The purpose of this rule is to establish application and appeal procedures for administration of the Teacher Salary Supplement Program.~~

~~R277-523-2. Definitions.~~

~~(1) "Certificate teacher" means the same as that term is defined in Subsection 53F-2-504(1)(b).~~

~~(2) "Eligible teacher" means the same as that term is defined in Subsection 53F-2-504(1)(c).~~

~~(3) "Substantially equivalent" means commonly recognized by a Utah university for a degree in a specific subject.~~

~~(4) "Teacher Salary Supplement Program" or "TSSP" means the salary supplement program authorized by the Legislature in Section 53F-2-504.~~

~~R277-523-3. Program Administration.~~

~~(1) The Superintendent shall allocate funds for salary supplements to eligible teachers and certificate teachers in accordance with Subsection 53F-2-504(3).~~

~~(2) The Superintendent shall maintain an online application system for the TSSP and make it available to educators no later than October 1 each school year.~~

~~(3) An applicant for the TSSP shall apply to the Superintendent by the following deadlines:~~

~~(a) Trimester payments, prior to November 15;~~

~~(b) Semester payments, prior to January 31; and~~

~~(c) Annual payments, prior to April 30.~~

~~(4) A Title I certificate teacher shall receive a partial award if the certificate teacher has a partial assignment in a Title I school or works less than the full school year, which shall be proportional to the teacher's assignment, the portion of the assignment worked in a Title I school, and the overall portion of the school year worked.~~

~~(5)(a) If an applicant is denied funds under this Section R277-523-3, the applicant may submit a written appeal to the Superintendent prior to June 1.~~

~~(b) An appeal under Subsection (5)(a) is limited to the following issues:~~

~~(i) whether the applicant has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in Section 53F-2-504;~~

~~(ii) whether the applicant holds a current National Board Certification;~~

~~(iii) whether the applicant was assigned to teach at a Title I school during the period covered by the TSSP award;~~

~~(iv) whether the Superintendent's initial denial was inconsistent with Section 53F-2-504 or this Rule R277-523; or~~

~~(v) whether the Superintendent's initial denial was based on inaccurate or missing information.~~

~~(c) The Superintendent may designate a panel of at least two Board staff members to review an appeal made under Subsection (5)(a) and make a recommendation to the Superintendent.~~

~~(i) A panel designated in accordance with Subsection (5)(c) shall make a recommendation in accordance with the provisions of Section 53F-2-504 or this Rule R277-523.~~

~~(ii) The panel shall make a recommendation on an appeal within 30 days of receipt of the written appeal.~~

~~(6) The Superintendent shall issue a ruling on an appeal within 15 days of receipt of the panel's recommendation.~~

~~(d) The decision of the Superintendent on an appeal is the final Board administrative action.~~

~~(7) If the appropriation for TSSP is insufficient to cover all eligible teachers and certificate teachers entitled to awards, the Superintendent shall reduce all awards by the same ratio and proportion.~~

~~KEY: TSSP, salary~~
~~Date of Enactment or Last Substantive Amendment: June 7, 2018~~
~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-2-504~~]

Education, Administration
R277-607
Truancy Prevention

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43967
FILED: 08/08/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule directs a local education agency (LEA) to create policies for truancy procedures and compulsory education.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to update the authority and purpose of this rule. The definitions have been updated to align with truancy prevention guidelines. The truancy policy requirements and the compulsory education procedures have been amended to align with the authority and purpose of this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53G-6-206 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These rule changes are not expected to have any fiscal impact on state government revenues or expenditures. These rule changes include formatting and technical changes, but no substantive changes.

♦ LOCAL GOVERNMENTS: These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures. These rule changes include formatting and technical changes, but no substantive changes.

♦ SMALL BUSINESSES: These rule changes are not expected to have any material fiscal impact on small businesses' revenues or expenditures because this rule is on school truancy prevention and thus does not apply to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. These rule changes include formatting and technical changes, but no substantive changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses. These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

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Fiscal Benefits			
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Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
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***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
R277-607. Truancy Prevention.
R277-607-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state; and

(c) Section 53G-6-206, which directs educational entities and parents working on behalf of children to make efforts to resolve school attendance problems of school-age minors who are or who should be enrolled in an LEA.

(2) The purpose of this rule is to direct an LEA to create policies for truancy procedures and compulsory education.

R277-607-[1]2. Definitions.

[~~A.~~](1) "Absence" means the same as that term is defined in Subsection 53G-6-201(1)[~~a student's non-attendance at school for one school day or part of one school day~~].

[~~B.~~](2) "Habitual truant" means the same as that term is defined in Subsection 53G-6-201(2)[~~a school-age minor who:~~

~~(1) is at least 12 years old;~~

~~(2) is subject to the requirements of Section 53G-6-202; and~~

~~(3)(a) is truant at least five times during one school year; and~~

~~(b) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53G-6-206~~].

[~~C.~~](3) "Habitual truant citation" is a citation issued only consistent with Section 53G-6-203.

[~~D. "IEP team" means an local education agency representative, a parent, a regular and special education educator, and person qualified to interpret evaluation results, in accordance with the Individuals with Disabilities Education Act (IDEA).~~

~~E. "LEA" means a local education agency, including local school boards/public school districts and charter schools.~~]

[~~F.~~](4) "Truant" means the same as that term is defined in Subsection 53G-6-201(7)[~~absent without a valid excuse~~].

[~~G.~~](5) "Unexcused absence" means a student's absence from school for reasons other than those authorized under the LEA policy.

[~~H. "USOE" means the Utah State Office of Education.~~]

[~~I.~~](6) "Valid excuse" means the same as that term is defined in[~~an excuse for an absence from school consistent with~~] Subsection 53G-6-201(9).

[~~R277-607-2. 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, Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with its responsibilities, and Section 53G-6-206 which directs educational entities and parents working on behalf of children to make efforts to resolve school~~

~~attendance problems of school-age minors who are or should be enrolled in LEAs.~~

~~B. The purpose of this rule is to direct LEAs to establish procedures for:~~

~~(1) informing parents about compulsory education laws;~~

~~(2) encouraging and monitoring school attendance consistent with the law; and~~

~~(3) providing firm consequences for noncompliance.~~

~~C. This rule encourages meaningful incentives for parental responsibility and directs LEAs to establish ongoing truancy prevention procedures in schools especially for students in grades 1-8.~~]

R277-607-3. [~~General Provisions~~]Truancy Policy Requirements.

[~~A. Each LEA board~~](1) An LEA shall:

(a) develop a truancy policy that encourages regular, punctual attendance of students, consistent with Section 53G-8-211 and Title 53G Public Education System -- Local Administration, Chapter 6 Participation in Public Schools, Part 2 Compulsory Education[~~this rule and Title 53G, Chapter 6, Part 2, Compulsory Education, and shall~~];

(b) review the LEA's truancy policy annually;[~~.~~]

[~~B. LEA boards shall annually~~](c) review attendance data annually and consider revisions to [~~policies~~]the truancy policy to encourage student attendance; and[~~.~~]

[~~C. LEAs shall~~](d) make the truancy policy[~~ies~~] available for review by parents or interested parties.

[~~D. LEAs~~](2) An LEA may issue a habitual truant citation[~~s~~] to a student[~~s~~] consistent with the LEA's truancy policy and Section 53G-6-203.

R277-607-4. [~~LEA Responsibilities~~]Compulsory Education Procedures.

[~~A. LEAs shall:~~](1) An LEA shall develop compulsory education procedures as part of the LEA's truancy policy described in Section R277-607-3.

(2) The compulsory education procedures shall:

(a) provide a process for notice to parents about the truancy policy;

(b) require notice to parents regarding the progress of a student's discipline and consequences for violation of the truancy policy;

(c) provide an appeals process to contest:

(i) a notice of truancy; or

(ii) any disciplinary actions against a student pursuant to the truancy policy or;

[~~(1)~~](d) establish definitions not provided in law or this rule necessary to implement the truancy policy and compulsory education procedures[~~a compulsory attendance policy~~];

[~~(2)~~](e) include definitions of "approved school activity" under Subsection 53G-6-201(9)(c) and "any other excuse"[~~excused absence to be provided locally~~] under Subsection 53G-6-201(9)(e);

[~~(3)~~](f) include criteria and procedures for preapproval of extended absences consistent with Section 53G-6-205; and

[~~(4)~~](g) establish programs and meaningful incentives which promote regular, punctual student attendance.

[~~B. LEAs shall include in their policies provisions for:~~

~~(1) notice to parents of the policy;~~

~~(2) notice to parents as discipline or consequences progress; and~~

~~(3) the opportunity to appeal disciplinary measures.~~

~~C. LEAs shall establish and publish procedures for use by school-age minors or their parents to contest notices of truancy.~~]

(3) An LEA shall publish the appeals process described in Subsection R277-607-4(2)(c) for use by a student or the student's parents.

KEY: compulsory education, truancy
Date of Enactment or Last Substantive Amendment: [~~October 9, 2014~~]2019
Notice of Continuation: September 2, 2014
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-6-206

Education, Administration
R277-704
Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43969
FILED: 08/08/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Utah State Board of Education has made amendments to Rule R277-704 in accordance with changes in H.B. 286, Financial and Economic Literacy Education, passed in the 2019 General Session which deletes the Student Passport requirement.

SUMMARY OF THE RULE OR CHANGE: The updates throughout this rule amend the definition of "financial and economic literacy concepts"; amends provisions related to standards related to financial literacy; repeal and reenact provisions related to a general financial literacy course; and professional development related to financial literacy education; repeal provisions related to a financial and economic literacy passport; amend provisions related to the convening of a task force; and make technical and conforming changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53E-3-505 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These rule changes are not expected to have any fiscal impact on state government revenues or expenditures. This rule is being updated to reflect H.B. 286 (2019). This bill repealed provisions related to a financial and economic literacy passport. These rule changes make the corresponding changes to the rule along with technical and formatting changes, and thus will not have a fiscal impact.
♦ LOCAL GOVERNMENTS: These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures. This rule is being updated to reflect H.B. 286 (2019). This bill repealed provisions related to a financial and economic literacy passport. These rule changes make the corresponding changes to the rule along with technical and formatting changes, and thus will not have a fiscal impact.
♦ SMALL BUSINESSES: These rule changes are not expected to have any material fiscal impact on small businesses' revenues or expenditures because this rule is about financial and economic literacy student passports and thus does not apply to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule is being updated to reflect H.B. 286 (2019). This bill repealed provisions related to a financial and economic literacy passport. These rule changes make the corresponding changes to this rule along with technical and formatting changes, and thus will not have a fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable large businesses and it does not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-704. Financial and Economic Literacy: Integration into Core Curriculum[~~and Financial and Economic Literacy Student Passports~~].

R277-704-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state;

(c) Section 53E-3-505, which directs the Board to work with financial and economic experts and private and non-profit entities to develop and integrate financial and economic literacy and skills into the public school curriculum at all appropriate levels[~~and to develop a financial and economic literacy student passport which is optional for students and tracks student mastery of financial and economic literacy concepts~~].

(2) The purpose of this rule is:

(a) to provide funds appropriated by the Legislature to develop and integrate financial and economic literacy concepts effectively into the core curriculum in various programs and at various grade levels;

[~~(b) to begin the development of a financial and economic literacy student passport;~~]

([~~e~~]b) to provide for educator professional development using business and community expertise;

([~~d~~]c) to provide curriculum resources and assessments for financial and economic literacy;

[~~(e) to provide passport criteria and tracking capabilities for the financial and economic literacy passport for students grades K-12;~~]

([~~f~~]d) to provide simple and consistent messaging to students that becomes part of the core curriculum that reinforces the importance of financial and economic literacy for students and parents; and

([~~g~~]e) to help students and parents to locate and use school and community resources to improve financial and economic literacy among students and families.

R277-704-2. Definitions.

(1) "Content Specialist" means [~~the same as the term is defined in Subsection R277-520-1(1)~~]a licensed educator who provides instruction or specialized support for students and teachers in a school setting.

(2) "End of course assessment" means an online end of course assessment for students who take the general financial literacy course.

(3) "Endorsement" means the licensing document required by the board for teachers who teach general financial literacy.

(4) "Financial and economic literacy project" means a program or series of activities developed locally to implement financial and economic literacy education as described in Section 53E-3-505.

[~~(5) "Financial and economic literacy student passport" means a collection of approved activities, assessments, or achievements completed during a given time period which indicate advancement in financial and economic understanding.~~]

([~~6~~]5) "LEA" for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.

([~~7~~]6) "Professional development" means locally or Board-approved education-related training or activities that enhance an educator's background[~~the same as the term defined in Subsection R277-522-2(10)~~].

[~~R277-704-3. Financial and Economic Literacy Student Passport.~~

~~(1) The Superintendent shall develop and promote a financial and economic literacy student passport that includes tracking a student's progress.~~

~~(2) The Superintendent shall include parent and community participation on the development of the student passport described in Subsection (1).~~

~~(3) The first round of implementation of the financial and economic literacy student passport shall be for students in grades nine through 12.~~

~~(4) The Superintendent shall provide a financial and economic literacy student passport to support educators as they educate students and their parents of the importance of financial and economic literacy, including its applicability to other subject areas.~~

~~(5) An LEA shall provide parents and students with the following:~~

~~(a) a financial and economic literacy passport and information about post-secondary education savings options; and~~

~~(b) information about the financial and economic literacy student passport opportunity as part of the student's plan for college and career readiness.~~]

R277-704-[4]3. General Financial Literacy End of Course Assessment.

(1) The Superintendent shall provide an LEA with an end of course assessment for general financial literacy which shall be:

(a) administered to every student who takes the general financial literacy course;

(b) aligned with general financial literacy revised core standards and objectives; and

(c) measured and analyzed at the school, district, and state-wide levels.

R277-704-[5]4. General Financial Literacy Teacher Endorsement.

(1) A Board licensed educator who teaches general financial literacy is required to have licensing, endorsements, and other credentials equal to other content specialists as described in Section R277-520-4.

(2) An educator's course work may be part of or in addition to course work and programs of study required for licensure by the Board consistent with [~~R277-502~~]R277-303.

R277-704-[6]5. Financial and Economic Literacy Professional Development Opportunities.

(1) The Superintendent shall provide professional development for all areas of financial and economic literacy utilizing the expertise of community and business groups.

(2) Professional development activities shall:

(a) provide information about financial and economic literacy including personal finance and economic responsibility;

(c) provide resources for teaching financial and economic literacy without promoting specific products or businesses; and

(d) work with the Superintendent to develop strategies for promoting financial and economic literacy.

R277-704-[7]6. Financial and Economic Literacy Taskforce.

(1) The financial and economic literacy taskforce shall have the membership and general responsibilities outlined in Subsection 53E-3-505([~~3~~]4).

(2) In addition to the responsibilities outlined in Subsection 53E-3-505([~~3~~]4), the financial and economic literacy taskforce shall:

(a) analyze data provided by the Superintendent that includes:

(i) aggregated-school level proficiency results from the end of course assessment;

(ii) general enrollment data;

(iii) assessment of general financial literacy education quality; and

(iv) other relevant data to inform strategies for strengthening financial literacy proficiency; and

(b) serve as the writing committee for the financial literacy course standards[~~ described in Subsection 53E-4-204(1)(b), (3), and (4)~~].

(3) [~~The course standards described in Subsection (2)(b) are subject to the same approval requirements described~~]Prior to final approval, the board shall fulfill all the requirements in Subsection 53E-4-202(4).

KEY: financial, economics, literacy
Date of Enactment or Last Substantive Amendment: [~~April 8,~~] 2019
Notice of Continuation: November 5, 2018
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-3-505; 53E-3-401(4)

Education, Administration
R277-706
Public Education Regional Service Centers

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43982
FILED: 08/13/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to include formatting changes and technical amendments in accordance with the Office of Administrative Rules rulemaking guidelines, and updated per stakeholder feedback about eligible regional service center funding and responsibilities.

SUMMARY OF THE RULE OR CHANGE: These rule amendments include formatting changes and technical amendments in accordance with Utah State Board of Education and the Office of Administrative Rules rulemaking guidelines, and updating eligible regional service center definitions, distribution of funds processes, and the responsibilities of the involved parties.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53E-3-401(4) and Section 53G-4-410

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These rule changes are not expected to have any fiscal impact on state government revenues or expenditures. These rule changes include formatting changes and technical amendments, but no substantive changes and thus there is no fiscal impact.
♦ LOCAL GOVERNMENTS: These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures. These rule changes include formatting changes and technical amendments, but no substantive changes and thus there is no fiscal impact.
♦ SMALL BUSINESSES: These rule changes are not expected to have any material fiscal impact on small businesses' revenues or expenditures. This rule applies to regional service centers and thus does not apply to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. These rule changes include formatting changes and technical amendments, but no substantive changes and thus there is no fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and

Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses. These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
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Fiscal Benefits			
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Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
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Appendix 2: Regulatory Impact to Non-Small Businesses
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
R277-706. Public Education Regional Service Centers.
R277-706-[1]2. Definitions.
[~~A. "Board" means the Utah State Board of Education.~~
] [~~B.~~](1) "Eligible regional service center" has the same meaning as the term is defined in Section 53G-4-410.[~~means a regional service center formed by two or more school districts by means of an interlocal entity in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.~~
~~C. "USOE" means the Utah State Office of Education.~~]

R277-706-[2]1. Authority and Purpose.
[~~A.~~](1) This rule is authorized by:
(a) the Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board[,];
(b) Subsection 53G-4-410(6), which[~~that~~] directs the Board to make rules regarding eligible regional service[~~s~~] center's[,]; and
(c) Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with [~~its~~]the Board's responsibilities.
[~~B.~~](2) The purpose of this rule is:
(a) to provide definitions and procedures for school districts to form interlocal agreements; and

(b) to provide for distribution of legislative funds to eligible regional service centers by the Board.

R277-706-3. Eligible Regional Service Centers.

[~~A.~~](1) Two or more school districts may enter into an interlocal agreement and form an [~~interlocal entity~~]eligible regional service center as described in Section 53G-4-410.

[~~B. An eligible regional service center may receive funds if the Legislature appropriates money.~~

] [~~C.~~](2) An interlocal agreement described in Subsection (1) shall confirm [~~and ratify the regional service center as of the effective date of the interlocal~~]or formalize a regional service center as described in Subsection 53G-4-410(4) as of the effective date of the agreement.

R277-706-4. Distribution of Funds.

[~~A.~~](1) The [~~USOE~~]Superintendent shall distribute funds, if provided by the Legislature, in equal amounts to each eligible regional service center[~~s based on~~]if the eligible regional service center:

[~~(1)~~](a) [~~requests from eligible regional service centers~~]submits a request for funds; and

[~~(2)~~](b) satisfies all [~~satisfaction and submission of all information and~~]requirements [~~set~~]established by the Board.

[~~B.~~](2) The [~~USOE~~]Superintendent shall provide notice [~~that completed applications for regional service center funds are due to the USOE consistent with timelines provided by the USOE~~]to an eligible regional service center of the deadlines and requirements for a request for funds described in Subsection (1).

[~~C. The Board may review and consider a different distribution plan for future years.~~

~~D.~~](3) [~~Legislative funding, if provided,~~]Subject to legislative appropriation, the Superintendent shall[~~be~~] distribute[~~d~~] funds to an eligible regional service center[~~s~~] after July 1 annually.

R277-706-5. Eligible Regional Service Center Responsibilities.

[~~A.~~](1) An [~~E~~]eligible regional service center[~~s~~] shall submit an annual application for available funds to the Superintendent[~~Board consistent with USOE timelines~~].

[~~B.~~](2) An eligible regional service center's application for funds shall include:

[~~(1)~~](a) a copy of the eligible regional service center's completed interlocal agreement[~~(s)~~];

[~~(2)~~](b) a proposed budget and request for funds[~~ from the Board~~];

[~~(3)~~](c) a current external audit of [~~current~~]the eligible regional service center's assets and liabilities[~~ in the initial application for funds and with each annual application~~];

[~~(4)~~](d) assurance, signed by all parties to the interlocal agreement, that the [~~USOE~~]eligible regional service center will [~~shall have access to all~~]provide the eligible regional service center's records to the Superintendent upon request;

[~~(5)~~](e) an annual financial report from the previous fiscal year; and

[~~(6)~~](f) a plan for the use and distribution of the eligible regional service center's funds for the applicable fiscal year with specific attention to:

(i) the delivery of Utah Education Network and Telehealth services to the LEAs within the eligible regional service center; and[~~and~~]

(ii) the delivery of education-related services.

[~~C.~~](3) An eligible regional service center shall provide an annual performance report to the Superintendent and the Board [~~beginning with fiscal year 2012~~], including the following information[~~ about~~]:

[~~(1)~~](a) the eligible regional service center's delivery of Utah Education and Telehealth Network services;

[~~(2)~~](b) the eligible regional service center's type, amount, and effectiveness of delivery of public and higher education related services; and

[~~(3)~~](c) the eligible regional service center's coordination of public and higher education related services.

KEY: eligible regional service centers
Date of Enactment or Last Substantive Amendment: [~~October 9, 2014~~]2019
Notice of Continuation: September 2, 2014
Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53G-4-410(6); 53E-3-401(4)

Education, Administration
R277-711
High Quality School Readiness Expansion

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 43987
FILED: 08/13/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 166, School Readiness Amendments, passed in the 2019 General Session, transferred authority for the High Quality School Readiness Grant Program to the School Readiness Board housed within the Department of Workforce Services (DWS).

SUMMARY OF THE RULE OR CHANGE: As a result of S.B. 166 (2019), Rule R277-711 is no longer necessary and Utah State Board of Education recommends repealing this rule in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-5-303 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule repeal is not expected to have any fiscal impact on state government revenues or

expenditures. The grant program itself remains in statute and is state-funded and thus, this rule repeal will not have a fiscal impact.
♦ LOCAL GOVERNMENTS: This rule repeal is not expected to have any fiscal impact on local governments' revenues or expenditures. The grant program itself remains in statute and is state-funded and thus, this rule repeal will not have a fiscal impact.
♦ SMALL BUSINESSES: This rule repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule applies to the High Quality School Readiness Grant Program which is state funded and thus, does not apply to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule repeal is not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule applies to the High Quality School Readiness Grant Program which is state funded and thus, does not apply to other individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses. This rule repeal has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
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Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
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***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
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applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
[~~R277-711. High Quality School Readiness Expansion.~~
~~R277-711-1. Authority and Purpose.~~
~~(1) This rule is authorized by:~~
~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;~~
~~(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;~~
~~(c) Section 53F-5-303, which requires the Board to make rules to:~~
~~(i) implement a grant program for LEAs to increase capacity in high-quality school readiness programs; and~~
~~(ii) create a tool to determine quality of a school readiness program; and~~
~~(d) Section 53F-5-304, which requires the Board to make rules to implement a grant program for home-based technology programs to provide high-quality school readiness programs.~~
~~(2) The purpose of this rule is to:~~
~~(a) designate the tool for the Superintendent to use in determining if a school readiness program is high quality; and~~
~~(b) designate procedures for an LEA to apply to the Board to receive grant money.~~

~~R277-711-2. Definitions.~~
~~(1) "Eligible LEA" means an LEA that provides a school readiness program that the Superintendent has determined to be a high-quality program consistent with procedures established in this Rule.~~
~~(2) "Program" means the high-quality school readiness expansion program established in Title 53F, Chapter 5, Part 3, Expanded Access to High Quality School Readiness Programs Act.~~

~~R277-711-3. Grant Applications - Timelines.~~
~~(1) The Superintendent shall:~~
~~(a) develop a grant application that allows an LEA to apply to participate in the program; and~~
~~(b) make the grant application available on the Board's website.~~
~~(2) An LEA may apply for a grant described in Section 53F-5-303 by submitting an application to the Superintendent on or before the date published on the Board's website.~~
~~(3)(a) An LEA may notify the Superintendent of the LEA's intention to apply for a grant at any time.~~
~~(b) If an LEA intends to be considered for a grant for the upcoming school year, the LEA shall submit a letter of intent by the deadline established by the Superintendent and published on the Board's website.~~
~~(4) For each year the Superintendent is authorized to solicit grant applications, the Superintendent shall publish a timeline on the Board's website by March 1, including a date for the application release, and due dates for the LEA to submit required materials.~~
~~(5) The Superintendent shall evaluate each application using the tool described in Section R277-711-4 to determine if the applying LEA is an eligible LEA.~~
~~(6) The Superintendent shall notify an eligible LEA of successful receipt of a grant by July 1.~~

~~R277-711-4. Superintendent and LEA Responsibilities - Tool to Determine Quality of an LEA School Readiness Program.~~
~~(1) The Superintendent shall create a tool to determine whether or not an LEA school readiness program may be designated as high quality.~~
~~(2) The tool described in Subsection (1) shall consist of the following components:~~
~~(a)(i) the Early Childhood Environmental Rating Scale (ECERS) observational tool for an observer to rate a program through a site visit; or~~
~~(ii) another observational tool that the Superintendent trusts to be a reliable tool;~~
~~(b) an application from the LEA containing the high quality components described in 53F-6-304; and~~
~~(c) an on-site visit and interview with the Superintendent's designated staff.~~
~~(3) The Superintendent shall establish a scoring rubric for how the application will be evaluated, and make the rubric available to applicants.~~
~~(4) The Superintendent shall maintain a list of state-funded high-quality school readiness programs operating in each LEA's geographic boundaries, which have been designated as high quality through use of the tool.~~
~~(5) The Superintendent shall provide for a flag in a student's data file to indicate the type of state-funded high-quality school readiness program that the student participated in.~~
~~(6)(a) The Superintendent may require an LEA that receives program money to develop a corrective action plan and successfully implement the corrective action plan if the LEA fails to:~~
~~(i) comply with statutory provisions or the requirements of this Rule;~~
~~(ii) meet expected goals; or~~
~~(iii) maintain all the high-quality elements of the school readiness program.~~
~~(b) If an LEA fails to successfully implement a corrective action plan described in Subsection (6)(a), the Superintendent may discontinue or reduce funding of program grant monies to the LEA.~~
~~(7) The Superintendent shall administer the grant program for home-based technology providers as provided in Section 53F-5-304.~~
~~(8) The Superintendent shall administer and oversee the evaluation of the program as provided in Section 53F-5-307.~~

~~KEY: grants, school readiness program~~
~~Date of Enactment or Last Substantive Amendment: October 11, 2016~~
~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-5-303; 53F-5-304~~]

Education, Administration
R277-713
Concurrent Enrollment of High School Students in College Courses

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43988
FILED: 08/13/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah State Board of Education has updated Rule R277-713 in accordance with H.B. 146, Concurrent Enrollment Amendments, and H.B. 291, Concurrent Enrollment Modifications, passed in the 2019 General Session. Rule R277-713 clarifies eligibility requirements to participate in concurrent enrollment courses.

SUMMARY OF THE RULE OR CHANGE: This rule has been updated in accordance with amendments to H.B. 146 and H.B 291 (2019). This rule has been amended in accordance with the rulewriting manual.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-2-409 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These rule changes are not expected to have any fiscal impact on state government revenues or expenditures. This rule is being updated to reflect H.B. 146 and H.B 291 (2019). Thus, this rule change does not have a fiscal impact.
♦ LOCAL GOVERNMENTS: These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures. This rule is being updated to reflect H.B. 146 and H.B 291 (2019). Thus, this rule change does not have a fiscal impact.
♦ SMALL BUSINESSES: These rule changes are not expected to have any material fiscal impact on small businesses' revenues or expenditures because this rule applies to the concurrent enrollment program and thus, does not apply to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule is being updated to reflect H.B. 146 and H.B 291 (2019). Thus, these rule changes do not have a fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses. These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0

Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
R277-713. Concurrent Enrollment of [~~High School~~]Students in College Courses.
R277-713-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-409, which directs the Board to provide for the distribution of concurrent enrollment dollars in rule.

(2) The purpose of the concurrent enrollment program is to provide a challenging college-level and productive experience [~~in high school~~]to eligible students, and to provide transition courses that can be applied to postsecondary education.

(3) The purpose of this rule is to specify the standards and procedures for concurrent enrollment courses and the criteria for funding appropriate concurrent enrollment expenditures.

R277-713-2. Definitions.

(1) "Concurrent [~~E~~]enrollment" means a public high school student is enrolled in a course that satisfies both high school graduation requirements and qualifies for higher education credit at a USHE institution.

(2) "Concurrent [~~E~~]enrollment [~~P~~]program" or "[~~P~~]program" means the program created in Section 53E-10-302 that receives funding in accordance with Section 53F-2-409, which allows students to participate in concurrent enrollment courses.

(3) "Master course list" means a list of approved courses, maintained by the Superintendent and USHE, which may be offered and funded through the concurrent enrollment program.

(4) "USHE" means the Utah System of Higher Education as described in Section 53B-1-102.

R277-713-3. Student Eligibility and Participation.

(1) A student participating in the program shall:

(a) be [~~enrolled in a public high school in the state and counted in average daily membership for that high school, as required in Subsection 53E-10-301(4);~~

~~(b) have on file at the participating school, a current student SEOP, as defined in Section 53E-2-304.~~]an "eligible student" as described in Subsection 53E-10-301(5); and

([e]b) have completed a concurrent enrollment participation form, including a parent permission form and acknowledgment of program participation requirements, as required in section 53E-10-304[~~; and~~

~~(d)(i) be enrolled in grade 11 or 12; or~~

~~(ii) if allowed by exception, be enrolled in grade 9 or 10, as detailed in Subsection 53E-10-302(5)~~].

(2) Student eligibility requirements for the program shall be:

(a) established by an LEA and a USHE institution; and

(b) sufficiently selective to predict a successful experience for qualified students.

(3) An LEA has the primary responsibility for identifying a student who is eligible to participate in a concurrent enrollment class.

(4) To ensure that a student is prepared for college level work, an LEA shall appropriately evaluate the student's abilities prior to participation in concurrent enrollment courses, and to determine that the student meets prerequisites previously established for the same campus-based course by the sponsoring USHE institution.

R277-713-4. Course Credit and Offerings - Course Approval Process.

(1) Credit earned through a concurrent enrollment course:

(a) has the same credit hour value as when taught on a college campus;

(b) applies toward graduation on the same basis as a course taught at a USHE institution to which the credits are submitted;

(c) generates higher education credit that becomes a part of a student's permanent college transcript;

(d) generates high school credit that is consistent with the LEA policies for awarding credit for graduation; and

(e) is transferable from one USHE institution to another.

(2) A USHE institution is responsible to determine the credit for a concurrent enrollment course, consistent with State Board of Regents' policies.

(3) An LEA and a USHE institution shall provide the Superintendent and USHE with proposed new course offerings, including syllabi and curriculum materials, by November 15 of the year preceding the school year in which the courses would be offered.

(4) A concurrent enrollment course shall be approved by the Superintendent and USHE, and designated on the master course list, maintained by the Superintendent and USHE.

(5)(a) Concurrent enrollment course offerings shall reflect the strengths and resources of the respective schools and USHE institutions and be based upon student needs.

(b) The number of courses selected shall be kept small enough to ensure coordinated statewide development and professional development activities for participating teachers.

(6) To provide for the focus of energy and resources on quality instruction in the concurrent enrollment program, program courses shall be limited to courses in:

(a) English;

(b) mathematics;

(c) fine arts;

(d) humanities;

(e) science;

(f) social science;

(g) world languages; and

(h) career and technical education.

(7) A Technology-intensive concurrent enrollment (TICE) course is a hybrid course, having a blend of different learning activities, available both in the classroom and online, or may be delivered exclusively online.

(8) A concurrent enrollment course shall be a course at the 1000 or 2000 level in postsecondary education, except for a 3000-level accelerated foreign language course, which may be approved as a concurrent enrollment course for eligible students.

(9) A [~~concurrent enrollment~~]course may not be approved as a concurrent enrollment course if the course[~~if it~~] is:

(a) a high school course that is typically offered in grade 9 or 10; or

(b) a postsecondary course below the 1000 level.

(10) The appropriate USHE institution shall take responsibility for:

(a) course content[~~,~~];

(b) procedures[~~,~~];

(c) examinations[~~,~~];

(d) teaching materials[~~,~~]; and

(e) program monitoring.[~~ and all~~]

(11) Concurrent enrollment procedures and materials shall be:

(a) consistent with Utah law[~~,~~]; and[~~ shall~~]

(b) ensure quality and comparability with courses offered on a college or university campus.

R277-713-5. Program Management and Delivery.

(1)(a) Concurrent enrollment courses and curriculum may be provided through live classroom instruction or by other means, including electronic communications.

(b) An LEA and a USHE institution shall design and implement courses to take full advantage of the most currently available educational technology.

(2) An LEA shall use a Superintendent-designated 11-digit course code for a concurrent enrollment course.

(3) An LEA and a USHE institution shall jointly align information technology systems with all individual student academic achievement data so that student information will be tracked through both education systems consistent with Section 53E-4-308.

R277-713-6. Faculty and Educator Requirements.

(1) An educator who is not employed by a USHE institution and teaches a concurrent enrollment course shall:

(a) be employed by an LEA; and

(b) [~~have secondary endorsements in each subject area in which they teach; and~~]meet the requirements of Subsections 53E-10-302(5) and (6).

[~~(c) have a Level 4 mathematics endorsement if the educator teaches a mathematics concurrent enrollment course.~~]

(2) An educator employed by an LEA who teaches a concurrent enrollment course shall be approved as an adjunct faculty member at the contracting USHE institution prior to teaching the concurrent enrollment course.

(3) High school educators who hold adjunct or part time faculty status with a USHE institution for the purpose of teaching concurrent enrollment courses shall be included as fully as possible in the academic life of the supervising academic department at the USHE institution.

(4) An LEA and a USHE institution shall share expertise and professional development, as necessary, to adequately prepare a teacher to teach in the concurrent enrollment program, including federal and state laws specific to student privacy and student records.

(5) A USHE institution that employs a faculty member who teaches in a high school has responsibility for ensuring and maintaining documentation that the faculty member has successfully completed a criminal background check, consistent with Section 53G-11-402.

R277-713-7. Concurrent Enrollment Funding and Use of Concurrent Enrollment Funds.

(1) Program funds shall be allocated in accordance with Section 53F-2-409.

(2) Program funds allocated to LEAs may not be used for any other program or purpose, except as provided in Section 53F-2-206.

(3) Concurrent enrollment funding may not be used to fund a parent- or student-initiated college-level course at an institution of higher education.

(4) The Superintendent may not distribute concurrent enrollment funds to an LEA for reimbursement of a concurrent enrollment course:

(a) that is not on the master course list;

(b) for a student that has exceeded 30 semester hours of concurrent enrollment for the school year;

(c) for a concurrent enrollment course repeated by a student; or

(d) taken by a student:

(i) who has received a diploma;

(ii) whose class has graduated; or

(iii) who has participated in graduation exercises.

(5)(a) An LEA shall receive a pro-rated amount of the funds appropriated for concurrent enrollment according to the number of semester hours successfully completed by students registered through the LEA in the prior year compared to the state total of completed concurrent enrollment hours.

(b) Successfully completed means that a student received USHE credit for the course.

(6) An LEA's use of state funds for concurrent enrollment is limited to the following:

(a) aid in professional development of adjunct faculty in cooperation with the participating USHE institution;

(b) assistance with delivery costs for distance learning programs;

(c) participation in the costs of LEA personnel who work with the program;

(d) student textbooks and other instructional materials;

(e) fee waivers for costs or expenses related to concurrent enrollment for fee waiver eligible students under R277-407;

(f) purchases by LEAs of classroom equipment required to conduct concurrent enrollment courses; and

(g) other uses approved in writing by the Superintendent consistent with the law and purposes of this rule.

(7) An LEA that receives program funds shall provide the Superintendent with the following:

(a) end-of-year expenditures reports; and

(b) an annual report regarding supervisory services and professional development provided by a USHE institution.

(8) Appropriate reimbursement may be verified at any time by an audit.

R277-713-8. Student Tuition and Fees.

(1) A concurrent enrollment program student may be charged partial tuition and program-related fees, in accordance with Section 53E-10-305.

(2) Postsecondary tuition and participation fees charged to a concurrent enrollment student are not fees, as defined in R277-407, and do not qualify for a fee waiver under R277-407.

(3)(a) All costs related to concurrent enrollment classes that are not tuition and participation fees are subject to a fee waiver consistent with R277-407.

(b) Concurrent enrollment costs subject to fee waiver may include consumables, lab fees, copying, material costs, and textbooks required for the course.

(4)(a) Except as provided in Subsection (4)(b), an LEA shall be responsible for fee waivers.

(b) An agreement between a USHE institution and an LEA may address the responsibility for fee waivers.

R277-713-9. Annual Contracts and Other Student Instruction Issues.

(1) An LEA and a USHE institution that plan to collaborate to offer a concurrent enrollment course shall enter into an annual contract for the upcoming school year by no later than May 30.

(2) An LEA shall provide the Superintendent a copy of each annual contract entered into between the LEA and a USHE institution for the upcoming school year by no later than May 30.

(3) An LEA and a USHE institution shall use the standard contract language developed by the Superintendent and USHE.

KEY: students, [~~curricula,~~]higher education
Date of Enactment or Last Substantive Amendment: [~~August 11, 2016~~]2019
Notice of Continuation: July 19, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(c); 53E-10-3

Education, Administration
R277-928
High-Need Schools Grant

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 43989
FILED: 08/13/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule is required to implement S. B. 115, The High-Need School Amendments, which includes the new High-Need School Grant, passed in the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: This rule provides procedures for a local education agency (LEA) to apply for the High-Need Schools Grant; and criteria for determining if an elementary school is a high-need school.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-5-212 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: This rule is not expected to have any fiscal impact on state government revenues or expenditures. S.B. 115 (2019) establishes the Grants for Educators in High-Need Schools Program and funds it with a state appropriation. Thus, this rule does not have an independent fiscal impact on state government revenues or expenditures.

♦ LOCAL GOVERNMENTS: This rule is not expected to have any fiscal impact on local governments' revenues or expenditures. S.B. 115 (2019), establishes the Grants for Educators in High-Need Schools Program and funds it with a state appropriation. Statute for the program also requires that any LEA opting to participate in the program must provide matching funds equal to the grant amount received.

♦ SMALL BUSINESSES: This rule is not expected to have any material fiscal impact on small businesses' revenues or expenditures. This rule is for a program funded through state appropriated funds and matching funds from LEAs, and thus, does not affect small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule is not expected to have any material fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule is for a program funded through state appropriated funds and matching funds from LEAs, and thus, does not affect other individuals' revenues or expenditures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and they do not require any expenditures of or generate revenue for non-small businesses. This proposed rule has no fiscal impact on LEAs and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
R277-928. High-Need Schools Grant.
R277-928-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-5-212, which establishes a grant to hire educators in high-need schools and directs the Board to make rules to govern the application process.

(2) The purpose of this rule is to provide:

(a) procedures for an LEA to apply for the High-Need Schools Grant; and

(b) criteria for determining if an elementary school is a high-need school.

R277-928-2. Definitions.

(1) "High-need school" means the same as the term is defined in Subsection 53F-5-212(1)(c).

(2) "Qualifying educator," except as provided in Subsection R277-928-4(2), means a first-year classroom teacher holding a professional educator license.

R277-928-3. Application Process.

(1) The Superintendent shall establish an application process for an LEA to apply for a high-need school grant.

(2) An LEA shall submit an application for the high-need school grant by November 30th annually.

(3) An LEA's application shall include acknowledgments that:

(a) the high-need school grant is for a single year only;

(b) the LEA shall match the grant amount in accordance with Subsection 53F-5-212(4)(b); and

(c) comply with the requirements of Subsection 53F-5-212(6).

(4) The Superintendent shall review an LEA's application based on October 1 enrollment data.

(5) The Superintendent shall:

(a) create a rubric to assign weight to the criteria outlined in Subsection 53F-5-212(5)(b); and

(b) assess low school performance to include the lowest ten percent of schools as evidenced by results from Board-approved standardized testing.

(6) The Superintendent shall select grantees by January 31st annually.

(7) An LEA shall submit the report required under Subsection 53F-5-212(6)(b) by June 30th annually.

(8) If an LEA that receives a high-need school grant is unable to fill a position with a qualifying educator or a funded educator leaves mid-year and the LEA is unable to fill the position with a qualifying educator:

(a) the LEA shall notify the Superintendent; and

(b) the LEA shall forfeit grant funds on a pro rata basis for the remainder of the school year.

R277-928-4. Grants for the 2019-20 School Year.

(1) The Superintendent shall establish an expedited process to take applications and award grant funds for the high-need school grant in the 2019-20 school year.

(2) A qualifying educator shall hold a Level 1 License for an LEA to qualify for a high-need school grant in the 2019-20 school year.

KEY: grant, high-need school
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4), 53F-5-212

Environmental Quality, Air Quality
R307-401
Permit: New and Modified Sources

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43963
FILED: 08/07/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments add and update definitions and testing requirements. These changes will allow sources to discontinue testing after three years of operation if testing demonstrates the emissions have consistently remained below exemption levels. Changes have also been made to clarify that sub-slab vapor mitigation systems are exempt from this rule's testing requirements.

SUMMARY OF THE RULE OR CHANGE: Section R307-401-2 is amended to add definitions for "air strippers," "soil aeration," "soil vapor extraction," and "vapor mitigation system." Sections R307-401-15 and R307-401-16 are being amended to update testing requirements, which will allow sources to discontinue testing after three years of operation if testing demonstrates the emissions have consistently remained below exemption levels. Subsection R307-401-15(5) is being added to this rule to clarify that sub-slab vapor mitigation systems are exempt from the testing requirements of this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: These rule changes are expected to have an unknown savings to the state budget as it will limit the need for Division of Air Quality staff to review testing submission. The savings is unknown because information regarding how many of these would be submitted is unavailable.

♦ LOCAL GOVERNMENTS: These rule changes are not expected to have a fiscal impact on local governments.

♦ SMALL BUSINESSES: These rule changes could result in a cost savings to small businesses who operate or own sub-slab vapor extraction systems, as this rule exempts them from certain notice of intent and approval order requirements. The aggregate savings is not possible to calculate as the number of soil vapor extractions (SVEs) operating at any given time is not readily available. However, the savings are estimated to range between $2,800 and $3,500 per sampling event per stack.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have a fiscal impact on persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional compliance requirements added to this rule through these amendments; therefore, there are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These amendments will result in an unknown savings to non-small businesses. Information on how many instances the exemption will apply to an owner or operator of sub-slab vapor mitigation systems is not readily available. However, it is estimated that the savings will range between $2,800 and $3,500 per sampling event for each vent riser. Each system will have a specific vent riser count requirement. Stacks can range from four to 10 per project. As currently written, this rule requires each stack to be tested five times in the first year and twice a year after the first year for the life of the project. At a four stack site this could cost up to $70,000 in the first year, and up to $28,000 each subsequent year. Testing would be required for the life of the project.

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 Office 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 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2019

AUTHORIZED BY: Bryce Bird, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
These amendments will result in an unknown savings to non-small businesses. Information on how many instances the exemption will apply to an owner or operator of sub-slab vapor mitigation systems is not readily available. However, it is estimated that the savings will range between $2,800 and $3,500 per sampling event for each vent riser. Each system will have a specific vent riser count requirement. Stacks can range from 4 to 10 per project. As currently written, this rule requires each stack to be tested five times in the first year and twice a year after the first year for the life of the project. At a four stack site this could cost up to $70,000 in the first year, and up to $28,000 each subsequent year. Testing would be required for the life of the project.

The Interim Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R307. Environmental Quality, Air Quality.
R307-401. Permit: New and Modified Sources.
R307-401-1. Purpose.

This rule establishes the application and permitting requirements for new installations and modifications to existing installations throughout the State of Utah. Additional permitting requirements apply to larger installations or installations located in

nonattainment or maintenance areas. These additional requirements can be found in R307-403, R307-405, R307-406, R307-420, and R307-421. Modeling requirements in R307-410 may also apply. Each of the permitting rules establishes independent requirements, and the owner or operator must comply with all of the requirements that apply to the installation. Exemptions under R307-401 do not affect applicability of the other permitting rules.

R307-401-2. Definitions.

"Actual emissions" (a) means the actual rate of emissions of an air pollutant from an emissions unit, as determined in accordance with R307-401-2(b) through R307-401-2(d).

(b) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the air pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(c) The director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(d) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each air pollutant which would be emitted from any proposed stationary source or modification which the director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Air Strippers" are systems designed to pump groundwater to the surface for treatment, usually by aeration.

"Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any air pollutant.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Indirect source" means a building, structure, facility, or installation which attracts or may attract mobile source activity that results in emission of a pollutant for which there is a national standard.

"Potential to emit" means the maximum capacity of a stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Soil Aeration" is an ex-situ treatment process where excavated soil from a remediation project is spread in a thin layer to encourage biodegradation of soil contamination. Biodegradation may be stimulated through aeration or the addition of minerals, nutrients, and/or moisture.

"Soil Vapor Extraction", or SVE, is a system designed to extract vapor phase contaminants from the subsurface. SVE systems are often combined with other technologies, such as air sparging or vacuum-enhanced recovery systems.

"Stationary source" means any building, structure, facility, or installation which emits or may emit an air pollutant.

"Vapor Mitigation System", or VMS, is a sub-slab system whose primary purpose is mitigating vapor intrusion into an occupied, or occupiable, structure and is not intended or designed for the remediation of contaminated soil or groundwater. This definition includes both active and passive systems. Active systems use a blower or fan to extract vapors from within or beneath a structure. Passive systems consist of a venting layer installed under a structure to divert vapor to the sides of a structure and vent vapors outdoors.

R307-401-3. Applicability.

(1) R307-401 applies to any person intending to:

(a) construct a new installation which will or might reasonably be expected to become a source or an indirect source of air pollution, or

(b) make modifications to or relocate an existing installation which will or might reasonably be expected to increase the amount of, or change the effect of, or the character of, air pollutants discharged, so that such installation may be expected to become a source or indirect source of air pollution, or

(c) install a control apparatus or other equipment intended to control emissions of air pollutants.

(2) R307-403, R307-405 and R307-406 may establish additional permitting requirements for new or modified sources.

(a) Exemptions contained in R307-401 do not affect applicability or other requirements under R307-403, R307-405 or R307-406.

(b) Exemptions contained in R307-403, R307-405 or R307-406 do not affect applicability or other requirements under R307-401, unless specifically authorized in this rule.

R307-401-4. General Requirements.

The general requirements in R307-401-4(1) through R307-401-4(3) apply to all new and modified installations, including installations that are exempt from the requirement to obtain an approval order.

(1) Any control apparatus installed on an installation shall be adequately and properly maintained.

(2) If the director determines that an exempted installation is not meeting an approval order or State Implementation Plan limitation, is creating an adverse impact to the environment, or would be injurious to human health or welfare, the director may require the owner or operator to submit a notice of intent and obtain an approval order in accordance with R307-401-5 through R307-401-8. The director will complete an appropriate analysis and evaluation in consultation with the owner or operator before determining that an approval order is required.

(3) Low Oxides of Nitrogen Burner Technology.

(a) Except as provided in R307-401-4(3)(b), whenever existing fuel combustion burners are replaced, the owner or operator shall install low oxides of nitrogen burners or equivalent oxides of nitrogen controls, as determined by the director, unless such equipment is not physically practical or cost effective. The owner or operator shall submit a demonstration that the equipment is not physically practical or cost effective to the director for review and approval prior to beginning construction.

(b) The provisions of (a) above do not apply to non-commercial, residential buildings.

R307-401-5. Notice of Intent.

(1) Except as provided in R307-401-9 through R307-401-17, any person subject to R307-401 shall submit a notice of intent to the director and receive an approval order prior to initiation of construction, modification or relocation. The notice of intent shall be in a format specified by the director.

(2) The notice of intent shall include the following information:

(a) A description of the nature of the processes involved; the nature, procedures for handling and quantities of raw materials; the type and quantity of fuels employed; and the nature and quantity of finished product.

(b) Expected composition and physical characteristics of effluent stream both before and after treatment by any control apparatus, including emission rates, volume, temperature, air pollutant types, and concentration of air pollutants.

(c) Size, type, and performance characteristics of any control apparatus.

(d) An analysis of best available control technology for the proposed source or modification. When determining best available control technology for a new or modified source in an ozone nonattainment or maintenance area that will emit volatile organic compounds or nitrogen oxides, the owner or operator of the source shall consider EPA Control Technique Guidance (CTG) documents and Alternative Control Technique documents that are applicable to the source. Best available control technology shall be at least as stringent as any published CTG that is applicable to the source.

(e) Location and elevation of the emission point and other factors relating to dispersion and diffusion of the air pollutant in relation to nearby structures and window openings, and other information necessary to appraise the possible effects of the effluent.

(f) The location of planned sampling points and the tests of the completed installation to be made by the owner or operator when necessary to ascertain compliance.

(g) The typical operating schedule.

(h) A schedule for construction.

(i) Any plans, specifications and related information that are in final form at the time of submission of notice of intent.

(j) Any additional information required by:

(i) R307-403, Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas;

(ii) R307-405, Permits: Major Sources in Attainment or Unclassified Areas (PSD);

(iii) R307-406, Visibility;

(iv) R307-410, Permits: Emissions Impact Analysis;

(v) R307-420, Permits: Ozone Offset Requirements in Davis and Salt Lake Counties; or

(vi) R307-421, Permits: PM10 Offset Requirements in Salt Lake County and Utah County.

(k) Any other information necessary to determine if the proposed source or modification will be in compliance with Title R307.

(3) Notwithstanding the exemptions in R307-401-9 through R307-401-16, any person that is subject to R307-403, R307-405, or R307-406 shall submit a notice of intent to the director and receive an approval order prior to initiation of construction, modification, or relocation.

R307-401-6. Review Period.

(1) Completeness Determination. Within 30 days after receipt of a notice of intent, or any additional information necessary to the review, the director will advise the applicant of any deficiency in the notice of intent or the information submitted.

(2) Within 90 days of receipt of a complete application including all the information described in R307- 401-5, the director will

(a) issue an approval order for the proposed construction, installation, modification, relocation, or establishment pursuant to the requirements of R307-401-8, or

(b) issue an order prohibiting the proposed construction, installation, modification, relocation or establishment if it is deemed that any part of the proposal is inadequate to meet the applicable requirements of R307.

(3) The review period under R307-401-6(2) may be extended by up to three 30-day extensions if more time is needed to review the proposal.

R307-401-7. Public Notice.

(1) Issuing the Notice. Prior to issuing an approval or disapproval order, the director will advertise intent to approve or disapprove in a newspaper of general circulation in the locality of the proposed construction, installation, modification, relocation or establishment.

(2) Opportunity for Review and Comment.

(a) At least one location will be provided where the information submitted by the owner or operator, the director's analysis of the notice of intent proposal, and the proposed approval order conditions will be available for public inspection.

(b) Public Comment.

(i) A 30-day public comment period will be established.

(ii) A request to extend the length of the comment period, up to 30 days, may be submitted to the director within 15 days of the date the notice in R307-401-7(1) is published.

(iii) Public Hearing. A request for a hearing on the proposed approval or disapproval order may be submitted to the director within 15 days of the date the notice in R307-401-7(1) is published.

(iv) The hearing will be held in the area of the proposed construction, installation, modification, relocation or establishment.

(v) The public comment and hearing procedure shall not be required when an order is issued for the purpose of extending the time required by the director to review plans and specifications.

(3) The director will consider all comments received during the public comment period and at the public hearing and, if appropriate, will make changes to the proposal in response to comments before issuing an approval order or disapproval order.

R307-401-8. Approval Order.

(1) The director will issue an approval order if the following conditions have been met:

(a) The degree of pollution control for emissions, to include fugitive emissions and fugitive dust, is at least best available control technology. When determining best available control technology for a new or modified source in an ozone nonattainment or maintenance area that will emit volatile organic compounds or nitrogen oxides, best available control technology shall be at least as stringent as any Control Technique Guidance document that has been published by EPA that is applicable to the source.

(b) The proposed installation will meet the applicable requirements of:

(i) R307-403, Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas;

(ii) R307-405, Permits: Major Sources in Attainment or Unclassified Areas (PSD);

(iii) R307-406, Visibility;

(iv) R307-410, Permits: Emissions Impact Analysis;

(v) R307-420, Permits: Ozone Offset Requirements in Davis and Salt Lake Counties;

(vi) R307-210, Standards of Performance for New Stationary Sources;

(vii) National Primary and Secondary Ambient Air Quality Standards;

(viii) R307-214, National Emission Standards for Hazardous Air Pollutants;

(ix) R307-110, General Requirements: State Implementation Plan; and

(x) all other provisions of R307.

(2) The approval order will require that all pollution control equipment be adequately and properly maintained.

(3) Receipt of an approval order does not relieve any owner or operator of the responsibility to comply with the provisions of R307 or the State Implementation Plan.

(4) To accommodate staged construction of a large source, the director may issue an order authorizing construction of an initial stage prior to receipt of detailed plans for the entire proposal provided that, through a review of general plans, engineering reports and other information the proposal is determined feasible by the director under the intent of R307. Subsequent detailed plans will then be processed as prescribed in this paragraph. For staged construction projects the previous determination under R307-401-8(1) and (2) will be reviewed and modified as appropriate at the earliest reasonable time prior to commencement of construction of each independent phase of the proposed source or modification.

(5) If the director determines that a proposed stationary source, modification or relocation does not meet the conditions established in (1) above, the director will not issue an approval order.

R307-401-9. Small Source Exemption.

(1) A small stationary source is exempt from the requirement to obtain an approval order in R307-401-5 through R307-401-8 if the following conditions are met.

(a) its actual emissions are less than 5 tons per year per air pollutant of any of the following air pollutants: sulfur dioxide, carbon monoxide, nitrogen oxides, PM_{10}, ozone, or volatile organic compounds;

(b) its actual emissions are less than 500 pounds per year of any hazardous air pollutant and less than 2000 pounds per year of any combination of hazardous air pollutants;

(c) its actual emissions are less than 500 pounds per year of any air pollutant not listed in (a) or (b) above and less than 2000 pounds per year of any combination of air pollutants not listed in (a) or (b) above.

(d) Air pollutants that are drawn from the environment through equipment in intake air and then are released back to the environment without chemical change, as well as carbon dioxide, nitrogen, oxygen, argon, neon, helium, krypton, xenon should not be included in emission calculations when determining applicability under (a) through (c) above.

(2) The owner or operator of a source that is exempted from the requirement to obtain an approval order under (1) above shall no longer be exempt if actual emissions in any subsequent year exceed the emission thresholds in (1) above. The owner or operator shall submit a notice of intent under R307-401-5 no later than 180 days after the end of the calendar year in which the source exceeded the emission threshold.

(3) Small Source Exemption - Registration. The director will maintain a registry of sources that are claiming an exemption under R307-401-9. The owner or operator of a stationary source that is claiming an exemption under R307-401-9 may submit a written registration notice to the director. The notice shall include the following minimum information:

(a) identifying information, including company name and address, location of source, telephone number, and name of plant site manager or point of contact;

(b) a description of the nature of the processes involved, equipment, anticipated quantities of materials used, the type and quantity of fuel employed and nature and quantity of the finished product;

(c) identification of expected emissions;

(d) estimated annual emission rates;

(e) any control apparatus used; and

(f) typical operating schedule.

(4) An exemption under R307-401-9 does not affect the requirements of R307-401-17, Temporary Relocation.

(5) A stationary source that is not required to obtain a permit under R307-405 for greenhouse gases, as defined in R307-405-3(9)(a), is not required to obtain an approval order for greenhouse gases under R307-401. This exemption does not affect the requirement to obtain an approval order for any other air pollutant emitted by the stationary source.

R307-401-10. Source Category Exemptions.

The source categories described in R307-401-10 are exempt from the requirement to obtain an approval order found in R307-401-5 through R307-401-8. The general provisions in R307-401-4 shall apply to these sources.

(1) Fuel-burning equipment in which combustion takes place at no greater pressure than one inch of mercury above ambient pressure with a rated capacity of less than five million BTU per hour using no other fuel than natural gas or LPG or other mixed gas that meets the standards of gas distributed by a utility in accordance with the rules of the Public Service Commission of the State of Utah, unless there are emissions other than combustion products.

(2) Comfort heating equipment such as boilers, water heaters, air heaters and steam generators with a rated capacity of less than one million BTU per hour if fueled only by fuel oil numbers 1 - 6,

(3) Emergency heating equipment, using coal or wood for fuel, with a rated capacity less than 50,000 BTU per hour.

(4) Exhaust systems for controlling steam and heat that do not contain combustion products.

(5) A well site as defined in 40 CFR 60.5430a, including centralized tank batteries, that is not a major source as defined in R307-101-2, and is registered with the Division as required by R307-505.

(6) A gasoline dispensing facility as defined in 40 CFR 63.11132 that is not a major source as defined in R307-101-2. These sources shall comply with the applicable requirements of R307-328 and 40 CFR 63 Subpart CCCCCC: National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

R307-401-11. Replacement-in-Kind Equipment.

(1) Applicability. Existing process equipment or pollution control equipment that is covered by an existing approval order or State Implementation Plan requirement may be replaced using the procedures in (2) below if:

(a) the potential to emit of the process equipment is the same or lower;

(b) the number of emission points or emitting units is the same or lower;

(c) no additional types of air pollutants are emitted as a result of the replacement;

(d) the process equipment or pollution control equipment is identical to or functionally equivalent to the replaced equipment;

(e) the replacement does not change the basic design parameters of the process unit or pollution control equipment;

(f) the replaced process equipment or pollution control equipment is permanently removed from the stationary source, otherwise permanently disabled, or permanently barred from operation;

(g) the replacement process equipment or pollution control equipment does not trigger New Source Performance Standards or National Emissions Standards for Hazardous Air Pollutants under 42 U.S.C. 7411 or 7412; and

(h) the replacement of the control apparatus or process equipment does not violate any other provision of Title R307.

(2) Replacement-in-Kind Procedures.

(a) In lieu of filing a notice of intent under R307-401-5, the owner or operator of a stationary source shall submit a written notification to the director before replacing the equipment. The notification shall contain a description of the replacement-in-kind equipment, including the control capability of any control apparatus and a demonstration that the conditions of (1) above are met.

(b) If the replacement-in-kind meets the conditions of (1) above, the director will update the source's approval order and notify the owner or operator. Public review under R307-401-7 is not required for the update to the approval order.

(3) If the replaced process equipment or pollution control equipment is brought back into operation, it shall constitute a new emissions unit.

R307-401-12. Reduction in Air Pollutants.

(1) Applicability. The owner or operator of a stationary source of air pollutants that reduces or eliminates air pollutants is exempt from the requirement to submit a notice of intent and obtain an approval order prior to construction if:

(a) the project does not increase the potential to emit of any air pollutant or cause emissions of any new air pollutant, and

(b) the director is notified of the change and the reduction of air pollutants is made enforceable through an approval order in accordance with (2) below.

(2) Notification. The owner or operator shall submit a written description of the project to the director no later than 60 days after the changes are made. The director will update the source's approval order or issue a new approval order to include the project and to make the emission reductions enforceable. Public review under R307-401-7 is not required for the update to the approval order.

R307-401-13. Plantwide Applicability Limits.

A plantwide applicability limit under R307-405-21 does not exempt a stationary source from the requirements of R307-401.

R307-401-14. Used Oil Fuel Burned for Energy Recovery.

(1) Definitions.

"Boiler" means boiler as defined in R315-1-1(b).

"Used Oil" is defined as any oil that has been refined from crude oil, used, and, as a result of such use contaminated by physical or chemical impurities.

(2) Boilers burning used oil for energy recovery are exempt from the requirement to obtain an approval order in R307-401-5 through R307-401-8 if the following requirements are met:

(a) the heat input design is less than one million BTU/hr;

(b) contamination levels of all used oil to be burned do not exceed any of the following values:

(i) arsenic - 5 ppm by weight,

(ii) cadmium - 2 ppm by weight,

(iii) chromium - 10 ppm by weight,

(iv) lead - 100 ppm by weight,

(v) total halogens - 1,000 ppm by weight,

(vi) Sulfur - 0.50% by weight; and

(c) the flash point of all used oil to be burned is at least 100 degrees Fahrenheit.

(3) Testing. The owner or operator shall test each load of used oil received or generated as directed by the director to ensure it meets these requirements. Testing may be performed by the owner/operator or documented by test reports from the used fuel oil vendor. The flash point shall be measured using the appropriate ASTM method as required by the director. Records for used oil consumption and test reports are to be kept for all periods when fuel-burning equipment is in operation. The records shall be kept on site and made available to the director or the director's representative upon request. Records must be kept for a three-year period.

R307-401-15. Air Strippers and Soil Vapor Extraction Systems[~~Venting Projects~~].

R307-401-15 applies to remediation systems with the potential to generate air emissions, such as air strippers and soil vapor extraction (SVE) as defined in R307-401-2.

(1) The owner or operator of an air stripper or SVE remediation system[~~soil venting system that is used to remediate contaminated groundwater or soil~~] is exempt from the notice of intent and approval order requirements of R307-401-5 through R307-401-8 if the following conditions are met:

(a) [~~the estimated total air~~]actual emissions of volatile organic compounds from a given project are less than 5 tons per year; and[~~the de minimis emissions listed in R307-401-9(1)(a), and~~]

(b) emission rates of [~~the level of any one hazardous air pollutant or any combination of~~]hazardous air pollutants are[~~is~~] below their respective threshold values contained[~~the levels listed~~] in R307-410-5(1)(c)(i)(C).

(2) The owner or operator shall submit documentation to the director that demonstrates the project meets the exemption criteria[~~requirements~~] in R307-401-15(1)[~~to the director prior to beginning the remediation project~~]. Required documentation includes, but is not limited to:

(a) project summary, including location, system description, operational schedule, and schedule for construction;

(b) emission calculations and any laboratory sampling data used in calculations; and

(c) plans and specifications for the system and equipment.

(3) After beginning the soil remediation project, the owner [~~or operator shall submit emissions information to the director to verify that the emission rates of the volatile organic compounds and hazardous air pollutants in R307-401-15(1) are not exceeded.~~]or operator shall conduct testing to demonstrate compliance with the exemption levels in R307-401-15(1)(a) and (b). Monitoring and reporting shall be conducted as follows:

(a) [~~Emissions estimates of volatile organic compounds shall be based on test data obtained in accordance with the test method in the EPA document SW-846, Test #8260c or 8261a, or the most recent EPA revision of either test method if approved by the director.~~]Emissions for air strippers shall be based on the following:

(i) influent and effluent water samples analyzed for volatile organic compounds and hazardous air pollutants using the most recent version of USEPA Test Method 8260, Method 8021, or other EPA approved testing methods acceptable to the director; and

(ii) design water flow rate of the system or the water flow rates measured during the sample period.

(b) [~~Emissions estimates of hazardous air pollutants shall be based on test data obtained in accordance with the test method in EPA document SW-846, Test #8021B or the most recent EPA revision of the test method if approved by the director.~~]Emissions for SVE systems shall be based on the following:

(i) Air samples collected from a sample port in the exhaust stack of the SVE system and analyzed for volatile organic compounds and hazardous air pollutants using USEPA test method TO-15, or other EPA approved testing methods acceptable to the director.

(ii) Design air flow rate of the system or the air flow rates measured at the outlet of the SVE system during the sample period.

(c) [~~Results of the test and calculated annual quantity of emissions of volatile organic compounds and hazardous air pollutants shall be submitted to the director within one month of sampling.~~]Within one month of sampling, the owner or operator shall submit to the director the sample results, estimated emissions of volatile organic compounds, and estimated emission rates of hazardous air pollutants.

(d) [~~The test samples shall be drawn on intervals of no less than twenty-eight days and no more than thirty-one days (i.e., monthly) for the first quarter, quarterly for the first year, and semi-annually thereafter or as determined necessary by the director.~~]Samples shall be collected at the following frequencies or more frequently as determined necessary by the director:

(i) no less than twenty-eight days and no more than thirty-one days (i.e., monthly) after startup for the first quarter;

(ii) quarterly for the remainder of the first year; and

(iii) semi-annually thereafter for the life of the project or as allowed in R307-401-15(3)(f).

(e) If an SVE or air sparge system is restarted after rehabilitation or an extended period of shutdown, the owner or operator shall recommence the sampling schedule in R307-415(3)(d), unless otherwise approved by the director.

(f) The owner or operator may request to discontinue sampling after three years of operation. To discontinue sampling, the owner or operator must submit to the director a request to discontinue monitoring.

(i) The request must include documentation demonstrating emissions have consistently remained below the exemption levels in R307-401-15(1)(a) and (b) for the entirety of the project.

(ii) The request is subject to approval from the director upon consultation with other regulatory agencies involved in the project, such as Division of Environmental Response and Remediation or Division of Waste Management and Radiation Control.

(4) The following control devices do not require a notice of intent or approval order when used in relation to an air stripper or soil vapor extraction system that is[~~venting project~~] exempted under R307-401-15:

(a) thermodestruction unit with a rated input capacity of less than five million BTU per hour using no other auxiliary fuel than natural gas or LPG, or

(b) carbon adsorption unit.

(5) Exemption for Sub-slab Vapor Mitigation Systems (VMS): The owner or operator of an active or passive VMS is exempt from the notice of intent and approval order requirements of R307-401-5 through R307-401-8 and the documentation and sampling requirements in R307-401-15(2) and (3).

R307-401-16. [~~De minimis Emissions From~~]Soil Aeration Projects.

R307-401-16 applies to soil aeration projects used to conduct soil remediation.[~~An owner or operator of a soil remediation project is not subject to the notice of intent and approval order requirements of R307-401-5 through R307-401-8 when soil aeration or land farming is used to conduct a soil remediation, if the owner or operator submits the following information to the director prior to beginning the remediation project:~~]

(1) [~~documentation that the estimated total air emissions of volatile organic compounds, using an appropriate sampling method, from the project are less than the de minimis emissions listed in R307-401-9(1)(a);~~]The owner or operator of a soil aeration project is not subject to the notice of intent and approval order requirements of R307-401-5 through R307-401-8, if the following conditions are met:

(a) emissions of volatile organic compounds from a given soil aeration project are less than 5 tons per year; and

(b) emission rates of hazardous air pollutants are below their respective threshold values contained in R307-410-(1)(c)(i)(C).

(2) [~~documentation that the levels of any one hazardous air pollutant or any combination of hazardous air pollutants are less than the levels in R307-410-5(1)(d); and~~]The owner or operator shall submit documentation to the director demonstrating the project meets the exemption criteria in R307-401-16(1). The owner or operator shall receive approval from the director for the exemption prior to beginning the remediation project. Required documentation includes, but is not limited to:

(a) calculated emissions of volatile organic compounds and estimated emission rates of hazardous air pollutants from all soils to be treated from the soil aeration project.

(b) Emission calculations shall be based on soil samples of the soils to be remediated. Samples shall be analyzed for volatile organic compounds and hazardous air pollutants using the most recent version of USEPA Test Method 8260, Method 8021, or other EPA approved testing methods acceptable to the director.

(c) Location where soil aeration will occur and where the remediated material originated.

(3) [~~the location of the remediation and where the remediated material originated.~~]The owner or operator is exempt from the reporting requirements in R307-401-16(2) if excavated soils are disposed of at a disposal or treatment facility, such as a landfill, solid waste management facility, or a landfarm facility, that is owned or operated by a third party and operates under an existing approval order.

R307-401-17. Temporary Relocation.

The owner or operator of a stationary source previously approved under R307-401 may temporarily relocate and operate the stationary source at any site for up to 180 working days in any calendar year not to exceed 365 consecutive days, starting from the initial relocation date. The director will evaluate the expected emissions impact at the site and compliance with applicable Title R307 rules as the basis for determining if approval for temporary relocation may be granted. Records of the working days at each site, consecutive days at each site, and actual production rate shall be submitted to the director at the end of each 180 calendar days. These records shall also be kept on site by the owner or operator for the entire project, and be made available for review to the director as requested. R307-401-7, Public Notice, does not apply to temporary relocations under R307-401-17.

R307-401-18. Eighteen Month Review.

Approval orders issued by the director in accordance with the provisions of R307-401 will be reviewed eighteen months after the date of issuance to determine the status of construction, installation, modification, relocation or establishment. If a continuous program of construction, installation, modification, relocation or establishment is not proceeding, the director may revoke the approval order.

R307-401-19. General Approval Order.

(1) The director may issue a general approval order that would establish conditions for similar new or modified sources of the same type or for specific types of equipment. The general approval order may apply throughout the state or in a specific area.

(a) A major source or major modification as defined in R307-403, R307-405, or R307-420 for each respective area is not eligible for coverage under a general approval order.

(b) A source that is subject to the requirements of R307-403-5 is not eligible for coverage under a general approval order.

(c) A source that is subject to the requirements of R307-410-4 is not eligible for coverage under a general approval order unless a demonstration that meets the requirements of R307-410-4 was conducted.

(d) A source that is subject to the requirements of R307-410-5(1)(c)(ii) is not eligible for coverage under a general approval order unless a demonstration that meets the requirements of R307-410-5(1)(c)(ii) was conducted.

(e) A source that is subject to the requirements of R307-410-5(1)(c)(iii) is not eligible for coverage under a general approval order.

(2) A general approval order shall meet all applicable requirements of R307-401-8.

(3) The public notice requirements in R307-401-7 shall apply to a general approval order except that the director will advertise the notice of intent in a newspaper of statewide circulation.

(4) Application.

(a) After a general approval order has been issued, the owner or operator of a proposed new or modified source may apply to be covered under the conditions of the general approval order.

(b) The owner or operator shall submit the application on forms provided by the director in lieu of the notice of intent requirements in R307-401-5 for all equipment covered by the general approval order.

(c) The owner or operator may request that an existing, individual approval order for the source be revoked, and that it be covered by the general approval order.

(d) The owner or operator that has applied to be covered by a general approval order shall not initiate construction, modification, or relocation until the application has been approved by the director.

(5) Approval.

(a) The director will review the application and approve or deny the request based on criteria specified in the general approval order for that type of source. If approved, the director will issue an authorization to the applicant to operate under the general approval order.

(b) The public notice requirements in R307-401-7 do not apply to the approval of an application to be covered under the general approval order.

(c) The director will maintain a record of all stationary sources that are covered by a specific general approval order and this record will be available for public review.

(6) Exclusions and Revocation.

(a) The director may require any source that has applied for or is authorized by a general approval order to submit a notice of intent and obtain an individual approval order under R307-401-8. Cases where an individual approval order will be required include, but are not limited to, the following:

(i) the director determines that the source does not meet the criteria specified in the general approval order;

(ii) the director determines that the application for the general approval order did not contain all necessary information to evaluate applicability under the general approval order;

(iii) modifications were made to the source that were not authorized by the general approval order or an individual approval order;

(iv) the director determines the source may cause a violation of a national ambient air quality standard; or

(v) the director determines that one is required based on the compliance history and current compliance status of the source or applicant.

(b)(i) Any source authorized by a general approval order may request to be excluded from the coverage of the general approval order by submitting a notice of intent under R307-401-5 and receiving an individual approval order under R307-401-8.

(ii) When the director issues an individual approval order to a source subject to a general approval order, the applicability of the general approval order to the individual source is revoked on the effective date of the individual approval order.

(7) Modification of General Approval Order. The director may modify, replace, or discontinue the general approval order.

(a) Administrative corrections may be made to the existing version of the general approval order. These corrections are to correct typographical errors or similar minor administrative changes.

(b) All other modifications or the discontinuation of a general approval order shall not apply to any source authorized under previous versions of the general approval order unless the owner or operator submits an application to be covered under the new version of the general approval order. Modifications under R307-401-19(7)(b) shall meet the public notice requirements in R307-401-19(3).

(c) A general approval order shall be reviewed at least every three years. The review of the general approval order shall follow the public notice requirements of R307-401-19(3).

(8) Modifications at a source covered by a general approval order. A source may make modifications only as authorized by the approved general approval order. Modifications outside the scope authorized by the approved general approval order shall require a new application for either an individual approval order under R307-401-8 or a general approval order under R307-401-19.

KEY: air pollution, permits, approval orders, greenhouse gases
Date of Enactment or Last Substantive Amendment: [~~June 6,~~] 2019
Notice of Continuation: May 15, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(q); 19-2-108

Environmental Quality, Air Quality
R307-405-2
Applicability

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43961
FILED: 08/07/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The federal Prevention of Significant Deterioration (PSD) permitting program in 40 CFR 52.21 is incorporated by reference in Rule R307-405. The version of the CFR that is incorporated in Rule R307-405 is specified in Section R307-405-2. This rule change updates the version of 40 CFR 52.21 that is incorporated in R307-405 from the July 1, 2011 version to the July 1, 2018 version.

SUMMARY OF THE RULE OR CHANGE: The version of CFR that is incorporated by reference throughout this rule is updated from the July 1, 2011 version to the July 1, 2018 version.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

MATERIALS INCORPORATED BY REFERENCE:

- Updates 40 CFR 52.21, published by Office of the Federal Registrar, 07/01/2018

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change as it simply updates state rule to match the already existing federal requirements.
- LOCAL GOVERNMENTS: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change as it simply updates state rule to match the already existing federal requirements.
- SMALL BUSINESSES: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change as it simply updates state rule to match the already existing federal requirements.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change as it simply

updates state rule to match the already existing federal requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this rule updates the state rule to match already existing federal requirements, there are no expected compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this rule amendment will have no fiscal impact to businesses as the rule is being updated to match already existing federal requirements.

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 Office 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 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2019

AUTHORIZED BY: Bryce Bird, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
No non-small businesses are expected to be impacted by this rulemaking because this rule is being updated to match already-existing federal requirements.

The Interim Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R307. Environmental Quality, Air Quality.
R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD).
R307-405-2. Applicability.

(1) All references to 40 CFR in R307-405 shall mean the version that is in effect on July 1, [~~2011~~]2018.

(2) The provisions of 40 CFR 52.21(a)(2) are hereby incorporated by reference.

(3) Notwithstanding the exemptions in R307-401, any source that is subject to R307-405 is subject to the requirement to obtain an approval order in R307-401-5 through 8.

KEY: air pollution, PSD, Class I area, greenhouse gases
Date of Enactment or Last Substantive Amendment: [~~February 4, 2016~~]2019
Notice of Continuation: November 13, 2018
Authorizing, and Implemented or Interpreted Law: 19-2-104

Environmental Quality, Air Quality
R307-410
Permits: Emissions Impact Analysis

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43962
FILED: 08/07/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes are being made to align this rule with the requirements in the July 1, 2018 version of 40 CFR Part 51, Appendix W.

SUMMARY OF THE RULE OR CHANGE: Section R307-410-3 is amended to updated the version of 40 CFR Part 51, Appendix W incorporated by reference from the July 1, 2005 version to the July 1, 2018 version. Subsection R307-410-5(1)(c)(i)(B) is amended to update the definition of "ambient air" in 40 CFR 51.1(e) from the July 1, 2005 version to the July 1, 2018 version. The definition in the 2018 version of the CFR, however, is unchanged from the 2005 version.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

MATERIALS INCORPORATED BY REFERENCE:

- Updates 40 CFR 51, Appendix W, published by Office of the Federal Registrar, July 1, 2018
- Updates 40 CFR 50.1, published by Office of the Federal Registrar, July 1, 2018

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There are no anticipated costs or savings to the state budget as these amendments update this rule with already existing federal requirements.

♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local governments as these amendments update this rule with already existing federal requirements.

♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses as these amendments update this rule with already existing federal requirements.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities as these amendments update this rule with already existing federal requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs as these amendments update this rule with already existing federal requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After a thorough evaluation of potential fiscal impacts of this rule, it was determined that there are no anticipated fiscal impacts on businesses from these proposed amendments as they simply update this rule to align with already existing federal requirements.

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 Office 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 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2019

AUTHORIZED BY: Bryce Bird, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
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Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**

Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
No non-small businesses are expected to be impacted by this rulemaking because it is simply updating this rule to already-existing federal requirements.

The Interim Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R307. Environmental Quality, Air Quality.
R307-410. Permits: Emissions Impact Analysis.
R307-410-1. Purpose.

This rule establishes the procedures and requirements for evaluating the emissions impact of new or modified sources that require an approval order under R307-401 to ensure that the source will not interfere with the attainment or maintenance of any NAAQS. The rule also establishes the procedures and requirements for evaluating the emissions impact of hazardous air pollutants. The rule also establishes the procedures for establishing an emission rate based on the good engineering practice stack height as required by 40 CFR 51.118.

R307-410-2. Definitions.

(1) The following additional definitions apply to R307-410.

"Vertically Restricted Emissions Release" means the release of an air pollutant through a stack or opening whose flow is directed in a downward or horizontal direction due to the alignment of the opening or a physical obstruction placed beyond the opening, or at a height which is less than 1.3 times the height of an adjacent building or structure, as measured from ground level.

"Vertically Unrestricted Emissions Release" means the release of an air pollutant through a stack or opening whose flow is directed upward without any physical obstruction placed beyond the opening, and at a height which is at least 1.3 times the height of an adjacent building or structure, as measured from ground level.

(2) Except as provided in (3) below, the definitions of "stack", "stack in existence", "dispersion technique", "good engineering practice (GEP) stack height", "nearby", "excessive concentration", and "intermittent control system (ICS)" in 40 CFR 51.100(ff) through (kk) and (nn) are hereby incorporated by reference.

(3)(a) The terms "reviewing authority" and "authority administering the State implementation plan" shall mean the director.

(b) The reference to "40 CFR parts 51 and 52" in 40 CFR 51.100(ii)(2)(i) shall be changed to "R307-401, R307-403 and R307-405".

(c) The phrase "For sources subject to the prevention of significant deterioration program (40 CFR 51.166 and 52.21)" in 40 CFR 51.100(kk)(1) shall be replaced with the phrase "For sources subject to R307-401, R307-403, or R307-405".

R307-410-3. Use of Dispersion Models.

All estimates of ambient concentrations derived in meeting the requirements of R307 shall be based on appropriate air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W, (Guideline on Air Quality Models), effective July 1, [~~2005~~]2018, which is hereby incorporated by reference. Where an air quality model specified in the Guideline on Air Quality Models or other EPA approved guidance documents is inappropriate, the director may authorize the modification of the model or substitution of another model. In meeting the requirements of federal law, any modification or substitution will be made only with the written approval of the Administrator, EPA.

R307-410-4. Modeling of Criteria Pollutant Impacts in Attainment Areas.

Prior to receiving an approval order under R307-401, a new source in an attainment area with a total controlled emission rate per pollutant greater than or equal to amounts specified in Table 1, or a modification to an existing source located in an attainment area which increases the total controlled emission rate per pollutant of the source in an amount greater than or equal to those specified in Table 1, shall conduct air quality modeling, as identified in R307-410-3, to estimate the impact of the new or modified source on air quality unless previously performed air quality modeling for the source indicates that the addition of the proposed emissions increase would not violate a National Ambient Air Quality Standard, as determined by the director.

TABLE 1

POLLUTANT	EMISSIONS
sulfur dioxide	40 tons per year
oxides of nitrogen	40 tons per year
PM10 - fugitive emissions and fugitive dust	5 tons per year
PM10 - non-fugitive emissions or non-fugitive dust	15 tons per year
carbon monoxide	100 tons per year
lead	0.6 tons per year

R307-410-5. Documentation of Ambient Air Impacts for Hazardous Air Pollutants.

(1) Prior to receiving an approval order under R307-401, a source shall provide documentation of increases in emissions of hazardous air pollutants as required under (c) below for all installations not exempt under (a) below.

(a) Exempted Installations.

(i) The requirements of R307-410-5 do not apply to installations which are subject to or are scheduled to be subject to an emission standard promulgated under 42 U.S.C. 7412 at the time a notice of intent is submitted, except as defined in (ii) below. This exemption does not affect requirements otherwise applicable to the source, including requirements under R307-401.

(ii) The director may, upon making a written determination that the delay in the implementation of an emission standard under R307-214-2, that incorporates 40 CFR Part 63, might reasonably be expected to pose an unacceptable risk to public health, require, on a case-by-case basis, notice of intent documentation of emissions consistent with (c) below.

(A) The director will notify the source in writing of the preliminary decision to require some or all of the documentation as listed in (c) below.

(B) The source may respond in writing within thirty days of receipt of the notice, or such longer period as the director approves.

(C) In making a final determination, the director will document objective bases for the determination, which may include public information and studies, documented public comment, the applicant's written response, the physical and chemical properties of emissions, and ambient monitoring data.

(b) Lead Compounds Exemption. The requirements of R307-410-5 do not apply to emissions of lead compounds. Lead compounds shall be evaluated pursuant to requirements of R307-410-4.

(c) Submittal Requirements.

(i) Each applicant's notice of intent shall include:

(A) the estimated maximum pounds per hour emission rate increase from each affected installation,

(B) the type of release, whether the release flow is vertically restricted or unrestricted, the maximum release duration in minutes per hour, the release height measured from the ground, the height of any adjacent building or structure, the shortest distance between the release point and any area defined as "ambient air" under 40 CFR 50.1(e), effective July 1, [~~2005~~]2018, which is hereby incorporated by reference for each installation for which the source proposes an emissions increase,

(C) the emission threshold value, calculated to be the applicable threshold limit value - time weighted average (TLV-TWA) or the threshold limit value - ceiling (TLV-C) multiplied by the appropriate emission threshold factor listed in Table 2, except in the case of arsenic, benzene, beryllium, and ethylene oxide which shall be calculated using chronic emission threshold factors, and formaldehyde, which shall be calculated using an acute emission threshold factor. For acute hazardous air pollutant releases having a duration period less than one hour, this maximum pounds per hour emission rate shall be consistent with an identical operating process having a continuous release for a one-hour period.

TABLE 2
EMISSION THRESHOLD FACTORS FOR HAZARDOUS AIR POLLUTANTS
(cubic meter pounds per milligram hour)

VERTICALLY-RESTRICTED AND FUGITIVE EMISSION RELEASE POINTS

DISTANCE TO PROPERTY BOUNDARY	ACUTE	CHRONIC	CARCINOGENIC
20 Meters or less	0.038	0.051	0.017
21 - 50 Meters	0.051	0.066	0.022
51 - 100 Meters	0.092	0.123	0.041
Beyond 100 Meters	0.180	0.269	0.090

VERTICALLY-UNRESTRICTED EMISSION RELEASE POINTS

DISTANCE TO PROPERTY BOUNDARY	ACUTE	CHRONIC	CARCINOGENIC
50 Meters or less	0.154	0.198	0.066
51 - 100 Meters	0.224	0.244	0.081
Beyond 100 Meters	0.310	0.368	0.123

(ii) A source with a proposed maximum pounds per hour emissions increase equal to or greater than the emissions threshold value shall include documentation of a comparison of the estimated ambient concentration of the proposed emissions with the applicable toxic screening level specified in (d) below.

(iii) A source with an estimated ambient concentration equal to or greater than the toxic screening level shall provide additional documentation regarding the impact of the proposed emissions. The director may require such documentation to include, but not be limited to:

(A) a description of symptoms and adverse health effects that can be caused by the hazardous air pollutant,

(B) the exposure conditions or dose that is sufficient to cause the adverse health effects,

(C) a description of the human population or other biological species which could be exposed to the estimated concentration,

(D) an evaluation of land use for the impacted areas,

(E) the environmental fate and persistency.

(d) Toxic Screening Levels and Averaging Periods.

(i) The toxic screening level for an acute hazardous air pollutant is 1/10th the value of the TLV-C, and the applicable averaging period shall be:

(A) one hour for emissions releases having a duration period of one hour or greater,

(B) one hour for emission releases having a duration period less than one hour if the emission rate used in the model is consistent with an identical operating process having a continuous release for a one-hour period or more, or

(C) the dispersion model's shortest averaging period when using an applicable model capable of estimating ambient concentrations for periods of less than one hour.

(ii) The toxic screening level for a chronic hazardous air pollutant is 1/30th the value of the TLV- TWA, and the applicable averaging period shall be 24 hours.

(iii) The toxic screening level for all carcinogenic hazardous air pollutants is 1/90 the value of the TLV-TWA, and the applicable averaging period shall be 24 hours, except in the case of formaldehyde which shall be evaluated consistent with (d)(i) above and arsenic, benzene, beryllium, and ethylene oxide which shall be evaluated consistent with (d)(ii) above.

R307-410-6. Stack Heights and Dispersion Techniques.

(1) The degree of emission limitation required of any source for control of any air pollutant to include determinations made under R307-401, R307-403 and R307-405, must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique except as provided in (2) below. This does not restrict, in any manner, the actual stack height of any source.

(2) The provisions in R307-410-6 shall not apply to:

(a) stack heights in existence, or dispersion techniques implemented on or before December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources which were constructed or reconstructed, or for which major modifications were carried out after December 31, 1970; or

(b) coal-fired steam electric generating units subject to the provisions of Section 118 of the Clean Air Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

(3) The director may require the source owner or operator to provide a demonstration that the source stack height meets good engineering practice as required by R307-410-6. The director shall notify the public of the availability of the demonstration as part of the public notice process required by R307-401-7, Pubic Notice.

KEY: air pollution, modeling, hazardous air pollutant, stack height
Date of Enactment or Last Substantive Amendment: [~~December 15, 2015~~]2019
Notice of Continuation: May 15, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104

Environmental Quality, Waste Management and Radiation Control, Waste Management
R315-260
Hazardous Waste Management System

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43971
FILED: 08/09/2019

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In November of 2016, the Environmental Protection Agency (EPA) published final revisions to the Hazardous Waste Export-Import rules in the Federal Register (81 FR 85696). Then in December of 2017, the EPA published additional final revisions to rules regarding Confidentiality Determinations for Hazardous Waste Export and Import Documents in the Federal Register (82 FR 60894). Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The purpose of these changes is to adopt the appropriate revisions into Rule R315-260.

SUMMARY OF THE RULE OR CHANGE: These changes amend Subsection R315-260-2(b) by revising and adding Subsection (d). These changes also revise Section R315-260-10 by adding, in alphabetical order, the definitions of "AES filing compliance date," "Electronic import-export reporting compliance date," and "Recognized trader", and revise Section R315-260-11 to update references to the Federal Register. Several references to 40 CFR 265 were changed to Rule R315-265.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-104 and Section 19-6-105 and Section 19-6-106

MATERIALS INCORPORATED BY REFERENCE:
- Adds Federal Register Volume 81, published by Office of the Federal Register, National Archives and Records Administration, 11/28/2016

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: Because the state of Utah is not an importer or exporter of hazardous waste it is not anticipated that these revisions will have any impact on the state budget. Implementation of these rule changes by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the state budget because the export and import provisions of the rules are administered at the federal level by the EPA.
- LOCAL GOVERNMENTS: There are no local governments that are importers or exporters of hazardous waste, and local governments will not be implementing these rule changes so it is not anticipated that there will be any cost or savings to local governments.
- SMALL BUSINESSES: Currently, there are no small businesses in Utah that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any small business that exports or imports hazardous waste should already be following the rules. Any costs or savings to small businesses are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any small businesses that are in addition to those created by following the EPA's rules.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Currently, there are no persons other than small businesses, businesses, or local governments that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any persons other than small businesses, businesses or local governments that export or import hazardous waste should already be following the rules. Any costs to persons other than small businesses, businesses, or local governments are a result of following EPA's the rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any such persons that are in addition to those created by following the EPA's rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will not be any additional compliance costs for affected persons due to the adoption of these rule changes because the state of Utah is simply adopting these rules as required by EPA to maintain the equivalency of our program to that of EPA. The rule changes being adopted are administered at the federal government level by the EPA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. Because these rule changes are being administered by the federal government, it is not anticipated that their adoption by the state of Utah will have any fiscal impact beyond the impact created by the federal adoption of these rule changes.

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

ENVIRONMENTAL QUALITY
WASTE MANAGEMENT AND RADIATION
CONTROL, WASTE MANAGEMENT
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov

♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2019

AUTHORIZED BY: Scott Baird, Interim Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There is one company (NAICS 562211) in Utah that operates three facilities and is a non-small business. All three facilities have submitted notification that they are importers of hazardous waste. Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However; authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the Federal program. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018. At the time that these rules became effective these three facilities were required to comply with the rules as amended. In the document entitled Regulatory Impact Analysis Hazardous Waste Export-Import Revisions Final Rule dated August 2016 the EPA estimates the regulatory impact of the rule revisions. The document concludes that there are fiscal impacts to businesses involved in the export and import of hazardous waste. These impacts are mainly associated with the administrative part of the rule and include but are not limited to: obtaining a CDX registration, submitting notices, submitting annual reports, creating movement documents, confirming recovery and disposal and obtaining an EPA ID number. The state of Utah is adopting these rule revisions in order to maintain equivalency with the Federal program. It is not anticipated that adoption of these rule revisions will result in any additional regulatory impact.

The interim head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-260. Hazardous Waste Management System.
R315-260-2. Availability of Information and Confidentiality of Information.

(a) Any information provided to The Director under Rules R315-15 and 101; Rules R315-260 through 266, 268, 270 and 273 will be made available to the public to the extent and in the manner authorized by Sections 63G-2-101 through 901.

(b) Except as provided under Subsection R315-260-2(c) and (d), any person who submits information to the Director in accordance with Rules R315-15 and 101; Rules R315-260 through 266, 268, 270 and 273 may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in Section 63G-2-309. Information covered by such a claim shall be disclosed by the Director only to the extent, and by means of the procedures, set forth Sections 63G-2-101 through 901[~~, except that information required by Subsection R315-262-53(a) and Subsection R315-262-83 that is submitted to EPA in a notification of intent to export a hazardous waste shall be provided to the U.S. Department of State and the appropriate authorities in the transit and receiving or importing countries regardless of any claims of confidentiality~~]. However, if no claim under Sections 63G-2-101 through 804 accompanies the information when it is received by the Director, it may be made available to the public without further notice to the person submitting it.

(c)(1) After August 6, 2014, no claim of business confidentiality may be asserted by any person with respect to information entered on a Hazardous Waste Manifest, EPA Form 8700-22, a Hazardous Waste Manifest Continuation Sheet, EPA Form 8700-22A, or an electronic manifest format that may be prepared and used in accordance with Subsection R315-262-20(a)(3).

(2) EPA shall make any electronic manifest that is prepared and used in accordance with Subsection R315-262-20(a)(3), or any paper manifest that is submitted to the system under Subsection R315-264-71(a)(6) or Subsection R315-265-71(a)(6)[~~40 CFR 265.71(a)(6), which is adopted by reference~~], available to the public under Section R315-260-2 when the electronic or paper manifest is a complete and final document. Electronic manifests and paper manifests submitted to the system are considered by EPA to be complete and final documents and publicly available information after 90 days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest.

(d)(1) After June 26, 2018, no claim of business confidentiality may be asserted by any person with respect to information contained in cathode ray tube export documents prepared, used and submitted under Subsections R315-261-39(a)(5) and 261-41(a), and with respect to information contained in hazardous waste export, import, and transit documents prepared, used and submitted under Sections R315-262-82, 262-83, 262-84, 263-20, 264-12, 264-71, 265-12, and 265-71, whether submitted electronically into EPA's Waste Import Export Tracking System or in paper format.

(2) EPA will make any cathode ray tube export documents prepared, used and submitted under Subsections R315-261-39(a)(5) and 261-41(a), and any hazardous waste export, import, and transit documents prepared, used and submitted under Sections R315-262-82, 262-83, 262-84, 263-20, 264-12, 264-71, 265-12, and 265-71 available to the public under Section R315-260-2 when these electronic or paper documents are considered by EPA to be final documents. These submitted electronic and paper documents related to hazardous waste exports, imports and transits and cathode ray tube exports are considered by EPA to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur.

R315-260-10. Definitions.

(a) Terms used in Rules R315-15, R315-260 through 266, R315-268, R315-270, R315-273, and Rule R315-101 are defined in Sections 19-1-103 and 19-6-102.

(b) Terms used in Rule R315-15 are also defined in Sections 19-6-703 and 19-6-706(b).

(c) Additional terms used in Rules R315-260 through 266, R315-268, R315-270, R315-273, and Rule R315-101 are defined as follows:

(1) "Above ground tank" means a device meeting the definition of "tank" in Section R315-260-10 and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank, including the tank bottom, is able to be visually inspected.

(2) "Acute hazardous waste" means hazardous wastes that meet the listing criteria in Subsection R315-261-11(a)(2) and therefore are either listed in Section R315-261-31 with the assigned hazard code of (H) or are listed in Subsection R315-261-33(e).

(3) "Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Director receives certification of final closure.

(4) "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after November 19, 1980 and which is not a closed portion. See also "closed portion" and "inactive portion."

(5) "AES filing compliance date" means the date that EPA announces in the Federal Register, on or after which exporters of hazardous waste and exporters of cathode ray tubes for recycling are required to file EPA information in the Automated Export System or its successor system, under the International Trade Data System (ITDS) platform.

[~~(5)~~](6) "Airbag waste" means any hazardous waste airbag modules or hazardous waste airbag inflators.

[~~(6)~~](7) "Airbag waste collection facility" means any facility that receives airbag waste from airbag handlers subject to regulation under Subsection R315-261-4(j), and accumulates the waste for more than ten days.

[~~(7)~~](8) "Airbag waste handler" means any person, by site, who generates airbag waste that is subject to regulation under Rules R315-260 through 266, R315-268, R315-270, and R315-273.

[~~(8)~~](9) "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 Section 19-6-108 and Rule R315-270, or has been permitted or approved under any other EPA authorized hazardous waste state program.

[~~(9)~~](10) "Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

[~~(10)~~](11) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

[~~(11)~~](12) "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit, i.e., part of a facility, e.g., the plant manager, superintendent or person of equivalent responsibility.

[~~(12)~~](13) "Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections, electrical and mechanical, as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

[~~(13)~~](14) "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

(i)(A) The unit shall have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(B) The unit's combustion chamber and primary energy recovery sections(s) shall be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s), such as waterwalls and superheaters, shall be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment, such as economizers or air preheaters, need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters, units that transfer energy directly to a process stream, and fluidized bed combustion units; and

(C) While in operation, the unit shall maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(D) The unit shall export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps; or

(ii) The unit is one which the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section R315-260-32

[~~(14)~~](15) "Carbon dioxide stream" means carbon dioxide that has been captured from an emission source, e.g., power plant, plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

[~~(15)~~](16) "Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

[~~(16)~~](17) "Cathode ray tube" or "CRT" means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

[~~(17)~~](18) "Central accumulation area" means any on-site hazardous waste accumulation area with hazardous waste accumulating in units subject to either Section R315-262-16, for small quantity generators, or Section R315-262-17, for large quantity generators. A central accumulation area at an eligible academic entity that chooses to operate under Sections R315-262-200 through 216 is also subject to Section R315-262-211 when accumulating unwanted material or hazardous waste, or both.

[~~(18)~~](19) "Certification" means a statement of professional opinion based upon knowledge and belief.

[~~(19)~~](20) "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. See also "active portion" and "inactive portion".

[~~(20)~~](21) "Component" means either the tank or ancillary equipment of a tank system.

[~~(21)~~](22) "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.

[~~(22)~~](23) "Contained" means held in a unit, including a land-based unit as defined in R315-260-10, that meets the following criteria:

(i) The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit, such as a permit to discharge to water or air, and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;

(ii) The unit is properly labeled or otherwise has a system, such as a log, to immediately identify the hazardous secondary materials in the unit; and

(iii) The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.

(iv) Hazardous secondary materials in units that meet the applicable requirements of Rules R315-264 or 265 are presumptively contained.

[~~(23)~~](24) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

[~~(24)~~](25) "Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of Subsections R315-264-1100 through 1102 or 40 CFR 265.1100 through 1102, which are adopted and incorporated by reference.

[~~(25)~~](26) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

[~~(26)~~](27) "Corrosion expert" means a person who, by reason of his knowledge of the physical sciences and the principles of

engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person shall be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

[~~(27)~~](28) "CRT collector" means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

[~~(28)~~](29) "CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

[~~(29)~~](30) "CRT processing" means conducting all of the following activities:

(i) Receiving broken or intact CRTs; and

(ii) Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

(iii) Sorting or otherwise managing glass removed from CRT monitors.

[~~(30)~~](31) "Designated facility" means:

(i) A hazardous waste treatment, storage, or disposal facility which:

(A) Has received a permit, or interim status, in accordance with the requirements of Rule R315-270 and 124;

(B) Has received a permit, or interim status, from a State authorized in accordance with 40 CFR 271; or

(C) Is regulated under Subsection R315-261-6(c)(2) or Section R315-266-70; and

(D) That has been designated on the manifest by the generator pursuant to Section R315-262-20.

(ii) "Designated facility" also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with Subsections R315-264-72(f) or R315-265-72(f)[~~40 CFR 265.72(f), which is adopted and incorporated by reference~~].

(iii) If a waste is destined to a facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility shall be a facility allowed by the receiving State to accept such waste.

[~~(31)~~](32) "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in Subsection R315-273-13(a) and (c) and Section R315-273-33. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

[~~(32)~~](33) "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

[~~(33)~~](34) "Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

[~~(34)~~](35) "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

[~~(35)~~](36) "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

[~~(36)~~](37) "Division" means the Division of Waste Management and Radiation Control.

[~~(37)~~](38) "Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

(39) "Electronic import-export reporting compliance date" means the date that EPA announces in the Federal Register, on or after which exporters, importers, and receiving facilities are required to submit certain export and import related documents to EPA using EPA's Waste Import Export Tracking System, or its successor system.

[~~(38)~~](40) "Elementary neutralization unit" means a device which:

(i) Is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in Section R315-261-22, or they are listed in Sections R315-261-30 through 35 only for this reason; and

(ii) Meets the definition of tank, tank system, container, transport vehicle, or vessel in Sections R315-260-10.

[~~(39)~~](41) "Electronic manifest, or e-Manifest" means the electronic format of the hazardous waste manifest that is obtained from EPA's national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22, Manifest, and 8700-22A, Continuation Sheet.

[~~(40)~~](42) "Electronic Manifest System, or e-Manifest System" means EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

[~~(41)~~](43) "EPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in Sections R315-261-30 through 35 and to each characteristic identified in Sections R315-261-20 through 24.

[~~(42)~~](44) "EPA identification number" means the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.

[~~(43)~~](45) "EPA region" means the states and territories found in any one of the following ten regions:

(i) Region I-Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

(ii) Region II-New York, New Jersey, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

(iii) Region III-Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

(iv) Region IV-Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

(v) Region V-Minnesota, Wisconsin, Illinois, Michigan, Indiana and Ohio.

(vi) Region VI-New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

(vii) Region VII-Nebraska, Kansas, Missouri, and Iowa.

(viii) Region VIII-Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

(ix) Region IX-California, Nevada, Arizona, Hawaii, Guam, American Samoa, Commonwealth of the Northern Mariana Islands.

(x) Region X-Washington, Oregon, Idaho, and Alaska.

[~~(44)~~](46) "Equivalent method" means any testing or analytical method approved by the Director under Sections R315-260-20 and 21.

[~~(45)~~](47) "Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

(i) The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and either

(ii)(A) A continuous on-site, physical construction program has begun; or

(B) The owner or operator has entered into contractual obligations-which cannot be cancelled or modified without substantial loss-for physical construction of the facility to be completed within a reasonable time.

[~~(46)~~](48) "Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

[~~(47)~~](49) "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to 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. Installation shall be considered to have commenced if the owner or operator has obtained all Federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

(i) a continuous on-site physical construction or installation program has begun; or

(ii) the owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

[~~(48)~~](50) "Facility" means:

(i) All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units, e.g., one or more landfills, surface impoundments, or combinations of them.

(ii) For the purpose of implementing corrective action under Section R315-264-101, all contiguous property under the control of the owner or operator seeking a permit under Section 19-6-108. This definition also applies to facilities implementing corrective action under Section R315-263-31 and Rule R315-101.

(iii) Notwithstanding Subsection R315-260-10(c)(48)(ii), a remediation waste management site is not a facility that is subject to Section R315-264-101, but is subject to corrective action requirements if the site is located within such a facility.

[~~(49)~~](51) "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

[~~(50)~~](52) "Federal, State and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances.

[~~(51)~~](53) "Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under Rules R315-264 and 265 are no longer conducted at the facility unless subject to the provisions in Section R315-262-34.

[~~(52)~~](54) "Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

[~~(53)~~](55) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

[~~(54)~~](56) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

[~~(55)~~](57) "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in Rule R315-261 or whose act first causes a hazardous waste to become subject to regulation.

[~~(56)~~](58) "Ground water" means water below the land surface in a zone of saturation.

[~~(57)~~](59) "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 Sections R315-261-20 through 24.

[~~(58)~~](60) "Hazardous secondary material" means a secondary material, e.g., spent material, by-product, or sludge, that, when discarded, would be identified as hazardous waste under Rule R315-261.

[~~(59)~~](61) "Hazardous secondary material generator" means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of Subsection R315-260-10(c)(59), "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of Subsections R315-261-2(a)(2)(ii) and R315-261-4(a)(23), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

[~~(60)~~](62) "Hazardous waste constituent" means a constituent that caused the Board to list the hazardous waste in Sections R315-261-30 through 35, or a constituent listed in table 1 of Section R315-261-24.

[~~(61)~~](63) "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

[~~(62)~~](64) "In operation" refers to a facility which is treating, storing, or disposing of hazardous waste.

[~~(63)~~](65) "Inactive portion" means that portion of a facility which is not operated after November 19, 1980. See also "active portion" and "closed portion".

[~~(64)~~](66) "Incinerator" means any enclosed device that:

(i) Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

(ii) Meets the definition of infrared incinerator or plasma arc incinerator.

[~~(65)~~](67) "Incompatible waste" means a hazardous waste which is unsuitable for:

(i) Placement in a particular device or facility because it may cause corrosion or decay of containment materials, e.g., container inner liners or tank walls; or

(ii) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

[~~(66)~~](68) "Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

[~~(67)~~](69) "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

(i) Cement kilns;

(ii) Lime kilns;

(iii) Aggregate kilns;

(iv) Phosphate kilns;

(v) Coke ovens;

(vi) Blast furnaces;

(vii) Smelting, melting and refining furnaces, including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces;

(viii) Titanium dioxide chloride process oxidation reactors;

(ix) Methane reforming furnaces;

(x) Pulping liquor recovery furnaces;

(xi) Combustion devices used in the recovery of sulfur values from spent sulfuric acid;

(xii) Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20% as-generated.

(xiii) Such other devices as the Board may, after notice and comment, add to this list on the basis of one or more of the following factors:

(A) The design and use of the device primarily to accomplish recovery of material products;

(B) The use of the device to burn or reduce raw materials to make a material product;

(C) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

(D) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

(E) The use of the device in common industrial practice to produce a material product; and

(F) Other factors, as appropriate.

[~~(68)~~](70) "Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

[~~(69)~~](71) "Inground tank" means a device meeting the definition of "tank" in Section R315-260-10 whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

[~~(70)~~](72) "Injection well" means a well into which fluids are injected. See also "underground injection".

[~~(71)~~](73) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

[~~(72)~~](74) "Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

[~~(73)~~](75) "Intermediate facility" means any facility that stores hazardous secondary materials for more than 10 days, other than a hazardous secondary material generator or reclaimer of such material.

[~~(74)~~](76) "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

[~~(75)~~](77) "Lamp," also referred to as "universal waste lamp", is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

[~~(76)~~](78) "Land-based unit" means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

[~~(77)~~](79) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

[~~(78)~~](80) "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

[~~(79)~~](81) "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated

into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

[~~(80)~~](82) "Large quantity generator" is a generator who generates any of the following amounts in a calendar month:

(i) Greater than or equal to 1,000 kilograms (2,200 lbs) of non-acute hazardous waste; or

(ii) Greater than 1 kilogram (2.2 lbs) of acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e); or

(iii) Greater than 100 kilograms (220 lbs) of 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 acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e).

[~~(81)~~](83) "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

[~~(82)~~](84) "Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system shall employ operational controls, e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks, or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

[~~(83)~~](85) "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

[~~(84)~~](86) "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

[~~(85)~~](87) "Manifest" is defined in Subsection 19-6-102(14) and is further defined as: the shipping document EPA Form 8700-22, including, if necessary, EPA Form 8700-22A, or the electronic manifest, originated and signed in accordance with the applicable requirements of Rules R315-262 through 265.

[~~(86)~~](88) "Manifest tracking number" means: The alphanumeric identification number, i.e., a unique three letter suffix preceded by nine numerical digits, which is pre-printed in Item 4 of the Manifest by a registered source.

[~~(87)~~](89) "Mercury-containing equipment" means a device or part of a device, including thermostats, but excluding batteries and lamps, that contains elemental mercury integral to its function.

[~~(88)~~](90) "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

[~~(89)~~](91) "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR 146, containment building, corrective action management unit, unit eligible for a research, development, and demonstration permit under Section R315-270-65, or staging pile.

[~~(90)~~](92) "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.

[~~(91)~~](93) "Movement" means that hazardous waste transported to a facility in an individual vehicle.

[~~(92)~~](94) "New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced after November 19, 1980. See also "Existing hazardous waste management facility".

[~~(93)~~](95) "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986; except, however, for purposes of Subsections R315-264-193(g)(2) and R315-265-193(g)(2)[~~40 CFR 265.193(g)(2), which is adopted and incorporated by reference~~], a new tank system is one for which construction commences 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 Subsection R315-265-193(g)(2)[~~40 CFR 265.193(g)(2), which is adopted and incorporated by reference,~~] and Subsection R315-264-193(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. See also "existing tank system."

[~~(94)~~](96) "No free liquids, as used in Subsections R315-261-4(a)(26) and R315-261-4(b)(18)", means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B, Paint Filter Liquids Test, included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method as defined by the Director.

[~~(95)~~](97) "Non-acute hazardous waste" means all hazardous wastes that are not acute hazardous waste, as defined in Section R315-260-10.

[~~(96)~~](98) "On ground tank" means a device meeting the definition of "tank" in Section R315-260-10 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

[~~(97)~~](99) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided 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. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

[~~(98)~~](100) "Open burning" means the combustion of any material without the following characteristics:

(i) Control of combustion air to maintain adequate temperature for efficient combustion,

(ii) Containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

(iii) Control of emission of the gaseous combustion products. See also "incineration" and "thermal treatment".

[~~(99)~~](101) "Operator" means the person responsible for the overall operation of a facility.

[~~(100)~~](102) "Owner" means the person who owns a facility or part of a facility.

[~~(101)~~](103) "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of Rules R315-264 and 265 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank, including its associated piping and underlying containment systems, landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

[~~(102)~~](104) "Polychlorinated biphenyl, PCB" and "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substance. PCB and PCBs as contained in PCB items are defined in Section R315-260-10. For any purposes under Rules R315-260 through 266, 268, 270, 273, R315-15, and R315-101, inadvertently generated non-Aroclor PCBs are defined as the total PCBs calculated following division of the quantity of monochlorinated biphenyls by 50 and dichlorinated biphenyls by 5.

[~~(103)~~](105) "PCB Item" means any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.

[~~(104)~~](106) "Permit" means the plan approval as required by subsection 19-6-108(3)(a), or equivalent control document issued by the Director to implement the requirements of the Utah Solid and Hazardous Waste Act;

[~~(105)~~](107) "Permittee" is defined in Subsection 19-6-102(18) and includes any person who has received an approval of a hazardous waste operation plan under Section 19-6-108 and Rule R315-262 or a Federal RCRA permit for a treatment, storage, or disposal facility.

[~~(106)~~](108) "Person" means an individual, trust, firm, joint stock company, Federal Agency, corporation, including a government corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

[~~(107)~~](109) "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of Rules R315-264 or 265.

[~~(108)~~](110) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(i) Is a new animal drug under FFDCA section 201(w), or

(ii) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(iii) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by Subsection R315-260-10(c)(108)(i) or (ii).

[~~(109)~~](111) "Pile" means any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

[~~(110)~~](112) "Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

[~~(111)~~](113) "POHC's" means principle organic hazardous constituents.

[~~(112)~~](114) "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

[~~(113)~~](115) "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 Sections R315-261-20 through 24, it qualifies as "precipitation run-off" if the water does not exhibit any of the characteristics identified in Section R315-261-20 through 24. If the precipitation run-off has been in contact with a waste listed in Sections R315-261-30 through 35, then it qualifies as "precipitation run-off" when the water has been excluded under Section R315-260-22. Water containing any leachate does not qualify as "precipitation run-off".

[~~(114)~~](116) "Publicly owned treatment works" or "POTW" means any device or system used in the treatment, including recycling and reclamation, of municipal sewage or industrial wastes of a liquid nature which is owned by the State or a political subdivision within the State. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

[~~(115)~~](117) "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 certifications, or completion of accredited university courses that enable that individual to make sound professional judgements regarding ground-water monitoring and contaminant fate and transport.

[~~(116)~~](118) "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. section 6901 et seq.

(119) "Recognized trader" means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

[~~(117)~~](120) "Remanufacturing" means processing a higher-value hazardous secondary material in order to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For the purpose of this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

[~~(118)~~](121) "Remediation waste" means all solid and hazardous wastes, and all media, including ground water, surface water, soils, and sediments, and debris, that are managed for implementing cleanup.

[~~(119)~~](122) "Remediation waste management site" means a facility where an owner or operator is or will be treating, storing or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under Section R315-264-101, but is subject to corrective action requirements if the site is located in such a facility.

[~~(120)~~](123)(i) "Replacement unit" means a landfill, surface impoundment, or waste pile unit:

(A) from which all or substantially all of the waste is removed; and

(B) that is subsequently reused to treat, store, or dispose of hazardous waste.

(ii) "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure plan approved by the Director or a corrective action approved by the Director.

[~~(121)~~](124) "Representative sample" means a sample of a universe or whole, e.g., waste pile, lagoon, ground water, which can be expected to exhibit the average properties of the universe or whole.

[~~(122)~~](125) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

[~~(123)~~](126) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

[~~(124)~~](127) "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

[~~(125)~~](128) "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

[~~(126)~~](129) "Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb of sludge treated on a wet-weight basis.

[~~(127)~~](130) "Small Quantity Generator" is a generator who generates the following amounts in a calendar month:

(i) Greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2,200 lbs) of non-acute hazardous waste; and

(ii) Less than or equal to 1 kilogram (2.2 lbs) of acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e); and

(iii) Less than or equal to 100 kilograms (220 lbs) of 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 acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e).

[~~(128)~~](131) "Solid Waste Management Unit" means any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which solid wastes have been routinely and systematically released.

[~~(129)~~](132) "Solvent-contaminated wipe" means:

(i) A wipe that, after use or after cleaning up a spill, either:

(A) Contains one or more of the F001 through F005 solvents listed in Section R315-261-31 or the corresponding P- or U-listed solvents found in Section R315-261-33;

(B) Exhibits a hazardous characteristic found in Sections R315-261-20 through 24 when that characteristic results from a solvent listed in Rule R315-261; and/or

(C) Exhibits only the hazardous waste characteristic of ignitability found in Section R315-261-21 due to the presence of one or more solvents that are not listed in Rule R315-261.

(ii) Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at Subsections R315-261-4(a)(26) and R315-261-4(b)(18).

[~~(130)~~](133) "Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both.

[~~(131)~~](134) "Sorb" means to either adsorb or absorb, or both.

[~~(132)~~](135) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

[~~(133)~~](136) "Spill" means the accidental discharging, spilling, leaking, pumping, pouring, emitting, emptying, releasing, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes, into or on any land or water.

[~~(134)~~](137) "Staging pile" means an accumulation of solid, non-flowing remediation waste, as defined in Section R315-260-10, that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles shall be designated by the Director according to the requirements of Section R315-264-554.

[~~(135)~~](138) "State" means the state of Utah.

[~~(136)~~](139) "Storage" is defined in Subsection 19-6-102(20) and includes the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

[~~(137)~~](140) "Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

[~~(138)~~](141) "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

[~~(139)~~](142) "Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials, e.g., wood, concrete, steel, plastic, which provide structural support.

[~~(140)~~](143) "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

[~~(141)~~](144) "TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

[~~(142)~~](145) "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. See also "incinerator" and "open burning".

[~~(143)~~](146) "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of Subsections R315-273-13(c)(2) or R315-273-33(c)(2).

[~~(144)~~](147) "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

[~~(145)~~](148) "Transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.

[~~(146)~~](149) "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body; trailer, railroad freight car, etc.; is a separate transport vehicle.

[~~(147)~~](150) Transportation" is defined in Subsection 19-6-102(21) and includes the movement of hazardous waste by air, rail, highway, or water.

[~~(148)~~](151) "Transporter" means a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water.

[~~(149)~~](152)(i) "Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine:

(A) Whether the waste is amenable to the treatment process,

(B) what pretreatment, if any, is required,

(C) the optimal process conditions needed to achieve the desired treatment,

(D) the efficiency of a treatment process for a specific waste or wastes, or

(E) the characteristics and volumes of residuals from a particular treatment process.

(ii) Also included in this definition for the purpose of the Subsection R315-261-4 (e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies.

(iii) A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

[~~(150)~~](153) "Treatment" is defined in Subsection 19-6-102(22) and includes any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

[~~(151)~~](154) "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

[~~(152)~~](155) "Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. See also "injection well".

[~~(153)~~](156) "Underground tank" means a device meeting the definition of "tank" in Section R315-260-10 whose entire surface area is totally below the surface of and covered by the ground.

[~~(154)~~](157) "Unfit-for use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

[~~(155)~~](158) "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[~~(156)~~](159) "Universal waste" means any of the following hazardous wastes that are managed under the universal waste requirements of Rule R315-273:

(i) Batteries as described in Section R315-273-2;

(ii) Pesticides as described in Section R315-273-3;

(iii) Mercury-containing equipment as described in Section R315-273-4;

(iv) Lamps as described in Section R315-273-5;

(v) Antifreeze as described in Subsection R315-273-6(a); and

(vi) Aerosol cans as described in Subsection R315-273-6(b).

[~~(157)~~](160) Universal waste handler

(i) Means:

(A) A generator of universal waste; or

(B) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(ii) Does not mean:

(A) A person who treats, except under the provisions of Subsection R315-273-13(a) or (c), or R315-273-33(a) or (c), disposes of, or recycles universal waste; or

(B) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

[~~(158)~~](161) "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

[~~(159)~~](162) "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

[~~(160)~~](163) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

[~~(161)~~](164) Used oil is defined in Subsection 19-6-703(19).

[~~(162)~~](165) "User of the electronic manifest system" means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that:

(i) Is required to use a manifest to comply with:

(A) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

(B) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

(ii) Elects to use the system to obtain, complete and transmit an electronic manifest format supplied by the EPA electronic manifest system, or

(iii) Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest, or data from such a paper copy, in accordance with Subsections R315-264-71(a)(2)(v) or R315-265-71(a)(2)(v)[~~40 CFR 265.71(a)(2)(v) which is adopted and incorporated by reference~~]. These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

[~~(163)~~](166) "Very small quantity generator" is a generator who generates less than or equal to the following amounts in a calendar month:

(i) 100 kilograms (220 lbs) of non-acute hazardous waste; and

(ii) 1 kilogram (2.2 lbs) of acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e); and

(iii) 100 kilograms (220 lbs) of 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 acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e).

[~~(164)~~](167) "Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

[~~(165)~~](168) "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.

[~~(166)~~](169) "Wastewater treatment unit" means a device which:

(i) Is part of a wastewater treatment facility that is subject to regulation under either section 402 or 307(b) of the Clean Water Act; and

(ii) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in Section R315-261-3, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in Section R315-261-3, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in Section R315-261-3; and

(iii) Meets the definition of tank or tank system in Section R315-260-10.

[~~(167)~~](170) "Water, bulk shipment" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

[~~(168)~~](171) "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

[~~(169)~~](172) "Well injection": See "underground injection"

[~~(170)~~](173) "Wipe" means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

[~~(171)~~](174) "Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to ground water or surface water.

R315-260-11. References.

(a) For purposes of Rules R315-260 through 266, 268, 270, and 273, Rule R315-15 and Rule R315-101, the references of 40 CFR 260.11, 2015 ed, with the modifications to 40 CFR 260.11 adopted in Federal Register Vol. 81, No 228 page 85713 and page 85806 published on[~~as amended by 81 FR 85806,~~] November 28, 2016, are adopted and incorporated by reference.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~April 15,~~] 2019
Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-105; 19-6-106

Environmental Quality, Waste Management and Radiation Control, Waste Management
R315-261
General Requirements –- Identification and Listing of Hazardous Waste

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43972
FILED: 08/09/2019

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In November of 2016, the Environmental Protection Agency (EPA) published final revisions to the Hazardous Waste Export-Import rules in the Federal Register (81 FR 85696). Then in December of 2017, the EPA published additional final revisions to rules regarding Confidentiality Determinations for Hazardous Waste Export and Import Documents in the Federal Register (82 FR 60894). Only the federal government, through the EPA, is

authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The purpose of these changes is to adopt the appropriate revisions into Rule R315-261.

SUMMARY OF THE RULE OR CHANGE: A typographical error was corrected in Subsection R316-261-1(a)(1) and rule numbering errors were corrected in Subsection R315-261-4(b)(18)(vi)(A). Additional subsection numbers were added in Subsections R315-261-4(d)(1) and R315-261-4(e)(1) to correspond with new subsections that were added at R315-261-4(d)(4) and (e)(4). Subsections R315-261-6(a)(3)(A) and (B) were deleted with the language at Subsection R315-261-6(a)(3)(i) revised to reflect the deletion and reference R315-262-80 through 84 where the new import and export rules are located. The language in Subsection R315-261-6(a)(5) was revised to reference the new location of import and export rules at R315-262-80 through 84. Incorporation by reference of 40 CFR 265.71 and 72 was replaced with reference to R315-265-71 and 72 in Subsection R315-261-6(c)(2)(ii) because Rule R315-265 has been revised to include the specific rule language and not incorporate the rule by reference. Language in Subsection R315-261-39(a) was revised in accordance with the changes made to import and export rules.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-104 and Section 19-6-105 and Section 19-6-106

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Because the state of Utah is not an importer or exporter of hazardous waste it is not anticipated that these revisions will have any impact on the state budget. Implementation of these rule changes by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the state budget because the export and import provisions of the rules are administered at the federal level by the EPA.
♦ LOCAL GOVERNMENTS: There are no local governments that are importers or exporters of hazardous waste, and local governments will not be implementing these rule changes so it is not anticipated that there will be any cost or savings to local governments.
♦ SMALL BUSINESSES: Currently, there are no small businesses in Utah that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any small business that exports or imports hazardous waste should already be following the rules. Any costs or savings to small businesses are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any small businesses that are in addition to those created by following the EPA's rules.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Currently, there are not persons other than small businesses, businesses, or local governments that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any persons other than small businesses, businesses, or local governments that export or import hazardous waste should already be following the rules. Any costs to persons other than small businesses, businesses, or local governments are a result of following EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any such persons that are in addition to those created by following the EPA's rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will not be any additional compliance costs for affected persons due to the adoption of these rule changes because the state of Utah is simply adopting these rules as required by EPA to maintain the equivalency of our program to that of EPA. These rule changes being adopted are administered at the federal government level by the EPA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. Because these rule changes are being administered by the federal government, it is not anticipated that their adoption by the state of Utah will have any fiscal impact beyond the impact created by the federal adoption of these rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
WASTE MANAGEMENT AND RADIATION
CONTROL, WASTE MANAGEMENT
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2019

AUTHORIZED BY: Scott Baird, Interim Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There is one company (NAICS 562211) in Utah that operates three facilities and is a non-small business. All three facilities have submitted notification that they are importers of hazardous waste. Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018. At the time that these rules became effective these three facilities were required to comply with the rules as amended. In the document entitled Regulatory Impact Analysis Hazardous Waste Export-Import Revisions Final Rule dated August 2016 the EPA estimates the regulatory impact of the rule revisions. The document concludes that there are fiscal impacts to businesses involved in the export and import of hazardous waste. These impacts are mainly associated with the administrative part of the rule and include but are not limited to: obtaining a CDX registration, submitting notices, submitting annual reports, creating movement documents, confirming recovery and disposal and obtaining an EPA ID number. The state of Utah is adopting these rule revisions in order to maintain equivalency with the federal program. It is not anticipated that adoption of these rule revisions will result in any additional regulatory impact.

The interim head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-261. General Requirements -- Identification and Listing of Hazardous Waste.

R315-261-1. Purpose and Scope.

(a) This rule identifies those solid wastes which are subject to regulation as hazardous wastes under Rules R315-262 through 265, 268, 270, and 124 and which are subject to the notification requirements of these rules.

(1) Sections R315-261-1 through 9 define the terms "solid waste" and "hazardous waste", [~~identify~~]identfies those wastes which are excluded from regulation under Rules R315-262 through R315-266, R315-268 and R315-270 and establish special management requirements for hazardous waste produced by very small quantity generators and hazardous waste which is recycled.

(2) Sections R315-261-10 and 11 set forth the criteria used to identify characteristics of hazardous waste and to list particular hazardous wastes.

(3) Sections R315-261-20 through 24 identify characteristics of hazardous waste.

(4) Sections R315-261-30 through 35 list particular hazardous wastes.

(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 Title 19 Chapter 6. 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) Rule R315-261 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 Rule R315-261, or is not a hazardous waste identified or listed in Rule R315-261, 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 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.

(c) For the purposes of Sections R315-261-2 and 261-6:

(1) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing;

(2) "Sludge" has the same meaning used in Section R315-260-10;

(3) A "by-product" is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

(4) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents. In addition, for purposes of Subsections R315-261-4(a)(23), and (24) smelting, melting and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste found in Subsection R315-266-100(d)(1) through (3), and if the residuals meet the requirements specified in Section R315-266-112.

(5) A material is "used or reused" if it is either:

(i) Employed as an ingredient, including use as an intermediate, in an industrial process to make a product, for example, distillation bottoms from one process used as feedstock in another process. However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products, as when metals are recovered from metal-containing secondary materials; or

(ii) Employed in a particular function or application as an effective substitute for a commercial product, for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment.

(6) "Scrap metal" is bits and pieces of metal parts; for example bars, turnings, rods, sheets, or wire; or metal pieces that may be combined together with bolts or soldering; for example radiators, scrap automobiles, or railroad box cars; which when worn or superfluous can be recycled.

(7) A material is "recycled" if it is used, reused, or reclaimed.

(8) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that during the calendar year, commencing on January 1, the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. Materials shall be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period shall be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type, e.g., slags from a single smelting process, that is recycled in the same way, i.e., from which the same material is recovered or that is used in the same way. Materials accumulating in units that would be exempt from regulation under Subsection R315-261-4(c) are not to be included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling, however.

(9) "Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

(10) "Processed scrap metal" is scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type, i.e., sorted, and, fines, drosses and related materials which have been agglomerated. Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled Subsection R315-261-4(a)(14).

(11) "Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

(12) "Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

R315-261-4. Exclusions.

(a) Materials which are not solid wastes. The following materials are not solid wastes for the purpose of Rule R315-261:

(1)(i) Domestic sewage; and

(ii) 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. 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, i.e., black liquor, that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in Subsection R315-261-1(c).

(7) Spent sulfuric acid used to produce virgin sulfuric acid provided it is not accumulated speculatively as defined in Subsection R315-261-1(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 Subsections R315-261-4(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 on-site 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 40 CFR 265.440 through 265.445, which are adopted and incorporated by reference, 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 prepares 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 shall maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies 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 Director for reinstatement. The Director may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that the 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 specified in Section R315-261-24, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or 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 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, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units, i.e., cokers, unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under Subsection R315-261-4(12)(i), 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 Subsection R315-261-4(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 Section R315-261-4. Residuals generated from processing or recycling materials excluded under Subsection R315-261-4(a)(12)(i), where such materials as generated would have otherwise met a listing under Sections R315-261-30 through R315-261-35, 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 Subsection R315-261-4(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 5172. Recovered oil does not include oil-bearing hazardous wastes listed in Sections R315-261-30 through 35; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in Subsection 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) Reserved.

(17) Spent materials, as defined in Section R315-261-1, other than hazardous wastes listed in Sections R315-261-30 through 35, 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 Subsection R315-261-4(a)(17)(iv), the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building shall 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 shall be free standing, not be a surface impoundment, as defined in Section R315-260-10, and be manufactured of a material suitable for containment of its contents; a container shall 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 shall operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings shall be designed, constructed and operated to prevent significant releases to the environment of these materials.

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

(A) The Director shall 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 shall 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 Subsection R315-261-4(a)(17)(iv), the Director shall 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 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 shall be updated when there is a change in the type of materials recycled or the location of the recycling process.

(vi) For purposes of Subsection R315-261-4(b)(7), mineral processing spent materials shall 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.

(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 Section R315-261-21, and/or toxicity for benzene, Section R315-261-24, 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 Subsection R315-261-1(c).

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

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers shall not be accumulated speculatively, as defined in Subsection R315-261-1(c)(8).

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

(A) Submit a one-time notice to the 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 Subsection R315-261-4(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 shall be an engineered structure made of non-earthen materials that provide structural support, and shall have a floor, walls and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose shall be structurally sound and, if outdoors, shall have roofs or covers that prevent contact with wind and rain. Containers used for this purpose shall be kept closed except when it is necessary to add or remove material, and shall be in sound condition. Containers that are stored outdoors shall be managed within storage areas that:

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

(II) Provide for effective drainage and removal of leaks, spills and accumulated precipitation; and

(III) 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 Subsection R315-261-4(a)(20).

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

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

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

(III) 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 shall:

(A) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in Subsection R315-261-4(a)(20)(ii)(B).

(B) Submit a one-time notification to the 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 Subsection R315-261-4(a)(20).

(C) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which shall 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 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 Section R315-261-4 preempts, overrides or otherwise negates the provision in Section R315-262-11, 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 Subsection R315-261-4(a)(20)(ii)(A), and that afterward will be used only to store hazardous secondary materials excluded under Subsection R315-261-4(a)(20), are not subject to the closure requirements of Rules R315-264 and R315-265.

(21) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under Subsection R315-261-4(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 shall contain no more than eight (8) parts per trillion of dioxin, measured as toxic equivalent.

(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 shall 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 Subsection R315-261-4(a)(21)(ii). Such records shall 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 this Subsection R315-261-4(a)(21).

(22) Used cathode ray tubes (CRTs)

(i) Used, intact CRTs as defined in Section R315-260-10 are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in Subsection R315-261-1(c)(8) by CRT collectors or glass processors.

(ii) Used, intact CRTs as defined in Section R315-260-10 are not solid wastes when exported for recycling provided that they meet the requirements of Section R315-261-40.

(iii) Used, broken CRTs as defined in Section R315-260-10 are not solid wastes provided that they meet the requirements of Section R315-261-39.

(iv) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section R315-261-39(c).

(23) Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, provided that the material complies with Subsections R315-261-4(a)(23)(i) and (ii):

(i)(A) The hazardous secondary material is generated and reclaimed at the generating facility, for purposes of this definition, generating facility means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator; or

(B) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in Section R315-260-10, and if the generator provides one of the following certifications: "on

behalf of (insert generator facility name), I certify that this facility will send the indicated hazardous secondary material to (insert reclaimer facility name), which is controlled by (insert generator facility name) and that (insert name of either facility) has acknowledged full responsibility for the safe management of the hazardous secondary material," or "on behalf of (insert generator facility name), I certify that this facility will send the indicated hazardous secondary material to (insert reclaimer facility name), that both facilities are under common control, and that (insert name of either facility) has acknowledged full responsibility for the safe management of the hazardous secondary material." For purposes of this paragraph, "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person as defined in Section R315-260-10 shall not be deemed to "control" such facilities. The generating and receiving facilities shall both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records shall contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records, e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations; or

(C) The hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies the following: "On behalf of (insert tolling contractor name), I certify that (insert tolling contractor name) has a written contract with (insert toll manufacturer name) to manufacture (insert name of product or intermediate) which is made from specified unused materials, and that (insert tolling contractor name) will reclaim the hazardous secondary materials generated during this manufacture. On behalf of (insert tolling contractor name), I also certify that (insert tolling contractor name) retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process". The tolling contractor shall maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer shall maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records shall contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records, e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations. For purposes of Subsection R315-261-4(a)(23)(i)(C), tolling contractor means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. Toll manufacturer means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

(ii)(A) The hazardous secondary material is contained as defined in Section R315-260-10. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a solid waste.

(B) The hazardous secondary material is not speculatively accumulated, as defined in Subsection R315-261-1(c)(8).

(C) Notice is provided as required by Section R315-260-42.

(D) The material is not otherwise subject to material-specific management conditions under Subsection R315-261-4(a) when reclaimed, and it is not a spent lead-acid battery, see Sections R315-266-80 and R315-273-2.

(E) Persons performing the recycling of hazardous secondary materials under this exclusion shall maintain documentation of their legitimacy determination on-site. Documentation shall be a written description of how the recycling meets all three factors in Subsection R315-260-43(a) and how the factor in Subsection R315-260-43(b) was considered. Documentation shall be maintained for three years after the recycling operation has ceased.

(F) The emergency preparedness and response requirements found in Sections R315-261-400, 410, 411 and 420 are met.

(24) Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste, provided that:

(i) The material is not speculatively accumulated, as defined in Subsection R315-261-1(c)(8);

(ii) The material is not handled by any person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility or a reclaimer, and, while in transport, is not stored for more than 10 days at a transfer facility, as defined in Section R315-260-10, and is packaged according to applicable Department of Transportation regulations at 49 CFR parts 173, 178, and 179 while in transport;

(iii) The material is not otherwise subject to material-specific management conditions under Subsection R315-261-4(a) when reclaimed, and it is not a spent lead-acid battery, see Sections R315-266-80 and R315-273-2;

(iv) The reclamation of the material is legitimate, as specified under Section R315-260-43;

(v) The hazardous secondary material generator satisfies all of the following conditions:

(A) The material shall be contained as defined in Section R315-260-10. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit with leaks or other continuing releases is discarded and a solid waste.

(B) Prior to arranging for transport of hazardous secondary materials to a reclamation facility (or facilities) where the management of the hazardous secondary materials is not addressed under a hazardous waste part B permit or interim status standards, the hazardous secondary material generator shall make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will be passing through an intermediate facility where the management of the hazardous secondary materials is not addressed under a hazardous waste part B permit or interim status standards, the hazardous secondary material generator shall make contractual arrangements with the intermediate facility to ensure that

the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator shall perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts shall be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, and/or provided by a third party. The hazardous secondary material generator shall affirmatively answer all of the following questions for each reclamation facility and any intermediate facility:

(I) Does the available information indicate that the reclamation process is legitimate pursuant to Section R315-260-43? In answering this question, the hazardous secondary material generator can rely on their existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources including the reclamation facility and audit reports about the reclamation process.

(II) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to Section R315-260-42 and have they notified the appropriate authorities that the financial assurance condition is satisfied per Subsection R315-261-4(a)(24)(vi)(F)? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per Section R315-260-42, including the requirement in Subsection R315-260-42(a)(5) to notify the Director whether the reclaimer or intermediate facility has financial assurance.

(III) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of Sections R315-260 through 268, 270, and 273 and has not been classified as a significant non-complier with Sections R315-260 through 268, 270, and 273? In answering this question, the hazardous secondary material generator can rely on the publicly available information from EPA or the state. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility in the previous three years for violations of Sections R315-260 through 268, 270, and 273 and has been classified as a significant non-complier with Sections R315-260 through 268, 270, and 273, does the hazardous secondary material generator have credible evidence that the facilities will manage the hazardous secondary materials properly? In answering this question, the hazardous secondary material generator can obtain additional information from EPA, the state, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

(IV) Does the available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.

(V) If residuals are generated from the reclamation of the excluded hazardous secondary materials, does the reclamation facility have the permits required (if any) to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence that the residuals will be managed in a manner that is protective of human health and the environment? In answering these questions, the hazardous secondary material generator can rely on publicly available information from EPA or the state, or information provided by the facility itself.

(C) The hazardous secondary material generator shall maintain for a minimum of three years documentation and certification that reasonable efforts were made for each reclamation facility and, if applicable, intermediate facility where the management of the hazardous secondary materials is not addressed under a hazardous waste part B permit or interim status standards prior to transferring hazardous secondary material. Documentation and certification shall be made available upon request by the Director within 72 hours, or within a longer period of time as specified by the Director. The certification statement shall:

(I) Include the printed name and official title of an authorized representative of the hazardous secondary material generator company, the authorized representative's signature, and the date signed;

(II) Incorporate the following language: "I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to (insert name(s) of reclamation facility and any intermediate facility), reasonable efforts were made in accordance with Subsection R315-261-4(a)(24)(v)(B) to ensure that the hazardous secondary materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information."

(D) The hazardous secondary material generator shall maintain at the generating facility for no less than three years records of all off-site shipments of hazardous secondary materials. For each shipment, these records shall, at a minimum, contain the following information:

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

(II) Name and address of each reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent;

(III) The type and quantity of hazardous secondary material in the shipment.

(E) The hazardous secondary material generator shall maintain at the generating facility for no less than three years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for all off-site shipments of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer, or intermediate facility, the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records, e.g., financial records, bills of

lading, copies of DOT shipping papers, or electronic confirmations of receipt;

(F) The hazardous secondary material generator shall comply with the emergency preparedness and response conditions in Sections R315-261-400, 410, 411, and 420.

(vi) Reclaimers of hazardous secondary material excluded from regulation under this exclusion and intermediate facilities as defined in Section R315-260-10 satisfy all of the following conditions:

(A) The reclaimer and intermediate facility shall maintain at its facility for no less than three years records of all shipments of hazardous secondary material that were received at the facility and, if applicable, for all shipments of hazardous secondary materials that were received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records shall at a minimum contain the following information:

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

(II) Name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility which the hazardous secondary materials were received from;

(III) The type and quantity of hazardous secondary material in the shipment; and

(IV) For hazardous secondary materials that, after being received by the reclaimer or intermediate facility, were subsequently transferred off-site for further reclamation, the name and address of the, subsequent, reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent.

(B) The intermediate facility shall send the hazardous secondary material to the reclaimer(s) designated by the hazardous secondary materials generator.

(C) The reclaimer and intermediate facility shall send to the hazardous secondary material generator confirmations of receipt for all off-site shipments of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer, or intermediate facility, the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records, e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt.

(D) The reclaimer and intermediate facility shall manage the hazardous secondary material in a manner that is at least as protective as that employed for analogous raw material and shall be contained. An "analogous raw material" is a raw material for which a hazardous secondary material is a substitute and serves the same function and has similar physical and chemical properties as the hazardous secondary material.

(E) Any residuals that are generated from reclamation processes shall be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous characteristic according to Sections R315-261-20 through 24, or if they themselves are specifically listed in Sections R315-261-30 through 35, such residuals are hazardous wastes and shall be managed in accordance with the applicable requirements of Rules R315-260 through 266, 268, and 270.

(F) The reclaimer and intermediate facility have financial assurance as required under Sections R315-261-140 through 151,

(vii) In addition, all persons claiming the exclusion under Subsection R315-261-4(a)(24) provide notification as required under Section R315-260-42.

(25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of Subsection R315-261-4(a)(24)(i)-(v), excepting Subsection R315-261-4(a)(24)(v)(B)(2) for foreign reclaimers and foreign intermediate facilities, and that the hazardous secondary material generator also complies with the following requirements:

(i) Notify EPA of an intended export before the hazardous secondary material is scheduled to leave the United States. A complete notification shall be submitted at least sixty days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve month or lesser period. The notification shall be in writing, signed by the hazardous secondary material generator, and include the following information:

(A) Name, mailing address, telephone number and EPA ID number, if applicable, of the hazardous secondary material generator;

(B) A description of the hazardous secondary material and the EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste and the U.S. DOT proper shipping name, hazard class and ID number, UN/NA, for each hazardous secondary material as identified in 49 CFR parts 171 through 177;

(C) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the hazardous secondary material is to be exported;

(D) The estimated total quantity of hazardous secondary material;

(E) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;

(F) A description of the means by which each shipment of the hazardous secondary material will be transported, for example mode of transportation vehicle including air, highway, rail and water, and types of containers including drums, boxes and tanks;

(G) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import;

(H) The name and address of the reclaimer, any intermediate facility and any alternate reclaimer and intermediate facilities; and

(I) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there, for purposes of this section, the terms "EPA Acknowledgement of Consent", "country of import" and "country of transit" are used as defined in 40 CFR 262.81 with the exception that the terms in Section R315-261-4 refer to hazardous secondary materials, rather than hazardous waste:

(ii) Notifications shall be submitted electronically using EPA's Waste Import Export Tracking System, WIETS, or its successor system.

(iii) Except for changes to the telephone number in Subsection R315-261-4(a)(25)(i)(A) and decreases in the quantity of hazardous secondary material indicated pursuant to Subsection R315-261-4(a)(25)(i)(D), when the conditions specified on the original

notification change, including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification, the hazardous secondary material generator shall provide EPA with a written renotification of the change. The shipment cannot take place until consent of the country of import to the changes, except for changes to Subsection R315-261-4(a)(25)(i)(I) and in the ports of entry to and departure from countries of transit pursuant to Subsection R315-261-4(a)(25)(i)(E), has been obtained and the hazardous secondary material generator receives from EPA an EPA Acknowledgment of Consent reflecting the country of import's consent to the changes.

(iv) Upon request by EPA, the hazardous secondary material generator shall furnish to EPA any additional information which a country of import requests in order to respond to a notification.

(v) EPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of Subsection R315-261-4(a)(25)(i). Where a claim of confidentiality is asserted with respect to any notification information required by Subsection R315-261-4(a)(25)(i), EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

(vi) The export of hazardous secondary material under Subsection R315-261-4(a)(25) is prohibited unless the country of import consents to the intended export. When the country of import consents in writing to the receipt of the hazardous secondary material, EPA will send an EPA Acknowledgment of Consent to the hazardous secondary material generator. Where the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, EPA will notify the hazardous secondary material generator in writing. EPA will also notify the hazardous secondary material generator of any responses from countries of transit.

(vii) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to Subsection R315-261-4(a)(25)(i) within thirty days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, EPA will send an EPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the thirty day period; renotification and renewal of all consents is required for exports after that date.

(viii) A copy of the EPA Acknowledgment of Consent shall accompany the shipment. The shipment shall conform to the terms of the EPA Acknowledgment of Consent.

(ix) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator shall re-notify EPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with Subsection R315-261-4(a)(25)(iii) and obtain another EPA Acknowledgment of Consent.

(x) Hazardous secondary material generators shall keep a copy of each notification of intent to export and each EPA Acknowledgment of Consent for a period of three years following receipt of the EPA Acknowledgment of Consent. They may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on EPA's Waste Import Export Tracking System, WIETS, or its successor system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under Subsection R315-261-4(a)(25) if they can demonstrate that the inability to produce such copies are due exclusively to technical difficulty with EPA's Waste Import Export Tracking System, WIETS, or its successor system for which the hazardous secondary material generator bears no responsibility.

(xi) Hazardous secondary material generators shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports shall be submitted electronically using EPA's Waste Import Export Tracking System, WIETS, or its successor system. Such reports shall include the following information:

(A) Name, mailing and site address, and EPA ID number, if applicable, of the hazardous secondary material generator;

(B) The calendar year covered by the report;

(C) The name and site address of each reclaimer and intermediate facility;

(D) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste, the DOT hazard class, the name and U.S. EPA ID number, where applicable, for each transporter used, the total amount of hazardous secondary material shipped and the number of shipments pursuant to each notification;

(E) A certification signed by the hazardous secondary material generator which states: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

(xii) All persons claiming an exclusion under Subsection R315-261-4(a)(25) shall provide notification as required by Section R315-260-42.

(26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that

(i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container shall be sealed with all lids properly and

securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;

(iii) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes shall contain no free liquids as defined in Section R315-260-10.

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes shall be managed according to the applicable regulations found in Rules R315-260 through 266, 268, 270 and 273;

(v) Generators shall maintain at their site the following documentation:

(A) Name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;

(B) Documentation that the 180-day accumulation time limit in Subsection R315-261-4(a)(26)(ii) is being met;

(C) Description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning;

(vi) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the Clean Water Act.

(27) Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste, provided that:

(i) The hazardous secondary material consists of one or more of the following spent solvents: Toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, NN-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, and/or methanol;

(ii) The hazardous secondary material originated from using one or more of the solvents listed in Subsection R315-261-4(a)(27)(i) in a commercial grade for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions; in the pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and/or the paints and coatings manufacturing sectors, NAICS 325510.

(iii) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in Subsection R315-261-4(a)(27)(i) to a remanufacturer in the pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and/or the paints and coatings manufacturing sectors, NAICS 325510.

(iv) After remanufacturing one or more of the solvents listed in Subsection R315-261-4(a)(27)(i), the use of the remanufactured solvent shall be limited to reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, in the pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and the paints and coatings manufacturing sectors, NAICS 325510; or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated under the Chemical Data Reporting Rule of the Toxic Substances Control Act, 40 CFR parts 704, 710-711, including Industrial Function Codes U015, solvents consumed in a reaction to produce other chemicals, and U030, solvents become part of the mixture;

(v) After remanufacturing one or more of the solvents listed in Subsection R315-261-4(a)(27)(i), the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in Industrial Function Code U029 under the Chemical Data Reporting Rule of the Toxics Substances Control Act.); and

(vi) Both the hazardous secondary material generator and the remanufacturer shall:

(A) Notify the Director and update the notification every two years per Section R315-260-42;

(B) Develop and maintain an up-to-date remanufacturing plan which identifies:

(I) The name, address and EPA ID number of the generator(s) and the remanufacturer(s),

(II) The types and estimated annual volumes of spent solvents to be remanufactured,

(III) The processes and industry sectors that generate the spent solvents,

(IV) The specific uses and industry sectors for the remanufactured solvents, and

(V) A certification from the remanufacturer stating "on behalf of (insert remanufacturer facility name), I certify that this facility is a remanufacturer under pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and/or the paints and coatings manufacturing sectors, NAICS 325510; and will accept the spent solvent(s) for the sole purpose of remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, or for use as product ingredient(s). I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR part 60, part 61 or part 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Sections R315-261-1030 through 1035, 1050 through 1064 and 1080 through 1089";

(C) Maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;

(D) Prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Sections R315-261-17- through 179 and 190 through 200, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;

(E) During remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR part 60, part 61 or part 63; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate

standards in Sections R315-261-1030 through 1035, 1050 through 1064 and 1080 through 1089; and

(F) Meet the requirements prohibiting speculative accumulation per Subsection R315-261-1(c)(8).

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

(2) Solid wastes generated by any of the following and which are returned to the soils 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)(i) 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 Section R315-266-112 for facilities that burn or process hazardous waste.

(ii) The following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in Subsection R315-261-4(b)(4)(i), except as provided by Section R315-266-112 for facilities that burn or process hazardous waste:

(A) Coal pile run-off. For purposes of Subsection R315-261-4(b)(4), coal pile run-off means any precipitation that drains off coal piles.

(B) Boiler cleaning solutions. For purposes of Subsection R315-261-4(b)(4), boiler cleaning solutions means water solutions and chemical solutions used to clean the fire-side and water-side of the boiler.

(C) Boiler blowdown. For purposes of Subsection R315-261-4(b)(4), boiler blowdown means water purged from boilers used to generate steam.

(D) Process water treatment and demineralizer regeneration wastes. For purposes of Subsection R315-261-4(b)(4), process water treatment and demineralizer regeneration wastes means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.

(E) Cooling tower blowdown. For purposes of Subsection R315-261-4(b)(4), cooling tower blowdown means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.

(F) Air heater and precipitator washes. For purposes of Subsection R315-261-4(b)(4), air heater and precipitator washes means wastes from cleaning air preheaters and electrostatic precipitators.

(G) Effluents from floor and yard drains and sumps. For purposes of Subsection R315-261-4(b)(4), effluents from floor and yard drains and sumps means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain runoff, collected by yard drains and sumps located outside the power plant building.

(H) Wastewater treatment sludges. For purposes of Subsection R315-261-4(b)(4), wastewater treatment sludges refers to sludges generated from the treatment of wastewaters specified in Subsections R315-261-4(b)(4)(ii)(A) through (F).

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

(6)(i) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in Sections R315-261-30 through R316-261-35 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 Subsections R315-261-4(b)(6)(i)(A), (B), and (C), 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 Section R315-266-112 for facilities that burn or process hazardous waste.

(i) For purposes of Subsection R315-261-4(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 Subsection R315-261-4(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 Subsection R315-261-4(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 Section R315-266-112 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 of Section R315-261-24, Hazardous Waste Codes D018 through D043 only, and are subject to the corrective action regulations under Section R315-311-202-1 which adopts 40 CFR 280 by reference.

(11) Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic, Hazardous Waste Codes D018 through D043 only, in Section R315-261-24 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: Waste Identification Branch (5304), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460 and the Division of Waste Management and Radiation Control, PO Box 144880, 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) Non-terne plated used oil filters that are not mixed with wastes listed in Sections R315-261-30 through R315-261-35 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.

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

(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 Subsection R315-261-4(b)(15)(i) were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate do 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 sections 307(b) or 402 of the Clean Water Act.

(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 K178 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 Subsection R315-261-4(b)(15)(v) after the emergency ends.

(16) Reserved

(17) Reserved

(18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that

(i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container shall be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;

(iii) At the point of being transported for disposal, the solvent-contaminated wipes shall contain no free liquids as defined in Section R315-260-10.

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes shall be managed according to the applicable regulations found in Rules R315-260 through 266, 268, 270 and 273;

(v) Generators shall maintain at their site the following documentation:

(A) Name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

(B) Documentation that the 180 day accumulation time limit in Subsection R315-261-4(b)(18)(ii) is being met;

(C) Description of the process the generator is using to ensure solvent-contaminated wipes contain no free liquids at the point of being transported for disposal;

(vi) The solvent-contaminated wipes are sent for disposal

(A) To a solid waste landfill that:

[~~(1)~~](I) is regulated under R315-301 through R315-320

[~~(2)~~](II) is a Class I or V Landfill; and

[~~(3)~~](III) has a composite liner; or

(B) To a hazardous waste landfill regulated under Rules R315-260 through 266, 268, and 270; or

(C) To a municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act or to a hazardous waste combustor, boiler, or industrial furnace regulated under Rule R315-264, Rule R315-265, or Sections R315-266-100 through R315-266-112.

(c) Hazardous wastes which are exempted from certain regulations. 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 regulation under Rules R315-262 through 265, 268, 270, and 124 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 product or raw materials.

(d)(1) Samples. Except as provided in [~~Subsection~~]Subsections R315-261-4(d)(2) and (4), 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 composition, is not subject to any requirements of Rules R315-261 through 266, 268 or 270 or 124 or to the notification requirements of Section 3010 of RCRA, when:

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

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

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

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

(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 Subsections R315-261-4(d)(1) (i) and (ii), 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:

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

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

(III) The quantity of the sample;

(IV) The date of shipment; and

(V) 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 Subsection R315-261-4(d)(1).

(4) In order to qualify for the exemption in Subsections R315-261-4(d)(1)(i) and (ii), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg.

(e)(1) Treatability Study Samples. Except as provided in [~~Subsection~~]Subsections R315-261-4(e)(2) and (4), persons who generate or collect samples for the purpose of conducting treatability studies as defined in Section R315-260-10, are not subject to any requirement of Rules R315-261 through 263 or to the notification requirements of Section 3010 of RCRA, nor are such samples included in the quantity determinations of Section R315-261-5 and Subsection R315-262-34(d) when:

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

(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 Subsection R315-261-4(e)(1) 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; and

(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 Subsections R315-261-4(e)(2)(iii)(A) or (B) 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:

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

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

(III) The quantity of the sample;

(IV) The date of shipment; and

(V) 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 Subsection R315-261-4(f) or has an appropriate RCRA permit or interim status.

(v) The generator or sample collector maintains the following records for a period ending three 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:

(I) The amount of waste shipped under this exemption;

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

(III) The date the shipment was made; and

(IV) Whether or not unused samples and residues were returned to the generator.

(vi) The generator reports the information required under Subsection R315-261-4(e)(2)(v)(C) in its biennial report.

(3) The Director may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Director may grant requests on a case-by-case basis for quantity limits in excess of those specified in Subsections R315-261-4(e)(2)(i) and (ii) and Subsection R315-261-4(f)(4), 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 timeframes allowed in Subsections R315-261-4(e)(3)(i) and (ii) are subject to all the provisions in Subsections R315-261-4(e)(1) and (e)(2)(iii) through (vi). The generator or sample collector shall apply to the 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 shall 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 Director considers necessary.

(4) In order to qualify for the exemption in Subsection R315-261-4(e)(1)(i), the mass of a sample that will be exported to a foreign laboratory or testing facility or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally no exceed 25 kg.

(f) Samples Undergoing Treatability Studies at Laboratories and Testing Facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies, to the extent such facilities are not otherwise subject to RCRA requirements, are not subject to any requirement of Rules R315-261 through 266, 268 and 270, or to the notification requirements of Section 3010 of RCRA provided that the conditions of Subsection R315-261-4(f)(1) through (11) are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to Subsections R315-261-4(f)(1) through (11). Where a group of MTUs are located at the same site, the limitations specified in Subsections R315-261-4(f)(1) through (11) 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 Director, in writing that it intends to conduct treatability studies under Subsection R315-261-4(f).

(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;

(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 Director, by March 15 of each year, that 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;

(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 Section R315-261-3 and, if so, are subject to Rules R315-261 through

268 and 270, unless the residues and unused samples are returned to the sample originator under the Subsection R3315-261-4(e) exemption.

(11) The facility notifies the 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 Subsection R315-261-4(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 an approved State under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(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 Subsections R315-261-4(g)(2)(i) and (ii), as provided for in Corps regulations.

(h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI Underground Injection Control wells, including the requirements in Rule R317-7, are not a hazardous waste, provided the following conditions are met:

(1) Transportation of the carbon dioxide stream shall be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws, 49 U.S.C. 60101 et seq. and regulations, 49 CFR Parts 190-199, of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. 60105, as applicable.

(2) Injection of the carbon dioxide stream shall be in compliance with the applicable requirements for Class VI Underground Injection Control wells, including the applicable requirements in Rule R317-7;

(3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and

(4)(i) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under Subsection R315-261-4(h), shall have an authorized representative, as defined in Section R315-260-10, sign a certification statement worded as follows: I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under Subsection R315-261.4(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with, or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with, Department of Transportation requirements, including the pipeline safety laws, 49 U.S.C. 60101 et seq., and regulations, 49 CFR Parts 190-199, of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of Rule R317-7.

(ii) Any Class VI Underground Injection Control well owner or operator, who claims that a carbon dioxide stream is excluded under Subsection R315-261-4(h), shall have an authorized representative, as defined in Section R315-260-10, sign a certification statement worded as follows: I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under Subsection R315-261-4(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the Underground Injection Control (UIC) Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for UIC Class VI wells, including the applicable requirements in Rule R317-7.

(iii) The signed certification statement shall be kept on-site for no less than three years, and shall be made available within 72 hours of a written request from the Director. The signed certification statement shall be renewed every year that the exclusion is claimed, by having an authorized representative, as defined in Section R315-260-10, annually prepare and sign a new copy of the certification statement within one year of the date of the previous statement. The signed certification statement shall also be readily accessible on the facility's publicly-available Web site, if such Web site exists, as a public notification with the title of "Carbon Dioxide Stream Certification" at the time the exclusion is claimed.

(i) Reserved

(j)(1) Airbag waste at the airbag waste handler or during transport to an airbag waste collection facility or designated facility is not subject to regulation under Rules R315-262 through 268, R315-270 or R315-124, and is not subject to the notification requirements of section 3010 of RCRA provided that:

(i) The airbag waste is accumulated in a quantity of no more than 250 airbag modules or airbag inflators, for no longer than 180 days;

(ii) The airbag waste is packaged in a container designed to address the risk posed by the airbag waste and labeled "Airbag Waste -- Do Not Reuse;"

(iii) The airbag waste is sent directly to either

(A) An airbag waste collection facility in the United States under the control of a vehicle manufacturer or their authorized representative, or under the control of an authorized party administering a remedy program in response to a recall under the National Highway Traffic Safety Administration, or

(B) A designated facility as defined in Section R315-260-10;

(iv) The transport of the airbag waste complies with all applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 during transit;

(v) The airbag waste handler maintains at the handler facility for no less than three years records of all off-site shipments of airbag waste and all confirmations of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter and date of the shipment; name and address of receiving facility; and the type and quantity of airbag waste, i.e., airbag modules or airbag inflators, in the shipment. Confirmations of receipt must include the name and address of the receiving facility; the type and quantity of the airbag waste, i.e., airbag modules and airbag inflators, received; and the date which it was received. Shipping

records and confirmations of receipt must be made available for inspection and may be satisfied by routine business records, e.g., electronic or paper financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt.

(2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable hazardous waste regulations, and the facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste regulations and must comply with the requirements of Rule R315-262.

(3) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the National Highway Traffic Safety Administration is considered sham recycling and prohibited under Subsection R315-261-2(g).

R315-261-6. Requirements for Recyclable Materials.

(a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of Subsections R315-261-6(b) and (c), except for the materials listed in Subsections R315-261-6(a)(2) and (a)(3). Hazardous wastes that are recycled shall be known as "recyclable materials."

(2) The following recyclable materials are not subject to the requirements of Section R315-261-6 but are regulated under Sections R315-266-20 through 23, Section R315-266-70, Section R315-266-80, Sections R315-266-100 through 112, Sections R315-266-200 through 206, and Sections R315-266-210, 220, 225, 230,235, 240, 245, 250, 255, 260, 310, 315, 320, 325, 330, 335, 340, 345,350, 355, and 360 and all applicable provisions in Rules R315-268, 270 and 124.

(i) Recyclable materials used in a manner constituting disposal, Sections R315-266-20 through 23;

(ii) Hazardous wastes burned, as defined in Subsection R315-266-100(a), in boilers and industrial furnaces that are not regulated under Sections R315-264-340 through 345, 347 and 351; Sections R315-370, 373, 375, 377, and 381 through 383; and Section R315-266-100 through 112;

(iii) Recyclable materials from which precious metals are reclaimed, Section R315-266-70;

(iv) Spent lead-acid batteries that are being reclaimed, Section R315-266-80.

(3) The following recyclable materials are not subject to regulation under Rules R315-262 through 268, 270 and 124, and are not subject to the notification requirements of section 3010 of RCRA:

(i) Industrial ethyl alcohol that is reclaimed except that exports and imports of such recyclable materials must comply with the requirements of Sections R315-262-80 through 84.[~~, unless provided otherwise in an international agreement as specified in Section R315-262-58:~~

~~(A) A person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, shall comply with the requirements applicable to a primary exporter in Section R315-262-53, Subsections R315-262-56(a)(1) through (4), (6), and (b), and Section R315-262-57, export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in Sections R315-262-50 through 58, and provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;~~

~~(B) Transporters transporting a shipment for export may not accept a shipment if he knows the shipment does not conform to the EPA Acknowledgment of Consent, shall ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and shall ensure that it is delivered to the facility designated by the person initiating the shipment.~~]

(ii) Scrap metal that is not excluded under Subsection R315-261-4(a)(13);

(iii) Fuels produced from the refining of oil-bearing hazardous waste along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices, this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under Subsection R315-261-4(a)(12);

(iv)(A) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under Subsection R315-15-1.2(c) and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

(B) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under Subsection R315-15-1.2(c); and

(C) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under Subsection R315-15-1.2(c).

(4) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of Rules R315-260 through 268, but is regulated under Rule R315-15. Used oil that is recycled includes any used oil which is reused, following its original use, for any purpose, including the purpose for which the oil was originally used. Such term includes, but is not limited to, oil which is re-refined, reclaimed, burned for energy recovery, or reprocessed.

(5) Hazardous waste that is exported [~~to~~]or imported for purpose of recovery is subject to the requirements of Sections R315-262-80 through 84.[~~from designated member countries of the Organization for Economic Cooperation and Development (OECD), as defined in Subsection R315-262-58(a)(1), for purpose of recovery is subject to the requirements of Sections R315-262-80 through 87 and 89, if it is subject to either the manifesting requirements of Rule R315-262, to the universal waste management standards of Rule R315-273.~~]

(b) Generators and transporters of recyclable materials are subject to the applicable requirements of Rules R315-262 and 263 and the notification requirements under section 3010 of RCRA, except as provided in Subsection R315-261-6(a).

(c)(1) Owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of Rules R315-264 and 265, and under Rules R315-266, 268, 270 and 124 and the notification requirements under section 3010 of RCRA, except as provided in Subsection R315-261-6(a). The recycling process itself is exempt from regulation except as provided in Subsection R315-261-6(d).

(2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in R315-261-6(a):

(i) Notification requirements under section 3010 of RCRA;

(ii) [~~40 CFR 265.71 and 72, which are adopted by reference;~~]Sections R315-265-71 and 72 dealing with the use of the manifest and manifest discrepancies;

(iii) Subsection R315-261-6(d); and

(iv) Section R315-265-75, addressing biennial reporting requirements.

(d) Owners or operators of facilities subject to permitting requirements under Section 19-6-108 with hazardous waste management units that recycle hazardous wastes are subject to the requirements of Sections R315-264-1030 through 1036; and Sections R315-264-1050 through 1065; 40 CFR 265.1030 through 1035, which are adopted and incorporated by reference; or 40 CFR 265.1050 through 1064.

R315-261-39. Exclusions and Exemptions - Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.

Used, broken CRTs are not solid wastes if they meet the following conditions:

(a) Prior to processing: These materials are not solid wastes if they are destined for recycling and if they meet the following requirements:

(1) Storage. The broken CRTs shall be either:

(i) Stored in a building with a roof, floor, and walls, or

(ii) Placed in a container, i.e., a package or a vehicle, that is constructed, filled, and closed to minimize releases to the environment of CRT glass, including fine solid materials.

(2) Labeling. Each container in which the used, broken CRT is contained shall be labeled or marked clearly with one of the following phrases: "Used cathode ray tube(s)-contains leaded glass " or "Leaded glass from televisions or computers." It shall also be labeled: "Do not mix with other glass materials."

(3) Transportation. The used, broken CRTs shall be transported in a container meeting the requirements of Subsections R315-261-39(a)(1)(ii) and (2).

(4) Speculative accumulation and use constituting disposal. The used, broken CRTs are subject to the limitations on speculative accumulation as defined in Subsection R315-261-39(c)(8). If they are used in a manner constituting disposal, they shall comply with the applicable requirements of Sections R315-266-20 through 23 instead of the requirements of Section R315-261-39.

(5) Exports. In addition to the applicable conditions specified in Subsections R315-261-39(a)(1)through (4), exporters of used, broken CRTs shall comply with the following requirements:

(i) Notify EPA of an intended export before the CRTs are scheduled to leave the United States. A complete notification should be submitted sixty days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve month or lesser period. The notification shall be in writing, signed by the exporter, and include the following information:

(A) Name, mailing address, telephone number and EPA ID number, if applicable, of the exporter of the CRTs.

(B) The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported.

(C) The estimated total quantity of CRTs specified in kilograms.

(D) All points of entry to and departure from each foreign country through which the CRTs will pass.

(E) A description of the means by which each shipment of the CRTs will be transported; e.g., mode of transportation vehicle, air, highway, rail, water, etc.; type(s) of container, drums, boxes, tanks, etc.

(F) The name and address of the recycler or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the names of any alternate recyclers.

(G) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.

(H) The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in such country and the nature of their handling while there.

(ii) Notifications must be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.[~~Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 1200 Pennsylvania Ave., NW., Washington, DC. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export CRTs."~~]

(iii) Upon request by EPA, the exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification.

(iv) EPA shall provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of Subsection R315-261-39(a)(5)(i).[~~—Where a claim of confidentiality is asserted with respect to any notification information required by Subsection R315-261-39(a)(5)(i), EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.~~]

(v) [~~The export of CRTs is prohibited unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA shall forward an Acknowledgment of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA shall notify the exporter in writing. EPA shall also notify the exporter of any responses from transit countries.~~]The export of CRTs is prohibited unless all of the following occur:

(A) The receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an Acknowledgment of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in

writing. EPA will also notify the exporter of any responses from transit countries.

(B) On or after the AES filing compliance date, the exporter or a U.S. authorized agent must:

(I) Submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b).

(II) Include the following items in the EEI, along with the other information required under 15 CFR 30.6: EPA license code; Commodity classification code per 15 CFR 30.6(a)(12); EPA consent number; Country of ultimate destination per 15 CFR 30.6(a)(5); Date of export per 15 CFR 30.6(a)(2); Quantity of waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or EPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(vi) When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change using the allowable methods listed in Subsection R315-261-39(a)(5)(ii), except for changes to the telephone number in Subsection R315-261-39(a)(5)(i)(A) and decreases in the quantity indicated pursuant to Subsection R315-261-39(a)(5)(i)(C). The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to Subsections R315-261-39(a)(5)(i)(D) and (H) and the exporter of CRTs receives from EPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country's consent to the changes. [~~When the conditions specified on the original notification change, the exporter shall provide EPA with a written renotification of the change, except for changes to the telephone number in Subsection R315-261-39(a)(5)(i)(A) and decreases in the quantity indicated pursuant to Subsection R315-261-39(a)(5)(i)(C). The shipment cannot take place until consent of the receiving country to the changes has been obtained, except for changes to information about points of entry and departure and transit countries pursuant to Subsections R315-261-39(a)(5)(i)(D) and (a)(5)(i)(H), and the exporter of CRTs receives from EPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country's consent to the changes.~~]

(vii) A copy of the Acknowledgment of Consent to Export CRTs shall accompany the shipment of CRTs. The shipment shall conform to the terms of the Acknowledgment.

(viii) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs shall renotify EPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with Subsection R315-261-39(a)(5)(vi) and obtain another Acknowledgment of Consent to Export CRTs.

(ix) Exporters must keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce a notification or Acknowledgement for inspection under Section R315-261-39 if the CRT exporter can demonstrate that the inability to produce such copies are due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT exporter bears no responsibility.[~~Exporters shall keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment.~~]

(x) CRT exporters shall file with EPA no later than March 1 of each year, an annual report summarizing the quantities, in kilograms; frequency of shipment; and ultimate destination(s), i.e., the facility or facilities where the recycling occurs, of all used CRTs exported during the previous calendar year. Such reports shall also include the following:

(A) The name; EPA ID number, if applicable; and mailing and site address of the exporter;

(B) The calendar year covered by the report;

(C) A certification signed by the CRT exporter that states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(xi) Prior to one year after the AES filing compliance date, annual reports must be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Hand-delivered annual reports on used CRTs exported during 2016 should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 1200 Pennsylvania Ave. NW., Washington, DC. Subsequently, annual reports must be submitted to the office listed using the allowable methods specified in Subsection R315-261-39(a)(5)(ii). Exporters must keep copies of each annual report for a period of at least three years from the due date of the report. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted annual reports in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that a copy is readily available for viewing and production if requested by any EPA or authorized Utah inspector. No CRT exporter may be held liable for the inability to produce an annual report for inspection under Section R315-261-39 if the CRT exporter can demonstrate that the inability to produce the annual report is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT Exporter bears no responsibility.[~~Annual reports shall be submitted to the office specified in Subsection R315-261-39(a)(5)(ii). Exporters shall keep copies of each annual report for a period of at least three years from the due date of the report.~~]

(b) Requirements for used CRT processing: Used, broken CRTs undergoing CRT processing as defined in Section R315-260-10 are not solid wastes if they meet the following requirements:

(1) Storage. Used, broken CRTs undergoing processing are subject to the requirement of Subsection R315-261-39(a)(4).

(2) Processing.

(i) All activities specified in Subsections (ii) and (iii) of the definition of CRT Processing in Section R315-260-10 shall be performed within a building with a roof, floor, and walls; and

(ii) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

(c) Processed CRT glass sent to CRT glass making or lead smelting: Glass from used CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in Subsection R315-261-1(c)(8).

(d) Use constituting disposal: Glass from used CRTs that is used in a manner constituting disposal shall comply with the requirements of Section R315-266-20 through 23 instead of the requirements of Section R315-261-39.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~April 15,~~] 2019
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Waste Management and Radiation Control, Waste Management
R315-262
Hazardous Waste Generator Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43973
FILED: 08/09/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In November of 2016, the Environmental Protection Agency (EPA) published final revisions to the Hazardous Waste Export-Import rules in the Federal Register (81 FR 85696). Then in December of 2017, the EPA published additional final revisions to rules regarding Confidentiality Determinations for Hazardous Waste Export and Import Documents in the Federal Register (82 FR 60894). Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The purpose of these changes is to adopt the appropriate revisions into Rule R315-262.

SUMMARY OF THE RULE OR CHANGE: A rule numbering reference in Subsection R315-262-10(d) was made in accordance with the revised import and export rules found later in Rule R315-262. Sections R315-262-50 through R315-262-58, and R315-262-60 were deleted in accordance with the revised import and export rules. Sections R315-262-80 through R315-262-84 were revised extensively in accordance with the revised import and export rules. Sections R315-262-85 through R315-262-89 were deleted in accordance with the revised import and export rules. The paragraph for Item 18a in Section R315-262-217 was revised to remove references to 40 CFR 265 and replace them with the corresponding references in Rule R315-265.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-104 and Section 19-6-105 and Section 19-6-106

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Because the state of Utah is not an importer or exporter of hazardous waste it is not anticipated that these revisions will have any impact on the state budget. Implementation of these rule changes by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the state budget because the export and import provisions of the rules are administered at the federal level by the EPA.

♦ LOCAL GOVERNMENTS: There are no local governments that are importers or exporters of hazardous waste, and local governments will not be implementing these rule changes so it is not anticipated that there will be any cost or savings to local governments.

♦ SMALL BUSINESSES: Currently, there are no small businesses in Utah that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any small business that exports or imports hazardous waste should already be following the rules. Any costs or savings to small businesses are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any small businesses that are in addition to those created by following the EPA's rules.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Currently, there are no persons other than small businesses, businesses, or local governments that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any persons other than small businesses, businesses, or local governments that export or import hazardous waste should already be following the rules. Any

costs to persons other than small businesses, businesses, or local governments are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any such persons that are in addition to those created by following the EPA's rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will not be any additional compliance costs for affected persons due to the adoption of these rule changes because the state of Utah is simply adopting these rules as required by EPA to maintain the equivalency of our program to that of EPA. These rule changes being adopted are administered at the federal government level by the EPA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. Because these rule changes are being administered by the federal government, it is not anticipated that their adoption by the state of Utah will have any fiscal impact beyond the impact created by the federal adoption of these rule changes.

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

ENVIRONMENTAL QUALITY
WASTE MANAGEMENT AND RADIATION CONTROL, WASTE MANAGEMENT
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2019

AUTHORIZED BY: Scott Baird, Interim Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There is one company (NAICS 562211) in Utah that operates three facilities and is a non-small business. All three facilities have submitted notification that they are importers of hazardous waste. Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018. At the time that these rules became effective these three facilities were required to comply with the rules as amended. In the document entitled Regulatory Impact Analysis Hazardous Waste Export-Import Revisions Final Rule dated August 2016 the EPA estimates the regulatory impact of the rule revisions. The document concludes that there are fiscal impacts to businesses involved in the export and import of hazardous waste. These impacts are mainly associated with the administrative part of the rule and include but are not limited to: obtaining a CDX registration, submitting notices, submitting annual reports, creating movement documents, confirming recovery and disposal and obtaining an EPA ID number. The state of Utah is adopting these rule revisions in order to maintain equivalency with the Federal program. It is not anticipated that adoption of these rule revisions will result in any additional regulatory impact.

The interim head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-262. Hazardous Waste Generator Requirements.
R315-262-10. General -- Purpose, Scope, and Applicability.

(a) The regulations in Rule R315-262 establish standards for generators of hazardous waste as defined by Section R315-260-10.

(1) A person who generates a hazardous waste as defined by Rule R315-261 is subject to all the applicable independent requirements in the sections listed below:

(i) Independent requirements of a very small quantity generator.

(A) Subsections R315-262-11(a) through (d) Hazardous waste determination and recordkeeping; and

(B) Section R315-262-13 Generator category determination.

(ii) Independent requirements of a small quantity generator.

(A) Section R315-262-11 Hazardous waste determination and recordkeeping;

(B) Section R315-262-13 Generator category determination;

(C) Section R315-262-18 EPA identification numbers and re-notification for small quantity generators and large quantity generators;

(D) Sections R315-262-20 through R315-262-27--Manifest requirements applicable to small and large quantity generators;

(E) Sections R315-262-30 through R315-262-34--Pre-transport requirements applicable to small and large quantity generators;

(F) Section R315-262-40 Recordkeeping;

(G) Section R315-262-44 Recordkeeping for small quantity generators; and

(H) Sections R315-262-80 through R315-262-[~~89~~]84--Transboundary movements of hazardous waste for recovery or disposal.

(iii) Independent requirements of a large quantity generator.

(A) Section R315-262-11 Hazardous waste determination and recordkeeping;

(B) Section R315-262-13 Generator category determination;

(C) Section R315-262-18 EPA identification numbers and re-notification for small quantity generators and large quantity generators;

(D) Sections R315-262-20 through R315-262-27--Manifest requirements applicable to small and large quantity generators;

(E) Sections R315-262-30 through R315-262-34--Pre-transport requirements applicable to small and large quantity generators;

(F) Sections R315-262-40 through R315-262-44--Recordkeeping and reporting applicable to small and large quantity generators, except Section R315-262-44; and

(G) Sections R315-262-80 through R315-262-[~~89~~]84--Transboundary movements of hazardous waste for recovery or disposal.

(2) A generator that accumulates hazardous waste on site is a person that stores hazardous waste; such generator is subject to the applicable requirements of Rule R315-124, R315-264 through R315-266, R315-270 and section 3010 of RCRA, unless it is one of the following:

(i) A very small quantity generator that meets the conditions for exemption in Section R315-262-14;

(ii) A small quantity generator that meets the conditions for exemption in Sections R315-262-15 and R315-262-16; or

(iii) A large quantity generator that meets the conditions for exemption in Sections R315-262-15 and R315-262-17.

(3) A generator shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in Section R315-260-10, or not otherwise authorized to receive the generator's hazardous waste.

(b) Determining generator category. A generator shall use Section R315-262-13 to determine which provisions of Rule R315-262 are applicable to the generator based on the quantity of hazardous waste generated per calendar month.

(c) Reserved.

(d) Any person who exports or imports hazardous wastes shall comply with Section R315-262-18 and Sections R315-262-80 through R315-262-[~~89~~]84.

(e) Any person who imports hazardous waste into the United States shall comply with the standards applicable to generators established in Rule R315-262.

(f) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of Section R315-262-70 is not required to comply with other standards in Rule R315-262 or Rules R315- 270, 264, 265, or 268 with respect to such pesticides.

(1) A generator's violation of an independent requirement is subject to penalty and injunctive relief under Sections 19-6-112 and 19-6-113.

(2) A generator's noncompliance with a condition for exemption in Rule R315-262 is not subject to penalty or injunctive relief under Sections 19-6-112 and 19-6-113 as a violation of a Rule R315-262 condition for exemption. Noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in Rules R315-124, R315-264 through R315-266, and R315-270, and the notification requirements of section 3010 of RCRA. Without an exemption, any violations of such storage requirements are subject to penalty and injunctive relief under Sections 19-6-112 and 19-6-113.

(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 Rule R315-262.

Note 1: The provisions of Section R315-262-34 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of Section R315-262-34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

Note 2: A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and permit requirements set forth in Rules R315-264, 265, 266, 268, and 270.

(i) Reserved.

(j) Reserved.

(k) Reserved.

(l) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of Sections R315-262-200 through R315-262-216 are not subject to, for purposes of Subsection R315-262-10(l), the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in Section R315-262-200:

(1) The independent requirements of Section R315-262-11 or the regulations in Section R315-262-15 for large quantity generators and small quantity generators, except as provided in Sections R315-262-200 through R315-262-216, and

(2) The conditions of Section R315-262-14, for very small quantity generators, except as provided in Sections R315-262-200 through R315-262-216.

(m) Generators of lamps, as defined in Section R315-273-9, using a drum-top crusher, as defined in Section R315-273-9, shall meet the requirements of Subsection R315-273-13(d)(3), except for the registration requirement; and Subsections R315-273-13(d)(4) and (5).

Note: A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and permit requirements set forth in Rules R315-264, R315-265, R315-266, R315-268, and R315-270.

[R315-262-50. Exports of Hazardous Waste -- Applicability.

Sections R315-262-50 through 58 establish requirements applicable to exports of hazardous waste. Except to the extent Section R315-262-58 provides otherwise, a primary exporter of hazardous waste shall comply with the special requirements of Sections R315-262-50 through 58 and a transporter transporting hazardous waste for export shall comply with applicable requirements of Rule R315-263. Section R315-262-58 sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, treatment, storage and disposal of hazardous waste for shipments between the United States and those countries.

R315-262-51. Exports of Hazardous Waste -- Definitions.

In addition to the definitions set forth at Section R315-260-10, the following definitions apply to Sections R315-262-50 through 58:

Consignee means the ultimate treatment, storage or disposal facility in a receiving country to which the hazardous waste will be sent.

EPA Acknowledgement of Consent means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment. Primary Exporter means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with Sections R315-262-20 through 25 and 27 which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

Receiving country means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage or disposal, except short-term storage incidental to transportation. Transit country means any foreign country, other than a receiving country, through which a hazardous waste is transported.

R315-262-52. Exports of Hazardous Waste -- General Requirements.

Exports of hazardous waste are prohibited except in compliance with the applicable requirements of Sections R315-262-50 through 58 and Rule R315-263. Exports of hazardous waste are prohibited unless:

(a) Notification in accordance with Section R315-262-53 has been provided;

(b) The receiving country has consented to accept the hazardous waste;

(c) A copy of the EPA Acknowledgment of Consent to the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest; or shipping paper for exports by water, bulk shipment.

(d) The hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the EPA Acknowledgment of Consent.

R315-262-53. Exports of Hazardous Waste -- Notification of Intent to Export.

(a) A primary exporter of hazardous waste shall notify EPA of an intended export before such waste is scheduled to leave the United States. A complete notification should be submitted sixty days before the initial shipment is intended to be shipped off site. This notification may cover export activities extending over a twelve month or lesser period. The notification shall be in writing, signed by the primary exporter, and include the following information:

(1) Name, mailing address, telephone number and EPA ID number of the primary exporter;

(2) By consignee, for each hazardous waste type:

(i) A description of the hazardous waste and the EPA hazardous waste number, from Sections R315-261-20 through 24, and R315-261-30 through 35, U.S. DOT proper shipping name, hazard class and ID number (UN/NA) for each hazardous waste as identified in 49 CFR parts 171 through 177;

(ii) The estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported.

(iii) The estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22);

(iv) All points of entry to and departure from each foreign country through which the hazardous waste will pass;

(v) A description of the means by which each shipment of the hazardous waste will be transported; e.g., mode of transportation vehicle, air, highway, rail, water, etc.; type(s) of container, drums, boxes, tanks, etc.;

(vi) A description of the manner in which the hazardous waste will be treated, stored or disposed of in the receiving country, e.g., land or ocean incineration, other land disposal, ocean dumping, recycling;

(vii) The name and site address of the consignee and any alternate consignee; and

(viii) The name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in such country and the nature of its handling while there;

~~(b) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export.".~~

~~(c) Except for changes to the telephone number in Subsection R315-262-53(a)(1), changes to Subsection R315-262-53(a)(2)(v) and decreases in the quantity indicated pursuant to Subsection R315-262-53(a)(2)(iii) when the conditions specified on the original notification change, including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification, the primary exporter shall provide EPA with a written renotification of the change. The shipment cannot take place until consent of the receiving country to the changes, except for changes to Subsection R315-262-53(a)(2)(viii) and in the ports of entry to and departure from transit countries pursuant to Subsection R315-262-53(a)(2)(iv), has been obtained and the primary exporter receives an EPA Acknowledgment of Consent reflecting the receiving country's consent to the changes.~~

~~(d) Upon request by EPA, a primary exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification.~~

~~(e) In conjunction with the Department of State, EPA shall provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of Subsection R315-262-53(a). Where a claim of confidentiality is asserted with respect to any notification information required by Subsection R315-262-53(a), EPA may find the notification not complete until any such claim is resolved in accordance with Section R315-260-2.~~

~~(f) Where the receiving country consents to the receipt of the hazardous waste, EPA shall forward an EPA Acknowledgment of Consent to the primary exporter for purposes of Subsection R315-262-54(h). Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, EPA shall notify the primary exporter in writing. EPA shall also notify the primary exporter of any responses from transit countries.~~

~~R315-262-54. Exports of Hazardous Waste -- Special Manifest Requirements.~~

~~A primary exporter shall comply with the manifest requirements of Sections R315-262-20 through 23 except that:~~

~~(a) In lieu of the name, site address and EPA ID number of the designated permitted facility, the primary exporter shall enter the name and site address of the consignee;~~

~~(b) In lieu of the name, site address and EPA ID number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee.~~

~~(c) In the International Shipments block, the primary exporter shall check the export box and enter the point of exit, city and State, from the United States.~~

~~(d) The following statement shall be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest Form: "and conforms to the terms of the attached EPA Acknowledgment of Consent";~~

~~(e) The primary exporter may obtain the manifest from any source that is registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).~~

~~(f) The primary exporter shall require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies, as defined in Subsection R315-264-72(a), between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste.~~

~~(g) In lieu of the requirements of Subsection R315-262-20(d), where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter shall:~~

~~(1) Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with Subsection R315-262-53(c) and obtain an EPA Acknowledgment of Consent prior to delivery; or~~

~~(2) Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and~~

~~(3) Instruct the transporter to revise the manifest in accordance with the primary exporter's instructions.~~

~~(h) The primary exporter shall attach a copy of the EPA Acknowledgment of Consent to the shipment to the manifest which shall accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter shall provide the transporter with an EPA Acknowledgment of Consent which shall accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter shall attach the copy of the EPA Acknowledgment of Consent to the shipping paper.~~

~~(i) The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with Subsection R315-263-20(g)(4).~~

~~R315-262-55. Exports of Hazardous Waste -- Exception Reports.~~

~~In lieu of the requirements of Section R315-262-42, a primary exporter shall file an exception report with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, if any of the following occurs:~~

~~(a) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five days from the date it was accepted by the initial transporter;~~

~~(b) Within ninety days from the date the waste was accepted by the initial transporter, the primary exporter has not received written confirmation from the consignee that the hazardous waste was received;~~

~~(c) The waste is returned to the United States.~~

R315-262-56. Exports of Hazardous Waste -- Annual Reports.

(a) Primary exporters of hazardous waste shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year. Such reports shall include the following:

(1) The EPA identification number, name, and mailing and site address of the exporter;

(2) The calendar year covered by the report;

(3) The name and site address of each consignee;

(4) By consignee, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number, from Sections R315-261-20 through 24 and R315-261-30 through 35, DOT hazard class, the name and US EPA ID number, where applicable, for each transporter used, the total amount of waste shipped and number of shipments pursuant to each notification;

(5) Except for hazardous waste produced by exporters of greater than 100 kg but less than 1000 kg in a calendar month, unless provided pursuant to Section R315-262-41, in even numbered years:

(i) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

(ii) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.

(6) A certification signed by the primary exporter which states: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(b) Annual reports submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004.

R315-262-57. Exports of Hazardous Waste -- Recordkeeping.

(a) For all exports a primary exporter shall:

(1) Keep a copy of each notification of intent to export for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

(2) Keep a copy of each EPA Acknowledgment of Consent for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

(3) Keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at least three years from the date the hazardous waste was accepted by the initial transporter; and

(4) Keep a copy of each annual report for a period of at least three years from the due date of the report.

(b) The periods of retention referred to in Section R315-262-57 are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

R315-262-58. Exports of Hazardous Waste -- International Agreements.

(a) Any person who exports or imports wastes that are considered hazardous under U.S. national procedures to or from designated Member countries of the Organization for Economic Cooperation and Development (OECD) as defined in Subsection R315-262-58(a)(1) for purposes of recovery is subject to Sections R315-262-80 through 89. The requirements of Sections R315-262-50 through 58 and R315-262-60 do not apply to such exports and imports. A waste is considered hazardous under U.S. national procedures if the waste meets the Federal definition of hazardous waste in Section R315-261-3 and is subject to either the manifesting requirements Sections R315-262-20 through 25 and 27, the universal waste management standards of Rule R315-273, the export requirements in the spent lead-acid battery management standards of Section R315-266-80.

(1) For the purposes of Sections R315-262-80 through 89, the designated OECD Member countries consist of Australia, Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Republic of Korea, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

(2) For the purposes of Sections R315-262-80 through 89, Canada and Mexico are considered OECD Member countries only for the purpose of transit.

(b) Any person who exports hazardous waste to or imports hazardous waste from: A designated OECD Member country for purposes other than recovery; e.g., incineration, disposal; Mexico, for any purpose; or Canada, for any purpose, remains subject to the requirements of Sections R315-262-50 through 58 and 60, and is not subject to the requirements of Sections R315-262-80 through 89.

R315-262-60. Imports of Hazardous Waste.

(a) Any person who imports hazardous waste from a foreign country into the United States shall comply with the requirements of Rule R315-262.

(b) When importing hazardous waste, a person shall meet all the requirements of Section R315-262-20 for the manifest except that:

(1) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number shall be used.

(2) In place of the generator's signature on the certification statement, the U.S. importer or his agent shall sign and date the certification and obtain the signature of the initial transporter.

(c) A person who imports hazardous waste may obtain the manifest form from any source that is registered with the U.S. EPA as a supplier of manifests; e.g., states, waste handlers, and/or commercial forms printers.

(d) In the International Shipments block, the importer shall check the import box and enter the point of entry, city and State, into the United States.

(e) The importer shall provide the transporter with an additional copy of the manifest to be submitted by the receiving

~~facility to U.S. EPA in accordance with Subsections R315-264-71(a)(3) and 40 CFR 265.71(a)(3), which is adopted by reference.~~

]R315-262-70. Farmers.

A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in Rule R315-262 or other standards in Rules R315-264, R315-265, R315-268, or R315-270 for those wastes provided he triple rinses each emptied pesticide container in accordance with Subsection R315-261-7(b)(3) and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

R315-262-80. Transboundary Movements of Hazardous Waste for Recovery or Disposal -- Applicability.

(a) The requirements of Sections R315-262-80 through 84 apply to transboundary movements of hazardous wastes.[~~The requirements of Sections R315-262-80 through 89 apply to imports and exports of wastes that are considered hazardous under U.S. national procedures and are destined for recovery operations in the countries listed in Subsection R315-262-58(a)(1). A waste is considered hazardous under U.S. national procedures if the waste:~~

~~(1) Meets the Federal definition of hazardous waste in Section R315-261-3; and~~

~~(2) Is subject to either the manifesting requirements Sections R315-262-20 through 25 and 27, the universal waste management standards of Rule R315-273, the export requirements in the spent lead-acid battery management standards of Section R315-266-80.~~]

(b) Any person, including exporter, importer, disposal facility operator, or recovery facility operator, who mixes two or more wastes, including hazardous and non-hazardous wastes, or otherwise subjects two or more wastes, including hazardous and nonhazardous wastes, to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and any exporter duties, if applicable, under Sections R315-262-80 through 84.[~~Any person; exporter, importer, or recovery facility operator; who mixes two or more wastes, including hazardous and non-hazardous wastes, or otherwise subjects two or more wastes, including hazardous and non-hazardous wastes, to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and any exporter duties, if applicable, under Sections R315-262-80 through 89.~~]

R315-262-81. Transboundary Movements of Hazardous Waste for Recovery or Disposal -- Definitions.

In addition to the definitions set forth at Section R315-260-10, [~~The~~]the following definitions apply to Sections R315-262-80 through [~~89.~~]84:

"Competent authority" means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes.

"Countries concerned" means the countries of export or import and any countries of transit.

"Country of export" means any country from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

"Country of import" means any country to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery or disposal operations therein.

"Country of transit" means any country other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.

"Disposal operations" means activities which do not lead to the possibility of resource recovery, recycling, reclamation, direct re-use or alternate uses, which include:

D1 Release or Deposit into or onto land, other than by any of operations D2 through D5 or D12.

D2 Land treatment, such as biodegradation of liquids or sludges in soils.

D3 Deep injection, such as injection into wells, salt domes or naturally occurring repositories.

D4 Surface impoundment, such as placing of liquids or sludges into pits, ponds or lagoons.

D5 Specially engineered landfill, such as placement into lined discrete cells which are capped and isolated from one another and the environment.

D6 Release into a water body other than a sea or ocean, and other than by operation D4.

D7 Release into a sea or ocean, including sea-bed insertion, other than by operation D4.

D8 Biological treatment not specified elsewhere in operations D1 through D12, which results in final compounds or mixtures which are discarded by means of any of operations D1 through D12.

D9 Physical or chemical treatment not specified elsewhere in operations D1 through D12, such as evaporation, drying, calcination, neutralization, or precipitation, which results in final compounds or mixtures which are discarded by means of any of operations D1 through D12.

D10 Incineration on land.

D11 Incineration at sea.

D12 Permanent storage.

D13 Blending or mixing, prior to any of operations D1 through D12.

D14 Repackaging, prior to any of operations D1 through D13.

D15 (or DC17 for transboundary movements with Canada only) Interim Storage, prior to any of operations D1 through D12.

DC15 Release, including the venting of compressed or liquified gases, or treatment, other than by any of operations D1 to D12 (for transboundary movements with Canada only).

DC16 Testing of a new technology to dispose of a hazardous waste (for transboundary movements with Canada only).

"EPA Acknowledgment of Consent" (AOC) means the letter EPA sends to the exporter documenting the specific terms of the country of import's consent and the country(ies) of transit's consent(s). The AOC meets the definition of an export license in U.S. Census Bureau regulations 15 CFR 30.1.

"Export" means the transportation of hazardous waste from a location under the jurisdiction of the United States to a location under the jurisdiction of another country, or a location not under the jurisdiction of any country, for the purposes of recovery or disposal operations therein.

"Exporter, also known as primary exporter on the RCRA hazardous waste manifest", means the person domiciled in the United States who is required to originate the movement document in accordance with Subsection R315-262-83(d) or the manifest for a shipment of hazardous waste in accordance with Sections R315-262-20 through 27, which specifies a foreign receiving facility as the facility to which the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

"Foreign exporter" means the person under the jurisdiction of the country of export who has, or will have at the time the planned transboundary movement commences, possession or other forms of legal control of the hazardous wastes and who proposes shipment of the hazardous wastes to the United States for recovery or disposal operations.

"Foreign importer" means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the exported hazardous waste is received in the country of import.

"Foreign receiving facility" means a facility which, under the importing country's applicable domestic law, is operating or is authorized to operate in the country of import to receive the hazardous wastes and to perform recovery or disposal operations on them.

"Import" means the transportation of hazardous waste from a location under the jurisdiction of another country to a location under the jurisdiction of the United States for the purposes of recovery or disposal operations therein.

"Importer" means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the imported hazardous waste is received in the United States.

"OECD area" means all land or marine areas under the national jurisdiction of any OECD Member country. When the regulations refer to shipments to or from an OECD Member country, this means OECD area.

"OECD" means the Organization for Economic Cooperation and Development.

"OECD Member country" means the countries that are members of the OECD and participate in the Amended 2001 OECD Decision. (EPA provides a list of OECD Member countries at https://www.epa.gov/hwgenerators/international-agreementstransboundary- shipments-waste).

"Receiving facility" means a U.S. facility which, under RCRA and other applicable domestic laws, is operating or is authorized to operate to receive hazardous wastes and to perform recovery or disposal operations on them.

"Recovery operations" means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses, which include:

R1 Use as a fuel (other than in direct incineration) or other means to generate energy.

R2 Solvent reclamation/ regeneration.

R3 Recycling/reclamation of organic substances which are not used as solvents.

R4 Recycling/reclamation of metals and metal compounds.

R5 Recycling/reclamation of other inorganic materials.

R6 Regeneration of acids or bases.

R7 Recovery of components used for pollution abatement.

R8 Recovery of components used from catalysts.

R9 Used oil re-refining or other reuses of previously used oil.

R10 Land treatment resulting in benefit to agriculture or ecological improvement.

R11 Uses of residual materials obtained from any of the operations numbered R1 through R10 or RC14 (for transboundary shipments with Canada only).

R12 Exchange of wastes for submission to any of the operations numbered R1 through R11 or RC14 (for transboundary shipments with Canada only).

R13 Accumulation of material intended for any operation numbered R1 through R12 or RC14 (for transboundary shipments with Canada only).

RC14 Recovery or regeneration of a substance or use or re-use of a recyclable material, other than by any of operations R1 to R10 (for transboundary shipments with Canada only).

RC15 Testing of a new technology to recycle a hazardous recyclable material (for transboundary shipments with Canada only).

RC16 Interim storage prior to any of operations R1 to R11 or RC14 (for transboundary shipments with Canada only).

"Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of one country to an area under the national jurisdiction of another country.

[~~Competent authority means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes destined for recovery operations.~~

~~Countries concerned means the OECD Member countries of export or import and any OECD Member countries of transit.~~

~~Country of export means any designated OECD Member country listed in Subsection R315-262-58(a)(1) from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.~~

~~Country of import means any designated OECD Member country listed in Subsection R315-262-58(a)(1) to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.~~

~~Country of transit means any designated OECD Member country listed in Subsections R315-262-58(a)(1) and (a)(2) other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.~~

~~Exporter means the person under the jurisdiction of the country of export who has, or will have at the time the planned transboundary movement commences, possession or other forms of legal control of the wastes and who proposes transboundary movement of the hazardous wastes for the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the country of export, exporter is interpreted to mean a person domiciled in the United States.~~

~~Importer means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the country of import.~~

~~OECD area means all land or marine areas under the national jurisdiction of any OECD Member country listed in Section R315-262-58. When the regulations refer to shipments to or from an OECD Member country, this means OECD area.~~

~~OECD means the Organization for Economic Cooperation and Development.~~

~~Recognized trader means a person who, with appropriate authorization of countries concerned, acts in the role of principal to~~

purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transboundary movements of wastes destined for recovery operations.

Recovery facility means a facility which, under applicable domestic law, is operating or is authorized to operate in the country of import to receive wastes and to perform recovery operations on them.

Recovery operations means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses, which include:

R1 Use as a fuel (other than in direct incineration) or other means to generate energy.

R2 Solvent reclamation/regeneration.

R3 Recycling/reclamation of organic substances which are not used as solvents.

R4 Recycling/reclamation of metals and metal compounds.

R5 Recycling/reclamation of other inorganic materials.

R6 Regeneration of acids or bases.

R7 Recovery of components used for pollution abatement.

R8 Recovery of components used from catalysts.

R9 Used oil re-refining or other reuses of previously used oil.

R10 Land treatment resulting in benefit to agriculture or ecological improvement.

R11 Uses of residual materials obtained from any of the operations numbered R1-R10.

R12 Exchange of wastes for submission to any of the operations numbered R1-R11.

R13 Accumulation of material intended for any operation numbered R1-R12.

Transboundary movement means any movement of wastes from an area under the national jurisdiction of one OECD Member country to an area under the national jurisdiction of another OECD Member country.]

R315-262-82. Transboundary Movements of Hazardous Waste for Recovery or Disposal -- General Conditions.

(a) Scope.[The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and by the national procedures of the United States, as defined in Subsection R315-262-80(a). The OECD Green and Amber lists are incorporated by reference in Subsection R315-262-89(d).

(1) Listed wastes subject to the Green control procedures.

(i) Green wastes that are not considered hazardous under U.S. national procedures as defined in Subsection R315-262-80(a) are subject to existing controls normally applied to commercial transactions.

(ii) Green wastes that are considered hazardous under U.S. national procedures as defined in Section R315-262-80(a) are subject to the Amber control procedures set forth in Sections R315-262-80 through 89.

(2) Listed wastes subject to the Amber control procedures.

(i) Amber wastes that are considered hazardous under U.S. national procedures as defined in Subsection R315-262-80(a) are subject to the Amber control procedures set forth in Sections R315-262-80 through 89.

(ii) Amber wastes that are considered hazardous under U.S. national procedures as defined in Subsection R315-262-80(a), are subject to the Amber control procedures in the United States, even if they are imported to or exported from a designated OECD Member country listed in Subsection R315-262-58(a)(1) that does not consider the waste to be hazardous. In such an event, the responsibilities of the Amber control procedures shift as provided:

(A) For U.S. exports, the United States shall issue an acknowledgement of receipt and assume other responsibilities of the competent authority of the country of import.

(B) For U.S. imports, the U.S. recovery facility/importer and the United States shall assume the obligations associated with the Amber control procedures that normally apply to the exporter and country of export, respectively.

(iii) Amber wastes that are not considered hazardous under U.S. national procedures as defined in Subsection R315-262-80(a), but are considered hazardous by an OECD Member country are subject to the Amber control procedures in the OECD Member country that considers the waste hazardous. All responsibilities of the U.S. importer/exporter shift to the importer/exporter of the OECD Member country that considers the waste hazardous unless the parties make other arrangements through contracts. Note to Subsection R315-262-82(a)(2): Some wastes subject to the Amber control procedures are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the Amber control procedures of Sections R315-262-80 through 89. Regardless of the status of the waste under RCRA, however, other Federal environmental statutes, e.g., the Toxic Substances Control Act, restrict certain waste imports or exports. Such restrictions continue to apply with regard to Sections R315-262-80 through 89.

(3) Procedures for mixtures of wastes.

(i) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not considered hazardous under U.S. national procedures as defined in Subsection R315-262-80(a) shall be subject to the Green control procedures, provided the composition of this mixture does not impair its environmentally sound recovery. Note to Subsection R315-262-82(a)(3)(i): The regulated community should note that some OECD Member countries may require, by domestic law, that mixtures of different Green wastes be subject to the Amber control procedures.

(ii) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is considered hazardous under U.S. national procedures as defined in Subsection R315-262-80(a) are subject to the Amber control procedures, provided the composition of this mixture does not impair its environmentally sound recovery. Note to Subsection R315-262-82(a)(3)(ii): The regulated community should note that some OECD Member countries may require, by domestic law, that a mixture of a Green waste and more than a de minimis amount of an Amber waste or a mixture of two or more Amber wastes be subject to the Amber control procedures.

(4) Wastes not yet assigned to an OECD waste list are eligible for transboundary movements, as follows:

(i) If such wastes are considered hazardous under U.S. national procedures as defined in Subsection R315-262-80(a), such wastes are subject to the Amber control procedures.

(ii) If such wastes are not considered hazardous under U.S. national procedures as defined in Subsection R315-262-80(a), such wastes are subject to the Green control procedures.

(b) General conditions applicable to transboundary movements of hazardous waste:

(1) The waste shall be destined for recovery operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the importing country;

(2) The transboundary movement shall be in compliance with applicable international transport agreements; and

Note to Subsection R315-262-82(b)(2): These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADNR (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

(3) Any transit of waste through a non-OECD Member country shall be conducted in compliance with all applicable international and national laws and regulations.

(c) Provisions relating to re-export for recovery to a third country:

(1) Re-export of wastes subject to the Amber control procedures from the United States, as the country of import, to a third country listed in Subsection R315-262-58(a)(1) may occur only after an exporter in the United States provides notification to and obtains consent from the competent authorities in the third country, the original country of export, and any transit countries. The notification shall comply with the notice and consent procedures in Section R315-262-83 for all countries concerned and the original country of export. The competent authorities of the original country of export, as well as the competent authorities of all other countries concerned have thirty days to object to the proposed movement.

(i) The thirty day period begins once the competent authorities of both the initial country of export and new country of import issue Acknowledgements of Receipt of the notification.

(ii) The transboundary movement may commence if no objection has been lodged after the thirty day period has passed or immediately after written consent is received from all relevant OECD importing and transit countries.

(2) In the case of re-export of Amber wastes to a country other than those listed in Subsection R315-262-58(a)(1), notification to and consent of the competent authorities of the original OECD Member country of export and any OECD Member countries of transit is required as specified in Subsection R315-262-82(c)(1), in addition to compliance with all international agreements and arrangements to which the first importing OECD Member country is a party and all applicable regulatory requirements for exports from the first country of import.

(d) Duty to return or re-export wastes subject to the Amber control procedures. When a transboundary movement of wastes subject to the Amber control procedures cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover the waste in an environmentally sound manner in the country of import, the waste shall be returned to the country of export or re-exported to a third country. The provisions of Subsection R315-262-82(c) apply to any shipments to be re-exported to a third country. The following provisions apply to shipments to be returned to the country of export as appropriate:

(1) Return from the United States to the country of export: The U.S. importer shall inform EPA at the specified address in Subsection R315-262-83(b)(1)(i) of the need to return the shipment. EPA shall then inform the competent authorities of the countries of export and transit, citing the reason(s) for returning the waste. The U.S. importer shall complete the return within ninety days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned Member countries. If the return shipment will cross any transit country, the return shipment may only occur after EPA provides notification to and obtains consent from the competent authority of the country of transit, and provides a copy of that consent to the U.S. importer.

(2) Return from the country of import to the United States: The U.S. exporter shall provide for the return of the hazardous waste shipment within ninety days from the time the country of import informs EPA of the need to return the waste or such other period of time as the concerned Member countries agree. The U.S. exporter shall submit an exception report to EPA in accordance with Subsection R315-262-87(b).

(e) Duty to return wastes subject to the Amber control procedures from a country of transit. When a transboundary movement of wastes subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover these wastes in an environmentally sound manner, the waste shall be returned to the country of export. The following provisions apply as appropriate:

(1) Return from the United States, as country of transit, to the country of export: The U.S. transporter shall inform EPA at the specified address in Subsection R315-262-83(b)(1)(i) of the need to return the shipment. EPA shall then inform the competent authority of the country of export, citing the reason(s) for returning the waste. The U.S. transporter shall complete the return within ninety days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned Member countries.

(2) Return from the country of transit to the United States, as country of export: The U.S. exporter shall provide for the return of the hazardous waste shipment within ninety days from the time the competent authority of the country of transit informs EPA of the need to return the waste or such other period of time as the concerned Member countries agree. The U.S. exporter shall submit an exception report to EPA in accordance with Subsection R315-262-87(b).

(f) Requirements for wastes destined for and received by R12 and R13 facilities. The transboundary movement of wastes destined for R12 and R13 operations shall comply with all Amber control procedures for notification and consent as set forth in Section R315-262-83 and for the movement document as set forth in Section R315-262-84. Additional responsibilities of R12/R13 facilities include:

(1) Indicating in the notification document the foreseen recovery facility or facilities where the subsequent R1-R11 recovery operation takes place or may take place.

(2) Within three days of the receipt of the wastes by the R12/R13 recovery facility or facilities, the facility(ies) shall return a signed copy of the movement document to the exporter and to the competent authorities of the countries of export and import. The facility(ies) shall retain the original of the movement document for three years.

~~(3) As soon as possible, but no later than thirty (30) days after the completion of the R12/R13 recovery operation and no later than one calendar year following the receipt of the waste, the R12 or R13 facility(ies) shall send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW. Washington, DC 20460, by mail, e-mail without digital signature followed by mail, or fax followed by mail.~~

~~(4) When an R12/R13 recovery facility delivers wastes for recovery to an R1-R11 recovery facility located in the country of import, it shall obtain as soon as possible, but no later than one calendar year following delivery of the waste, a certification from the R1-R11 facility that recovery of the wastes at that facility has been completed. The R12/R13 facility shall promptly transmit the applicable certification to the competent authorities of the countries of import and export, identifying the transboundary movements to which the certification pertain.~~

~~(5) When an R12/R13 recovery facility delivers wastes for recovery to an R1-R11 recovery facility located:~~

~~(i) In the initial country of export, Amber control procedures apply, including a new notification;~~

~~(ii) In a third country other than the initial country of export, Amber control procedures apply, with the additional provision that the competent authority of the initial country of export shall also be notified of the transboundary movement.~~

~~(g) Laboratory analysis exemption. The transboundary movement of an Amber waste is exempt from the Amber control procedures if it is in certain quantities and destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery operations. The quantity of such waste shall be determined by the minimum quantity reasonably needed to perform the analysis in each particular case adequately, but in no case exceed twenty-five kilograms. Waste destined for laboratory analysis shall still be appropriately packaged and labeled.~~] The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and whether the waste is or is not hazardous waste. The OECD Green and Amber lists are incorporated by reference in Section R315-260-11.

(1) Green list wastes.

(i) Green wastes that are not hazardous wastes are subject to existing controls normally applied to commercial transactions, and are not subject to the requirements of Sections R315-262-80 through 84.

(ii) Green wastes that are hazardous wastes are subject to the requirements of Sections R315-262-80 through 84.

(2) Amber list wastes.

(i) Amber wastes that are hazardous wastes are subject to the requirements of Sections R315-262-80 through 84, even if they are imported to or exported from a country that does not consider the waste to be hazardous or control the transboundary shipment as a hazardous waste import or export.

(A) For exports, the exporter shall comply with Section R315-262-83.

(B) For imports, the recovery or disposal facility and the importer shall comply with Section R315-262-84.

(ii) Amber wastes that are not hazardous wastes, but are considered hazardous by the other country are subject to the Amber control procedures in the country that considers the waste hazardous, and are not subject to the requirements of Sections R315-262-80 through 84. All responsibilities of the importer or exporter shift to the foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts.

Note to Subsection R315-262-82(a)(2): Some Amber list wastes are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the requirements of Sections R315-262-80 through 84. Regardless of the status of the waste under RCRA, however, other Federal environmental statutes, for example, the Toxic Substances Control Act, restrict certain waste imports or exports. Such restrictions continue to apply with regard to Sections R315-262-80 through 84.

(3) Mixtures of wastes.

(i) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not hazardous waste is not subject to the requirements of Sections R315-262-80 through 84.

Note to Subsection R315-262-82(a)(3)(i): The regulated community should note that some countries may require, by domestic law, that mixtures of different Green wastes be subject to the Amber control procedures.

(ii) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is hazardous waste is subject to the requirements of Sections R315-262-80 through 84.

Note to Subsection R315-262-82(a)(3)(ii): The regulated community should note that some countries may require, by domestic law, that a mixture of a Green waste and more than a de minimis amount of an Amber waste or a mixture of two or more Amber wastes be subject to the Amber control procedures.

(4) Wastes not yet assigned to an OECD waste list are eligible for transboundary movements, as follows:

(i) If such wastes are hazardous wastes, such wastes are subject to the requirements of Sections R315-262-80 through 84.

(ii) If such wastes are not hazardous wastes, such wastes are not subject to the requirements of Sections R315-262-80 through 84.

(b) General conditions applicable to transboundary movements of hazardous waste.

(1) The hazardous waste shall be destined for recovery or disposal operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the country of import;

(2) The transboundary movement shall be in compliance with applicable international transport agreements; and

Note to Subsection R315-262-82(b)(2): These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADNR (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

(3) Any transit of hazardous waste through one or more countries shall be conducted in compliance with all applicable international and national laws and regulations.

(c) Duty to return wastes subject to the Amber control procedures during transit through the United States. When a transboundary movement of hazardous wastes transiting the United States and subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements

cannot be made to recover or dispose of these wastes in an environmentally sound manner, the waste shall be returned to the country of export. The U.S. transporter shall inform EPA at the specified mailing address in Subsection R315-262-82(e) of the need to return the shipment. EPA will then inform the competent authority of the country of export, citing the reason(s) for returning the waste. The U.S. transporter shall complete the return within ninety (90) days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned countries.

(d) Laboratory analysis exemption. Export or import of a hazardous waste sample is exempt from the requirements of Sections R315-262-80 through 84 if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed twenty-five kilograms (25 kg) in quantity, is appropriately packaged and labeled, and complies with the conditions of Subsection R315-261-4(d) or (e).

(e) EPA Address for submittals by postal mail or hand delivery. Submittals required in Sections R315-262-80 through 84 to be made by postal mail or hand delivery should be sent to the following addresses:

(1) For postal mail delivery, the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

(2) For hand-delivery, the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, William Jefferson Clinton South Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004.

R315-262-83. Transboundary Movements of Hazardous Waste for Recovery or Disposal -- [~~Notification and Consent~~]Exports of Hazardous Waste.

(a) [~~Applicability. Consent shall be obtained from the competent authorities of the relevant OECD countries of import and transit prior to exporting hazardous waste destined for recovery operations subject to Sections R315-262-80 through 89. Hazardous wastes subject to the Amber control procedures are subject to the requirements of Subsection R315-262-83(b); and wastes not identified on any list are subject to the requirements of Subsection R315-262-83(c).~~

~~(b) Amber wastes. Exports of hazardous wastes from the United States as described in Subsection R315-262-80(a) that are subject to the Amber control procedures are prohibited unless the notification and consent requirements of Subsections R315-262-83(b)(1) or (b)(2) are met.~~

~~(1) Transactions requiring specific consent:~~

~~(i) Notification. At least forty-five days prior to commencement of each transboundary movement, the exporter shall provide written notification in English of the proposed transboundary movement to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, with the words "Attention: OECD Export Notification" prominently displayed on the envelope. This notification shall include all of the information identified in Subsection R315-262-83(d). In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes, and are to be sent periodically to the same recovery facility by the same exporter, the exporter may submit one general notification of intent to export these wastes in multiple shipments during a period of up to one year. Even when a general notification is used for multiple shipments, each shipment still shall be accompanied by its own movement document pursuant to Section R315-262-84.~~

~~(ii) Tacit consent. If no objection has been lodged by any countries concerned; i.e., exporting, importing, or transit; to a notification provided pursuant to Subsection R315-262-83(b)(1)(i) within thirty days after the date of issuance of the Acknowledgement of Receipt of notification by the competent authority of the country of import, the transboundary movement may commence. Tacit consent expires one calendar year after the close of the thirty day period; renotification and renewal of all consents is required for exports after that date.~~

~~(iii) Written consent. If the competent authorities of all the relevant OECD importing and transit countries provide written consent in a period less than thirty days, the transboundary movement may commence immediately after all necessary consents are received. Written consent expires for each relevant OECD importing and transit country one calendar year after the date of that country's consent unless otherwise specified; renotification and renewal of each expired consent is required for exports after that date.~~

~~(2) Transboundary movements to facilities pre-approved by the competent authorities of the importing countries to accept specific wastes for recovery:~~

~~(i) Notification. The exporter shall provide EPA a notification that contains all the information identified in Subsection R315-262-83(d) in English, at least ten days in advance of commencing shipment to a pre-approved facility. The notification shall indicate that the recovery facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as described in Subsection R315-262-83(b)(1)(i). This information shall be sent to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, with the words "OECD Export Notification-Pre-approved Facility" prominently displayed on the envelope. General notifications that cover multiple shipments as described in Subsection R315-262-83(b)(1)(i) may cover a period of up to three years. Even when a general notification is used for multiple shipments, each shipment still shall be accompanied by its own movement document pursuant to Section R315-262-84.~~

~~(ii) Exports to pre-approved facilities may take place after the elapse of seven working days from the issuance of an Acknowledgement of Receipt of the notification by the competent authority of the country of import unless the exporter has received information indicating that the competent authority of any countries concerned objects to the shipment.~~

~~(c) Wastes not covered in the OECD Green and Amber lists. Wastes destined for recovery operations, that have not been assigned to the OECD Green and Amber lists, incorporated by reference in Subsection R315-262-89(d), but which are considered hazardous under U.S. national procedures as defined in Subsection R315-262-80(a), are subject to the notification and consent requirements established for the Amber control procedures in accordance with Subsection R315-262-83(b). Wastes destined for recovery operations, that have not been~~

~~assigned to the OECD Green and Amber lists incorporated by reference in Subsection R315-262-89(d), and are not considered hazardous under U.S. national procedures as defined by Subsection R315-262-80(a) are subject to the Green control procedures.~~

~~(d) Notifications submitted under Section R315-262-83 shall include the information specified in Subsections R315-262-83(d)(1) through (d)(14):~~

~~(1) Serial number or other accepted identifier of the notification document;~~

~~(2) Exporter name and EPA identification number, if applicable, address, telephone, fax numbers, and e-mail address;~~

~~(3) Importing recovery facility name, address, telephone, fax numbers, e-mail address, and technologies employed;~~

~~(4) Importer name, if not the owner or operator of the recovery facility, address, telephone, fax numbers, and e-mail address; whether the importer will engage in waste exchange recovery operation R12 or waste accumulation recovery operation R13 prior to delivering the waste to the final recovery facility and identification of recovery operations to be employed at the final recovery facility;~~

~~(5) Intended transporter(s) and/or their agent(s); address, telephone, fax, and e-mail address;~~

~~(6) Country of export and relevant competent authority, and point of departure;~~

~~(7) Countries of transit and relevant competent authorities and points of entry and departure;~~

~~(8) Country of import and relevant competent authority, and point of entry;~~

~~(9) Statement of whether the notification is a single notification or a general notification. If general, include period of validity requested;~~

~~(10) Date(s) foreseen for commencement of transboundary movement(s);~~

~~(11) Means of transport envisaged;~~

~~(12) Designation of waste type(s) from the appropriate OECD list incorporated by reference in Subsection R315-262-89(d), description(s) of each waste type, estimated total quantity of each, RCRA waste code, and the United Nations number for each waste type;~~

~~(13) Specification of the recovery operation(s) as defined in Section R315-262-81.~~

~~(14) Certification/Declaration signed by the exporter that states:~~

~~I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, and that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement.~~

~~Name:~~

~~Signature:~~

~~Date:~~

~~Note to Subsection R315-262-83(d)(14): The United States does not currently require financial assurance for these waste shipments. However, U.S. exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.~~

~~(e) Certificate of Recovery. As soon as possible, but no later than thirty days after the completion of recovery and no later than one calendar year following receipt of the waste, the U.S. recovery facility shall send a certificate of recovery to the exporter and to the competent authorities of the countries of export and import by mail, e-mail without a digital signature followed by mail, or fax followed by mail. The certificate of recovery shall include a signed, written and dated statement that affirms that the waste materials were recovered in the manner agreed to by the parties to the contract required under Section R315-262-85.~~]General export requirements. Except as provided in Subsections R315-262-83(a)(5) and (6), exporters that have received an AOC from EPA before December 31, 2016 are subject to that approval and the requirements listed in the AOC that existed at the time of that approval until such time the approval period expires. All other exports of hazardous waste are prohibited unless:

(1) The exporter complies with the contract requirements in Subsection R315-262-83(f);

(2) The exporter complies with the notification requirements in Subsection R315-262-83(b);

(3) The exporter receives an AOC from EPA documenting consent from the countries of import and transit, and original country of export if exporting previously imported hazardous waste;

(4) The exporter ensures compliance with the movement documents requirements in Subsection R315-262-83(d);

(5) The exporter ensures compliance with the manifest instructions for export shipments in Subsection R315-262-83(c); and

(6) The exporter or a U.S. authorized agent:

(i) For shipments initiated prior to the AES filing compliance date, does one of the following:

(A) Submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:

(I) EPA license code;

(II) Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

(III) EPA consent number for each hazardous waste;

(IV) Country of ultimate destination code per 15 CFR 30.6(a)(5);

(V) Date of export per 15 CFR 30.6(a)(2);

(VI) RCRA hazardous waste manifest tracking number, if required;

(VII) Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(VIII) EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(B) Complies with a paper-based process by:

(I) Attaching paper documentation of consent, for example, a copy of the EPA Acknowledgment of Consent, international movement document, to the manifest, or shipping papers if a manifest is not required, which shall accompany the hazardous waste shipment. For exports by rail or water, bulk shipment, the primary exporter shall provide the transporter with the paper documentation of onsent which shall accompany the hazardous waste but which need not be attached to the manifest except that for exports by water, bulk shipment, the primary exporter shall attach the paper documentation of consent to the shipping paper.

(II) Providing the transporter with an additional copy of the manifest, and instructing the transporter via mail, email or fax to deliver that copy to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with Subsection R315-263-20(g)(4)(ii);

(ii) For shipments initiated on or after the AES filing compliance date, submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:

(A) EPA license code;

(B) Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

(C) EPA consent number for each hazardous waste;

(D) Country of ultimate destination code per 15 CFR 30.6(a)(5);

(E) Date of export per 15 CFR 30.6(a)(2);

(F) RCRA hazardous waste manifest tracking number, if required;

(G) Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(H) EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(b) Notifications.

(1) General notifications. At least sixty (60) days before the first shipment of hazardous waste is expected to leave the United States, the exporter shall provide notification in English to EPA of the proposed transboundary movement. Notifications shall be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one year of shipments of one or more hazardous wastes being sent to the same recovery or disposal facility, and shall include all of the following information:

(i) Exporter name and EPA identification number, address, telephone, fax numbers, and email address;

(ii) Foreign receiving facility name, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in Section R315-262-81;

(iii) Foreign importer name (if not the owner or operator of the foreign receiving facility), address, telephone, fax numbers, and email address;

(iv) Intended transporter(s), their agent(s), or both; address, telephone, fax, and email address;

(v) "U.S." as the country of export name, "USA01" as the relevant competent authority code, and the intended U.S. port(s) of exit;

(vi) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

(vii) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and port of entry for the country of import;

(viii) Statement of whether the notification covers a single shipment or multiple shipments;

(ix) Start and End Dates requested for transboundary movements;

(x) Means of transport planned to be used;

(xi) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under Rule R315-273, spent lead-acid batteries being exported for recovery of lead under Sections R315-266-80, or industrial ethyl alcohol being exported for reclamation under Subsection R315-261-6(a)(3)(i), estimated total quantity of each waste in either metric tons or cubic meters, the applicable RCRA waste code(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in Section R315-260-11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each waste;

(xii) Specification of the recovery or disposal operation(s) as defined in Section R315-262-81.

(xiii) Certification/Declaration signed by the exporter that states: I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement. Name: Signature: Date:

(2) Exports to pre-consented recovery facilities in OECD Member countries. If the recovery facility is located in an OECD member country and has been pre-consented by the competent authority of the OECD member country to recover the waste sent by exporters located in other OECD member countries, the notification may cover up to three years of shipments. Notifications proposing export to a pre-consented facility in an OECD member country shall include all information listed in Subsections R315-262-83(b)(1)(i) through (b)(1)(xiii) and additionally state that the facility is pre-consented. Exporters shall submit the notification to EPA using the allowable methods listed in Subsection R315-262-83(b)(1) at least ten days before the first shipment is expected to leave the United States.

(3) Notifications listing interim recycling operations or interim disposal operations. If the foreign receiving facility listed in Subsection R315-262-83(b)(1)(ii) will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, or in the case of transboundary movements with Canada, any of the interim recovery operations R12, R13, or RC16, or interim disposal operations D13 to D14, or DC17, the notification submitted according to Subsection R315-262-83(b)(1) shall also include the final foreign recovery or disposal facility name, address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, or in the case of transboundary movements with Canada, which of the applicable recovery or disposal operations R1 through R11, RC14 to RC15, D1 through D12, and DC15 to DC16 will be employed at the final foreign recovery or disposal facility. The recovery and disposal operations in Subsection R315-262-83(b) are defined in Section R315-262-81.

(4) Renotifications. When the exporter wishes to change any of the information specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the exporter shall submit a renotification of the changes to EPA using the allowable methods in Subsection R315-262-83(b)(1). Any shipment using the requested changes cannot take place until the countries of import and transit consent to the changes and the exporter receives an EPA AOC letter documenting the countries' consents to the changes.

(5) For cases where the proposed country of import and recovery or disposal operations are not covered under an international agreement to which both the United States and the country of import are parties, EPA will coordinate with the Department of State to provide the complete notification to country of import and any countries of transit. In all other cases, EPA will provide the notification directly to the country of import and any countries of transit. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of Subsections R315-262-83(b)(1)(i) through (b)(1)(xiii).

(6) Where the countries of import and transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the exporter documenting the countries' consents. Where any of the countries of import and transit objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the exporter.

(7) Export of hazardous wastes for recycling or disposal operations that were originally imported into the United States for recycling or disposal operations in a third country is prohibited unless an exporter in the United States complies with the export requirements in Section R315-262-83, including providing notification to EPA in accordance with Subsection R315-262-83(b)(1). In addition to listing all required information in Subsections R315-262-83(b)(1)(i) through (b)(1)(xiii), the exporter shall provide the original consent number issued for the initial import of the wastes in the notification, and receive an AOC from EPA documenting the consent of the competent authorities in new country of import, the original country of export, and any transit countries prior to re-export.

(8) Upon request by EPA, the exporter shall furnish to EPA any additional information which the country of import requests in order to respond to a notification.

(c) RCRA manifest instructions for export shipments. The exporter shall comply with the manifest requirements of Sections R315-262-20 through 23 except that:

(1) In lieu of the name, site address and EPA ID number of the designated permitted facility, the exporter shall enter the name and site address of the foreign receiving facility;

(2) In the International Shipments block, the exporter shall check the export box and enter the U.S. port of exit, city and State, from the United States.

(3) The exporter shall list the consent number from the AOC for each hazardous waste listed on the manifest, matched to the relevant list number for the hazardous waste from block 9b. If additional space is needed, the exporter should use a Continuation Sheet(s) (EPA Form 8700--22A).

(4) The exporter may obtain the manifest from any source that is registered with the U.S. EPA as a supplier of manifests, for example, states, waste handlers, or commercial forms printers.

(d) Movement document requirements for export shipments.

(1) All exporters shall ensure that a movement document meeting the conditions of Subsection R315-262-83(d)(2) accompanies each transboundary movement of hazardous wastes from the initiation of the shipment until it reaches the foreign receiving facility, including cases in which the hazardous waste is stored, sorted by the foreign importer prior to shipment to the foreign receiving facility, or both, except as provided in Subsections R315-262-83(d)(1)(i) and (ii).

(i) For shipments of hazardous waste within the United States solely by water, bulk shipments only, the exporter shall forward the movement document to the last water, bulk shipment, transporter to handle the hazardous waste in the United States if exported by water.

(ii) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the exporter shall forward the movement document to the next non-rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if exported by rail.

(2) The movement document shall include the following Subsections R315-262-83(d)(2)(i) through (xv):

(i) The corresponding consent number(s) and hazardous waste number(s) for the listed hazardous waste from the relevant EPA AOC(s);

(ii) The shipment number and the total number of shipments from the EPA AOC;

(iii) Exporter name and EPA identification number, address, telephone, fax numbers, and email address;

(iv) Foreign receiving facility name, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in Section R315-262-81;

(v) Foreign importer name, if not the owner or operator of the foreign receiving facility, address, telephone, fax numbers, and email address;

(vi) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, applicable OECD waste code for each hazardous waste from the lists incorporated by reference in Section R315-260-11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(vii) Date movement commenced;

(viii) Name, if not exporter, address, telephone, fax numbers, and email of company originating the shipment;

(ix) Company name, EPA ID number, address, telephone, fax, and email address of all transporters;

(x) Identification (license, registered name or registration number) of means of transport, including types of packaging;

(xi) Any special precautions to be taken by transporter(s);

(xii) Certification/declaration signed and dated by the exporter that the information in the movement document is complete and correct;

(xiii) Appropriate signatures for each custody transfer, for example, transporter, importer, and owner or operator of the foreign receiving facility;

(xiv) Each U.S. person that has physical custody of the hazardous waste from the time the movement commences until it arrives at the foreign receiving facility shall sign the movement document, for example, transporter, foreign importer, and owner or operator of the foreign receiving facility; and

(xv) As part of the contract requirements per Subsection R315-262-83(f), the exporter shall require that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter, to the competent authorities of the countries of import and transit, and for shipments occurring on or after the electronic import-export reporting compliance date, the exporter shall additionally require that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in Subsection R315-262-83(b)(1).

(e) Duty to return or re-export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s) and

alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter shall ensure that the hazardous waste is returned to the United States or re-exported to a third country. If the waste shall be returned, the exporter shall provide for the return of the hazardous waste shipment within ninety days from the time the country of import informs EPA of the need to return the waste or such other period of time as the concerned countries agree. In all cases, the exporter shall submit an exception report to EPA in accordance with Subsection R315-262-83(h).

(f) Export contract requirements.

(1) Exports of hazardous waste are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements shall be executed by the exporter, foreign importer (if different from the foreign receiving facility), and the owner or operator of the foreign receiving facility, and shall specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of Section R315-262-83 only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

(2) Contracts or equivalent arrangements shall specify the name and EPA ID number, where available, of Subsection R315-262-83(f)(2)(i) through (iv):

(i) The company from where each export shipment of hazardous waste is initiated;

(ii) Each person who will have physical custody of the hazardous wastes;

(iii) Each person who will have legal control of the hazardous wastes; and

(iv) The foreign receiving facility.

(3) Contracts or equivalent arrangements shall specify which party to the contract will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts shall specify that:

(i) The transporter or foreign receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the exporter, EPA, and either the competent authority of the country of transit or the competent authority of the country of import of the need to make alternate management arrangements; and

(ii) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of hazardous wastes and, as the case may be, shall provide the notification for re-export to the competent authority in the country of import and include the equivalent of the information required in Subsection R315-262-83(b)(1), the original consent number issued for the initial export of the hazardous wastes in the notification, and obtain consent from EPA and the competent authorities in the new country of import and any transit countries prior to re-export.

(4) Contracts shall specify that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter and to the competent authorities of the countries of import and transit. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts shall additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in Subsection R315-262-83(b)(1) on or after that date.

(5) Contracts shall specify that the foreign receiving facility shall send a copy of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the exporter and to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts shall additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in Subsection R315-262-83(b)(1) on or after that date.

(6) Contracts shall specify that the foreign importer or the foreign receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC17, (recovery and disposal operations defined in Section R315-262-81) as appropriate, will:

(i) Provide the notification required in Subsection R315-262-83(f)(3)(ii) prior to any re-export of the hazardous wastes to a final foreign recovery or disposal facility in a third country; and

(ii) Promptly send copies of the confirmation of recovery or disposal that it receives from the final foreign recovery or disposal facility within one year of shipment delivery to the final foreign recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, DC15 or DC16 to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts shall additionally specify that the foreign facility send copies to EPA at the same time using the allowable method listed in Subsection R315-262-83(b)(1) on or after that date.

(7) Contracts or equivalent arrangements shall include provisions for financial guarantees, if required by the competent authorities of the country of import and any countries of transit, in accordance with applicable national or international law requirements.

Note 1 to Subsection R315-262-83(f)(7): Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, persons or facilities located in those OECD Member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(8) Contracts or equivalent arrangements shall contain provisions requiring each contracting party to comply with all applicable requirements of Sections R315-262-80 through 84.

(9) Upon request by EPA, U.S. exporters, importers, or recovery facilities shall submit to EPA copies of contracts, chain of contracts, or equivalent arrangements, when the movement occurs between parties controlled by the same corporate or legal entity.

(g) Annual reports. The exporter shall file an annual report with EPA no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. Prior to one year after the AES filing compliance date, the exporter shall mail or hand-deliver annual reports to EPA using one of the addresses specified in Subsection R315-262-82(e), or submit to EPA using the allowable methods specified in Subsection R315-262-83(b)(1) if the exporter has electronically filed EPA information in AES, or its successor system, per Subsection R315-262-83(a)(6)(i)(A) for all shipments made the previous calendar year. Subsequently, the exporter shall submit annual reports to EPA using the allowable methods specified in Subsection R315-262-83(b)(1). The annual report shall include all of the following Subsections R315-262-83(g)(1) through (6) specified as follows:

(1) The EPA identification number, name, and mailing and site address of the exporter filing the report;

(2) The calendar year covered by the report;

(3) The name and site address of each foreign receiving facility;

(4) By foreign receiving facility, for each hazardous waste exported:

(i) A description of the hazardous waste;

(ii) The applicable EPA hazardous waste code(s), from Sections R315-261-20 through 24 and 30 through 35, for each waste;

(iii) The applicable waste code from the appropriate OECD waste list incorporated by reference in Section R315-260-11;

(iv) The applicable DOT ID number;

(v) The name and U.S. EPA ID number, where applicable, for each transporter used over the calendar year covered by the report; and

(vi) The consent number(s) under which the hazardous waste was shipped, and for each consent number, the total amount of the hazardous waste and the number of shipments exported during the calendar year covered by the report;

(5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100kg but less than 1,000kg in a calendar month, and except for hazardous waste for which information was already provided pursuant to Section R315-262-41:

(i) A description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated; and

(ii) A description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and

(6) A certification signed by the exporter that states: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(h) Exception reports.

(1) The exporter shall file an exception report in lieu of the requirements of Section R315-262-42 (if applicable) with EPA if any of the following occurs:

(i) The exporter has not received a copy of the RCRA hazardous waste manifest, if applicable, signed by the transporter identifying the point of departure of the hazardous waste from the United States, within forty-five (45) days from the date it was accepted by the initial transporter, in which case the exporter shall file the exception report within the next thirty (30) days;

(ii) The exporter has not received a written confirmation of receipt from the foreign receiving facility in accordance with Subsection R315-262-83(d) within ninety (90) days from the date the waste was accepted by the initial transporter in which case the exporter shall file the exception report within the next thirty (30) days; or

(iii) The foreign receiving facility notifies the exporter, or the country of import notifies EPA, of the need to return the shipment to the U.S. or arrange alternate management, in which case the exporter shall file the exception report within thirty (30) days of notification, or one (1) day prior to the date the return shipment commences, whichever is sooner.

(2) Prior to the electronic import-export reporting compliance date, exception reports shall be mailed or hand delivered to EPA using the addresses listed in Subsection R315-262-82(e). Subsequently, exception reports shall be submitted to EPA using the allowable methods listed in Subsection R315-262-83(b)(1).

(i) Recordkeeping.

(1) The exporter shall keep the following records as described in Subsections R315-262-83(i)(1)(i) through (v) and provide them to EPA or Utah personnel upon request:

(i) A copy of each notification of intent to export and each EPA AOC for a period of at least three (3) years from the date the hazardous waste was accepted by the initial transporter;

(ii) A copy of each annual report for a period of at least three (3) years from the due date of the report;

(iii) A copy of any exception reports and a copy of each confirmation of receipt, for example, movement document, sent by the foreign receiving facility to the exporter for at least three (3) years from the date the hazardous waste was accepted by the initial transporter; and

(iv) A copy of each confirmation of recovery or disposal sent by the foreign receiving facility to the exporter for at least three (3) years from the date that the foreign receiving facility completed interim or final processing of the hazardous waste shipment.

(v) A copy of each contract or equivalent arrangement established per Subsection R315-262-83(f) for at least three (3) years from the expiration date of the contract or equivalent arrangement.

(2) Exporters may satisfy these recordkeeping requirements by retaining electronically submitted documents in the exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or Utah inspector. No exporter may be held liable for the inability to produce such documents for inspection under Section R315-262-83 if the exporter can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the exporter bears no responsibility.

(3) The periods of retention referred to in Section R315-262-83 are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

R315-262-84. Transboundary Movements of Hazardous Waste for Recovery or Disposal -- [~~Movement Document~~]Imports of Hazardous Waste.

(a) [~~All U.S. parties subject to the contract provisions of Section R315-262-85 shall ensure that a movement document meeting the conditions of Subsection R315-262-84(b) accompanies each transboundary movement of wastes subject to the Amber control procedures from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored and/or sorted by the importer prior to shipment to the final recovery facility, except as provided in Subsections R315-262-84(a)(1) and (2).~~

~~(1) For shipments of hazardous waste within the United States solely by water, bulk shipments only, the generator shall forward the movement document with the manifest to the last water, bulk shipment, transporter to handle the waste in the United States if exported by water, in accordance with the manifest routing procedures at Subsection R315-262-23(c).~~

~~(2) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator shall forward the movement document with the manifest, in accordance with the routing procedures for the manifest in Subsection R315-262-23(d), to the next non-rail transporter, if any, or the last rail transporter to handle the waste in the United States if exported by rail.~~

~~(b) The movement document shall include all information required under Section R315-262-83, for notification, as well as the following Subsection R315-262-84(b)(1) through (b)(7):~~

~~(1) Date movement commenced;~~

~~(2) Name; if not exporter, address; telephone; fax numbers; and e-mail of primary exporter;~~

~~(3) Company name and EPA ID number of all transporters;~~

~~(4) Identification; license, registered name or registration number; of means of transport, including types of packaging envisaged;~~

~~(5) Any special precautions to be taken by transporter(s);~~

~~(6) Certification/declaration signed by the exporter that no objection to the shipment has been lodged, as follows:~~

~~I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement, and that:~~

~~1. All necessary consents have been received; or~~

~~2. The shipment is directed to a recovery facility within the OECD area and no objection has been received from any of the countries concerned within the thirty day tacit consent period; or~~

~~3. The shipment is directed to a recovery facility pre-approved for that type of waste within the OECD area; such an authorization has not been revoked, and no objection has been received from any of the countries concerned.~~

~~Delete sentences that are not applicable~~

~~Name:~~

~~Signature:~~

~~Date:~~

~~(7) Appropriate signatures for each custody transfer, e.g., transporter, importer, and owner or operator of the recovery facility.~~

~~(c) Exporters also shall comply with the special manifest requirements of Subsections R315-262-54(a), (b), (c), (e), and (i) and importers shall comply with the import requirements of Section R315-262-60.~~

~~(d) Each U.S. person that has physical custody of the waste from the time the movement commences until it arrives at the recovery facility shall sign the movement document, e.g., transporter, importer, and owner or operator of the recovery facility.~~

~~(e) Within three working days of the receipt of imports subject to Sections R315-262-80 through 89, the owner or operator of the U.S. recovery facility shall send signed copies of the movement document to the exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and to the competent authorities of the countries of export and transit. If the concerned U.S. recovery facility is a R12/R13 recovery facility as defined under Section R315-262-81, the facility shall retain the original of the movement document for three years.~~]General import requirements.

(1) With the exception of Subsection R315-262-84(a)(5), importers of shipments covered under a consent from EPA to the country of export issued before December 31, 2016 are subject to that approval and the requirements that existed at the time of that approval until such time the approval period expires. Otherwise, any other person who imports hazardous waste from a foreign country into the United States shall comply with the requirements of Rule R315-262 and the special requirements of Sections R315-262-80 through 84.

(2) In cases where the country of export does not require the foreign exporter to submit a notification and obtain consent to the export prior to shipment, the importer shall submit a notification to EPA in accordance with Subsection R315-262-84(b).

(3) The importer shall comply with the contract requirements in Subsection R315-262-84(f).

(4) The importer shall ensure compliance with the movement documents requirements in Subsection R315-262-84(d); and

(5) The importer shall ensure compliance with the manifest instructions for import shipments in Subsection R315-262-84(c).

(b) Notifications. In cases where the competent authority of the country of export does not regulate the waste as hazardous waste and, thus, does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, but EPA does regulate the waste as hazardous waste:

(1) The importer is required to provide notification in English to EPA of the proposed transboundary movement of hazardous waste at least sixty (60) days before the first shipment is expected to depart the country of export. Notifications submitted prior to the electronic import-export reporting compliance date shall be mailed or hand delivered to EPA at the addresses specified in Subsection R315-262-82(e). Notifications submitted on or after the electronic import-export reporting compliance date shall be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one year of shipments of one or more hazardous wastes being sent from the same foreign exporter, and shall include all of the following information:

(i) Foreign exporter name, address, telephone, fax numbers, and email address;

(ii) Receiving facility name, EPA ID number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in Section R315-262-81;

(iii) Importer name (if not the owner or operator of the receiving facility), EPA ID number, address, telephone, fax numbers, and email address;

(iv) Intended transporter(s), their agent(s), or both; address, telephone, fax, and email address;

(v) "U.S." as the country of import, "USA01" as the relevant competent authority code, and the intended U.S. port(s) of entry;

(vi) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

(vii) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and port of exit for the country of export;

(viii) Statement of whether the notification covers a single shipment or multiple shipments;

(ix) Start and End Dates requested for transboundary movements;

(x) Means of transport planned to be used;

(xi) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under Rule R315-273, spent lead-acid batteries being exported for recovery of lead under Section R315-266-80, or industrial ethyl alcohol being exported for reclamation under Subsection R315-261-6(a)(3)(i), estimated total quantity of each hazardous waste, the applicable RCRA hazardous waste code(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in Section R315-260-11, and the United Nations/ U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(xii) Specification of the recovery or disposal operation(s) as defined in Section R315-262-81; and

(xiii) Certification/Declaration signed by the importer that states: I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement. Name: Signature: Date:

Note to Subsection R315-262-84(b)(1)(xiii): The United States does not currently require financial assurance for these waste shipments.

(2) Notifications listing interim recycling operations or interim disposal operations. If the receiving facility listed in Subsection R315-262-84(b)(1)(ii) will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, the notification submitted according to Subsection R315-262-84(b)(1) shall also include the final recovery or disposal facility name, address, telephone, fax numbers, email address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, will be employed at the final recovery or disposal facility. The recovery and disposal operations in Subsection R315-262-84(b)(2) are defined in Section R315-262-81.

(3) Renotifications. When the foreign exporter wishes to change any of the conditions specified on the original notification, including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters, the importer shall submit a renotification of the changes to EPA using the allowable methods in Subsection R315-262-84(b)(1). Any shipment using the requested changes cannot take place until EPA and the countries of transit consent to the changes and the importer receives an EPA AOC letter documenting the consents to the changes.

(4) A notification is complete when EPA determines the notification satisfies the requirements of Subsections R315-262-84(b)(1)(i) through (xiii).

(5) Where EPA and the countries of transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the importer documenting the countries' consents and EPA's consent. Where any of the countries of transit or EPA objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the importer.

(6) Export of hazardous wastes originally imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in Subsection R315-262-83(b)(7).

(c) RCRA Manifest instructions for import shipments.

(1) When importing hazardous waste, the importer shall meet all the requirements of Section R315-262-20 for the manifest except that:

(i) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number shall be used.

(ii) In place of the generator's signature on the certification statement, the importer or his agent shall sign and date the certification and obtain the signature of the initial transporter.

(2) The importer may obtain the manifest form from any source that is registered with the EPA as a supplier of manifests, for example, states, waste handlers, or commercial forms printers.

(3) In the International Shipments block, the importer shall check the import box and enter the point of entry, city and State, into the United States.

(4) The importer shall provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U.S. EPA in accordance with Subsection R315-264-71(a)(3) and Subsection R315-265-71(a)(3).

(5) In lieu of the requirements of Subsection R315-262-20(d), where a shipment cannot be delivered for any reason to the receiving facility, the importer shall instruct the transporter in writing via fax, email or mail to:

(i) Return the hazardous waste to the foreign exporter or designate another facility within the United States; and

(ii) Revise the manifest in accordance with the importer's instructions.

(d) Movement document requirements for import shipments.

(1) The importer shall ensure that a movement document meeting the conditions of Subsection R315-262-84(d)(2) accompanies each transboundary movement of hazardous wastes from the initiation of the shipment in the country of export until it reaches the receiving facility, including cases in which the hazardous waste is stored, sorted by the importer prior to shipment to the receiving facility, or both, except as provided in Subsections R315-262-84(d)(1)(i) and (ii).

(i) For shipments of hazardous waste within the United States by water, bulk shipments only, the importer shall forward the movement document to the last water, bulk shipment, transporter to handle the hazardous waste in the United States if imported by water.

(ii) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment,

the importer shall forward the movement document to the next non-rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if imported by rail.

(2) The movement document shall include the following Subsections R315-262-84(d)(2)(i) through (xv):

(i) The corresponding AOC number(s) and waste number(s) for the listed waste;

(ii) The shipment number and the total number of shipments under the AOC number;

(iii) Foreign exporter name, address, telephone, fax numbers, and email address;

(iv) Receiving facility name, EPA ID number, address, telephone, fax numbers, email address, technologies employed, and the applicable recovery or disposal operations as defined in Section R315-262-81;

(v) Importer name, if not the owner or operator of the receiving facility, EPA ID number, address, telephone, fax numbers, and email address;

(vi) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, the applicable OECD waste code for each hazardous waste from the lists incorporated by reference in Section R315-260-11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(vii) Date movement commenced;

(viii) Name, if not the foreign exporter, address, telephone, fax numbers, and email of the foreign company originating the shipment;

(ix) Company name, EPA ID number, address, telephone, fax, and email address of all transporters;

(x) Identification, license, registered name or registration number, of means of transport, including types of packaging;

(xi) Any special precautions to be taken by transporter(s);

(xii) Certification/declaration signed and dated by the foreign exporter that the information in the movement document is complete and correct;

(xiii) Appropriate signatures for each custody transfer, for example, transporter, importer, and owner or operator of the receiving facility;

(xiv) Each person that has physical custody of the waste from the time the movement commences until it arrives at the receiving facility shall sign the movement document, for example, transporter, importer, and owner or operator of the receiving facility; and

(xv) The receiving facility shall send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the foreign exporter, to the competent authorities of the countries of export and transit, and for shipments received on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(e) Duty to return or export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s), the provisions of Subsection R315-262-84(f)(4) apply. If alternative arrangements cannot be made to recover the hazardous waste in an environmentally sound manner in the United States, the hazardous waste shall be returned to the country of export or exported to a third country. The provisions of Subsection R315-262-84(b)(6) apply to any hazardous waste shipments to be exported to a third country. If the return shipment will cross any transit country, the return shipment may only occur after EPA provides notification to and obtains consent from the competent authority of the country of transit, and provides a copy of that consent to the importer.

(f) Import contract requirements.

(1) Imports of hazardous waste shall occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements, when the movement occurs between parties controlled by the same corporate or legal entity. Such contracts or equivalent arrangements shall be executed by the foreign exporter, importer, and the owner or operator of the receiving facility, and shall specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of Section R315-262-84 only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

(2) Contracts or equivalent arrangements shall specify the name and EPA ID number, where available, of Subsections R315-262-84(f)(2)(i) through (iv):

(i) The foreign company from where each import shipment of hazardous waste is initiated;

(ii) Each person who will have physical custody of the hazardous wastes;

(iii) Each person who will have legal control of the hazardous wastes; and

(iv) The receiving facility.

(3) Contracts or equivalent arrangements shall specify the use of a movement document in accordance with Subsection R315-262-84(d).

(4) Contracts or equivalent arrangements shall specify which party to the contract will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export submitted by either the foreign exporter or the importer. In such cases, contracts shall specify that:

(i) The transporter or receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the foreign exporter and importer, and the competent authority where the shipment is located of the need to arrange alternate management or return; and

(ii) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of the hazardous wastes and, as the case may be, shall provide the notification for re-export required in Subsection R315-262-83(b)(7).

(5) Contracts shall specify that the importer or the receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC15 through DC17, as appropriate, will provide the notification required in Subsection R315-262-83(b)(7) prior to the re-export of hazardous wastes. The recovery and disposal operations in Subsection R315-262-84(e)(5) are defined in Section R315-262-81.

(6) Contracts or equivalent arrangements shall include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in accordance with applicable national or international law requirements.

Note to Subsection R315-262-84(f)(6): Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries or other foreign countries do. It is the responsibility of the importer to ascertain and comply with such requirements; in some cases, persons or facilities located in those countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(7) Contracts or equivalent arrangements shall contain provisions requiring each contracting party to comply with all applicable requirements of Sections R315-262-80 through 84.

(8) Upon request by EPA, importers or disposal or recovery facilities shall submit to EPA copies of contracts, chain of contracts, or equivalent arrangements, when the movement occurs between parties controlled by the same corporate or legal entity.

(g) Confirmation of recovery or disposal. The receiving facility shall do the following:

(1) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export, and for shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(2) If the receiving facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, the receiving facility shall promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC14 to RC15, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export, and for confirmations received on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in Subsection R315-262-84(g)(2) are defined in Section R315-262-81.

(h) Recordkeeping.

(1) The importer shall keep the following records and provide them to EPA or authorized state personnel upon request:

(i) A copy of each notification that the importer sends to EPA under Subsection R315-262-84(b)(1) and each EPA AOC it receives in response for a period of at least three (3) years from the date the hazardous waste was accepted by the initial foreign transporter; and

(ii) A copy of each contract or equivalent arrangement established per Subsection R315-262-84(f) for at least three (3) years from the expiration date of the contract or equivalent arrangement.

(2) The receiving facility shall keep the following records:

(i) A copy of each confirmation of receipt, for example, movement document, that the receiving facility sends to the foreign exporter for at least three (3) years from the date it received the hazardous waste;

(ii) A copy of each confirmation of recovery or disposal that the receiving facility sends to the foreign exporter for at least three (3) years from the date that it completed processing the waste shipment;

(iii) For the receiving facility that performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, recovery and disposal operations defined in Section R315-262-81, a copy of each confirmation of recovery or disposal that the final recovery or disposal facility sent to it for at least three (3) years from the date that the final recovery or disposal facility completed processing the waste shipment; and

(iv) A copy of each contract or equivalent arrangement established per Subsection R315-262-84(f) for at least three (3) years from the expiration date of the contract or equivalent arrangement.

(3) Importers and receiving facilities may satisfy these recordkeeping requirements by retaining electronically submitted documents in the importer's or receiving facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No importer or receiving facility may be held liable for the inability to produce such documents for inspection under this section if the importer or receiving facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the importer or receiving facility bears no responsibility.

(4) The periods of retention referred to in Section R315-262-84 are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Director.

[~~R315-262-85. Contracts.~~

~~(a) Transboundary movements of hazardous wastes subject to the Amber control procedures are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements, when the movement occurs between parties controlled by the same corporate or legal entity. Such contracts or equivalent arrangements shall be executed by the exporter and the owner or operator of the recovery facility, and shall specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of Section R315-262-85 only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.~~

~~(b) Contracts or equivalent arrangements shall specify the name and EPA ID number, where available, of Subsections R315-262-85(b)(1) through (b)(4):~~

~~(1) The generator of each type of waste;~~

~~(2) Each person who will have physical custody of the wastes;~~

~~(3) Each person who will have legal control of the wastes; and~~

~~(4) The recovery facility.~~

~~(c) Contracts or equivalent arrangements shall specify which party to the contract will assume responsibility for alternate management of the wastes if their disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts shall specify that:~~

(1) The person having actual possession or physical control over the wastes will immediately inform the exporter and the competent authorities of the countries of export and import and, if the wastes are located in a country of transit, the competent authorities of that country; and

(2) The person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of wastes and, as the case may be, shall provide the notification for re-export.

(d) Contracts shall specify that the importer will provide the notification required in Subsection R315-262-82(e) prior to the re-export of controlled wastes to a third country.

(e) Contracts or equivalent arrangements shall include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in accordance with applicable national or international law requirements.

Note to Subsection R315-262-85(e): Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, transporters or importers may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(f) Contracts or equivalent arrangements shall contain provisions requiring each contracting party to comply with all applicable requirements of Sections R315-262-80 through 89.

(g) Upon request by EPA, U.S. exporters, importers, or recovery facilities shall submit to EPA copies of contracts, chain of contracts, or equivalent arrangements, when the movement occurs between parties controlled by the same corporate or legal entity. Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 40 CFR 2.203(b) shall be treated as confidential and shall be disclosed by EPA only as provided in 40 CFR 260.2.

Note to Subsection R315-262-85(g): Although the United States does not require routine submission of contracts at this time, the OECD Decision allows Member countries to impose such requirements. When other OECD Member countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, EPA shall request the required information; absent submission of such information, some OECD Member countries may deny consent for the proposed movement.

R315-262-86. Provisions Relating to Recognized Traders.

(a) A recognized trader who takes physical custody of a waste and conducts recovery operations, including storage prior to recovery, is acting as the owner or operator of a recovery facility and shall be so authorized in accordance with all applicable Federal laws.

(b) A recognized trader acting as an exporter or importer for transboundary shipments of waste shall comply with all the requirements of Sections R315-262-80 through 89 associated with being an exporter or importer.

R315-262-87. Reporting and Recordkeeping.

(a) Annual reports. For all waste movements subject to Sections R315-262-80 through 89, persons, e.g., exporters, recognized traders, who meet the definition of primary exporter in Section R315-262-51 or who initiate the movement documentation under Section R315-262-84 shall file an annual report with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. If the primary exporter or the person who initiates the movement document under Section R315-262-84 is required to file an annual report for waste exports that are not covered under Sections R315-262-80 through 89, he may include all export information in one report provided the following information on exports of waste destined for recovery within the designated OECD Member countries is contained in a separate section. Such reports shall include all of the following Sections R315-262-87(a)(1) through (a)(6) specified as follows:

(1) The EPA identification number, name, and mailing and site address of the exporter filing the report;

(2) The calendar year covered by the report;

(3) The name and site address of each final recovery facility;

(4) By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number, from Sections R315-261-20 through 24 or R315-262-30 through 35, designation of waste type(s) and applicable waste code(s) from the appropriate OECD waste list incorporated by reference in Subsection R315-262-89(d), DOT hazard class, the name and U.S. EPA identification number, where applicable, for each transporter used, the total amount of hazardous waste shipped pursuant to Sections R315-262-80 through 89, and number of shipments pursuant to each notification;

(5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100kg but less than 1,000kg in a calendar month, and except for hazardous waste for which information was already provided pursuant to Section R315-262-41:

(i) A description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated; and

(ii) A description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and

(6) A certification signed by the person acting as primary exporter or initiator of the movement document under Section R315-262-84 that states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

~~(b) Exception reports. Any person who meets the definition of primary exporter in Section R315-262-51 or who initiates the movement document under Section R315-262-84 shall file an exception report in lieu of the requirements of Section R315-262-42, if applicable, with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, if any of the following occurs:~~

~~(1) He has not received a copy of the RCRA hazardous waste manifest, if applicable, signed by the transporter identifying the point of departure of the waste from the United States, within forty-five days from the date it was accepted by the initial transporter;~~

~~(2) Within ninety days from the date the waste was accepted by the initial transporter, the exporter has not received written confirmation from the recovery facility that the hazardous waste was received;~~

~~(3) The waste is returned to the United States.~~

~~(c) Recordkeeping.~~

~~(1) Persons who meet the definition of primary exporter in Section R315-262-51 or who initiate the movement document under Section R315-262-84 shall keep the following records in Subsections R315-262-87(c)(1)(i) through (c)(1)(iv):~~

~~(i) A copy of each notification of intent to export and all written consents obtained from the competent authorities of countries concerned for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;~~

~~(ii) A copy of each annual report for a period of at least three years from the due date of the report;~~

~~(iii) A copy of any exception reports and a copy of each confirmation of delivery, i.e., movement document, sent by the recovery facility to the exporter for at least three years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable; and~~

~~(iv) A copy of each certificate of recovery sent by the recovery facility to the exporter for at least three years from the date that the recovery facility completed processing the waste shipment.~~

~~(2) The periods of retention referred to in Section R315-262-87 are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.~~

~~R315-262-89. OECD Waste Lists.~~

~~(a) General. For the purposes of Sections R315-262-80 through 89, a waste is considered hazardous under U.S. national procedures, and hence subject to Sections R315-262-80 through 89, if the waste:~~

~~(1) Meets the Federal definition of hazardous waste in Section R315-261-3; and~~

~~(2) Is subject to either Sections R315-262-20 through 25 and 27, the universal waste management standards of Rule R315-273, the export requirements in the spent lead-acid battery management standards of Section R315-266-80.~~

~~(b) If a waste is hazardous under Subsection R315-262-89(a), it is subject to the Amber control procedures, regardless of whether it appears in Appendix 4 of the OECD Decision, as defined in Section R315-262-81.~~

~~(c) The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in Section R315-262-82.~~

~~(d) The OECD waste lists, as set forth in Annex B ("Green List") and Annex C ("Amber List") (collectively "OECD waste lists") of the 2009 "Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is incorporated as it exists on the date of the approval and a notice of any change in these materials shall be published in the Federal Register. The materials are available for inspection at: the U.S. Environmental Protection Agency, Docket Center Public Reading Room, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004 (Docket # EPA-HQ-RCRA-2005-0018) or at the National Archives and Records Administration (NARA), and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue André Pascal, F-75775 Paris Cedex 16, France. For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal-register/cfr/ibr-locations.html. To contact the EPA Docket Center Public Reading Room, call (202) 566-1744. To contact the OECD, call +33 (0) 1 45 24 81 67.~~]

R315-262-217. Appendix to Rule R315-262 -- Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions).

U.S. EPA Forms 8700-22 and Manifest Continuation Sheet (EPA Form 8700-22A) found in appendix to 40 CFR 262, 2015 edition, are incorporated and incorporated by reference.

Read all instructions before completing this form.

1. This form has been designed for use on a 12-pitch (elite) typewriter which is also compatible with standard computer printers; a firm point pen may also be used - press down hard.

2. Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to complete this form (FORM 8700-22) and, if necessary, the continuation sheet (FORM 8700-22A) for both inter- and intrastate transportation of hazardous waste.

Manifest 8700-22

The following statement shall be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:

Public reporting burden for this collection of information is estimated to average: 30 minutes for generators, 10 minutes for transporters, and 25 minutes for owners or operators of treatment, storage, and disposal facilities. This includes time for reviewing instructions, gathering data, completing, reviewing and transmitting the form. Any correspondence regarding the PRA burden statement for the manifest shall be sent to the Director of the Collection Strategies Division in EPA's Office of Information Collection at the following address: U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460. Do not send the completed form to this address.

I. Instructions for Generators

Manifest 8700-22

The following statement shall be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:

Public reporting burden for this collection of information is estimated to average: 30 minutes for generators, 10 minutes for transporters, and 25 minutes for owners or operators of treatment, storage, and disposal facilities. This includes time for reviewing instructions, gathering data, completing, reviewing and transmitting the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to: Chief, Information Policy Branch (2136), U.S. Environmental Protection Agency, Ariel Rios Building; 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Item 1. Generator's U.S. EPA Identification Number

Enter the generator's U.S. EPA twelve digit identification number, or the State generator identification number if the generator site does not have an EPA identification number.

Item 2. Page 1 of _

Enter the total number of pages used to complete this Manifest (i.e., the first page (EPA Form 8700-22) plus the number of Continuation Sheets (EPA Form 8700-22A), if any).

Item 3. Emergency Response Phone Number

Enter a phone number for which emergency response information can be obtained in the event of an incident during transportation. The emergency response phone number shall:

1. Be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;

2. Reach a phone that is monitored 24 hours a day at all times the waste is in transportation (including transportation related storage); and

3. Reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup/incident mitigation information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.

Note: Emergency Response phone number information should only be entered in Item 3 when there is one phone number that applies to all the waste materials described in Item 9b. If a situation (e.g., consolidated shipments) arises where more than one Emergency Response phone number applies to the various wastes listed on the manifest, the phone numbers associated with each specific material should be entered after its description in Item 9b.

Item 4. Manifest Tracking Number

This unique tracking number shall be pre-printed on the manifest by the forms printer.

Item 5. Generator's Mailing Address, Phone Number and Site Address

Enter the name of the generator, the mailing address to which the completed manifest signed by the designated facility should be mailed, and the generator's telephone number. Note, the telephone number (including area code) should be the normal business number for the generator, or the number where the generator or his authorized agent may be reached to provide instructions in the event the designated and/or alternate (if any) facility rejects some or all of the shipment. Also enter the physical site address from which the shipment originates only if this address is different than the mailing address.

Item 6. Transporter 1 Company Name, and U.S. EPA ID Number

Enter the company name and U.S. EPA ID number of the first transporter who will transport the waste. Vehicle or driver information may not be entered here.

Item 7. Transporter 2 Company Name and U.S. EPA ID Number

If applicable, enter the company name and U.S. EPA ID number of the second transporter who will transport the waste. Vehicle or driver information may not be entered here.

If more than two transporters are needed, use a Continuation Sheet(s) (EPA Form 8700-22A).

Item 8. Designated Facility Name, Site Address, and U.S. EPA ID Number

Enter the company name and site address of the facility designated to receive the waste listed on this manifest. Also enter the facility's phone number and the U.S. EPA twelve digit identification number of the facility.

Item 9. U.S. DOT Description (Including Proper Shipping Name, Hazard Class or Division, Identification Number, and Packing Group)

Item 9a. If the wastes identified in Item 9b consist of both hazardous and nonhazardous materials, then identify the hazardous materials by entering an "X" in this Item next to the corresponding hazardous material identified in Item 9b.

If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person shall acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

Item 9b. Enter the U.S. DOT Proper Shipping Name, Hazard Class or Division, Identification Number (UN/NA) and Packing Group for each waste as identified in 49 CFR 172. Include technical name(s) and reportable quantity references, if applicable.

Note: If additional space is needed for waste descriptions, enter these additional descriptions in Item 27 on the Continuation Sheet (EPA Form 8700-22A). Also, if more than one Emergency Response phone number applies to the various wastes described in either Item 9b or Item 27, enter applicable Emergency Response phone numbers immediately following the shipping descriptions for those Items.

Item 10. Containers (Number and Type)

Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

TABLE I

Types of Containers

BA = Burlap, cloth, paper, or plastic bags.
CF = Fiber or plastic boxes, cartons, cases.
CM = Metal boxes, cartons, cases (including roll-offs).
CW = Wooden boxes, cartons, cases.
CY = Cylinders.
DF = Fiberboard or plastic drums, barrels, kegs.
DM = Metal drums, barrels, kegs.
DT = Dump truck.
DW = Wooden drums, barrels, kegs.
HG = Hopper or gondola cars.
TC = Tank cars.
TP = Portable tanks.
TT = Cargo tanks (tank trucks).

Item 11. Total Quantity

Enter, in designated boxes, the total quantity of waste. Round partial units to the nearest whole unit, and do not enter decimals

or fractions. To the extent practical, report quantities using appropriate units of measure that will allow you to report quantities with precision. Waste quantities entered should be based on actual measurements or reasonably accurate estimates of actual quantities shipped. Container capacities are not acceptable as estimates.

Item 12. Units of Measure (Weight/Volume)

Enter, in designated boxes, the appropriate abbreviation from Table II (below) for the unit of measure.

TABLE II

Units of Measure

G = Gallons (liquids only).
K = Kilograms.
L = Liters (liquids only).
M = Metric Tons (1000 kilograms).
N = Cubic Meters.
P = Pounds.
T = Tons (2000 pounds).
Y = Cubic Yards.

Note: Tons, Metric Tons, Cubic Meters, and Cubic Yards should only be reported in connection with very large bulk shipments, such as rail cars, tank trucks, or barges.

Item 13. Waste Codes

Enter up to six federal and state waste codes to describe each waste stream identified in Item 9b. State waste codes that are not redundant with federal codes shall be entered here, in addition to the federal waste codes which are most representative of the properties of the waste.

Item 14. Special Handling Instructions and Additional Information.

1. Generators may enter any special handling or shipment-specific information necessary for the proper management or tracking of the materials under the generator's or other handler's business processes, such as waste profile numbers, container codes, bar codes, or response guide numbers. Generators also may use this space to enter additional descriptive information about their shipped materials, such as chemical names, constituent percentages, physical state, or specific gravity of wastes identified with volume units in Item 12.

2. This space may be used to record limited types of federally required information for which there is no specific space provided on the manifest, including any alternate facility designations; the manifest tracking number of the original manifest for rejected wastes and residues that are re-shipped under a second manifest; and the specification of PCB waste descriptions and PCB out-of-service dates required under 40 CFR 761.207. Generators, however, cannot be required to enter information in this space to meet state regulatory requirements.

Item 15. Generator's/Offeror's Certifications

1. The generator shall read, sign, and date the waste minimization certification statement. In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under section 3002(b) of RCRA are also certifying that they have complied with the waste minimization requirements. The Generator's Certification also contains the required attestation that the shipment has been properly prepared and is in proper condition for transportation (the shipper's certification). The content of the shipper's certification statement is as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked, and labeled/placarded, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent." When a party other than the generator prepares the shipment for transportation, this party may also sign the shipper's certification statement as the offeror of the shipment.

2. Generator or Offeror personnel may preprint the words, "On behalf of" in the signature block or may hand write this statement in the signature block prior to signing the generator/offeror certification, to indicate that the individual signs as the employee or agent of the named principal.

Note: All of the above information except the handwritten signature required in Item 15 may be pre-printed.

II. Instructions for International Shipment Block

Item 16. International Shipments

For export shipments, the primary exporter shall check the export box, and enter the point of exit (city and state) from the United States. For import shipments, the importer shall check the import box and enter the point of entry (city and state) into the United States.

III. Instructions for Transporters

Item 17. Transporters' Acknowledgments of Receipt

Enter the name of the person accepting the waste on behalf of the first transporter. That person shall acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt. Only one signature per transportation company is required. Signatures are not required to track the movement of wastes in and out of transfer facilities, unless there is a change of custody between transporters.

If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person shall acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

Note: Transporters carrying imports, who are acting as importers, may have responsibilities to enter information in the International Shipments Block. Transporters carrying exports may also have responsibilities to enter information in the International Shipments Block. See above instructions for Item 16.

IV. Instructions for Owners and Operators of Treatment, Storage, and Disposal Facilities

Item 18. Discrepancy

Item 18a. Discrepancy Indication Space

1. The authorized representative of the designated (or alternate) facility's owner or operator shall note in this space any discrepancies between the waste described on the Manifest and the waste actually received at the facility. Manifest discrepancies are: significant differences (as defined by Subsections R315-264-72(b) and [~~40 CFR 265.72(b)~~]R315-265-72(b)),[~~- which is incorporated by reference in Section R315-265-1,~~] 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, rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept, or container residues, which are residues that exceed the quantity limits for "empty" containers set forth in Subsection R315-261-7(b).

2. For rejected loads and residues (Subsections R315-264-72(d), (e), and (f), or [~~CFR 265.72~~]R315-265-72(d), (e), or (f)),[~~ which are incorporated by reference in Section R315-265-1,~~] check the appropriate box if the shipment is a rejected load (i.e., rejected by the designated and/or alternate facility and is sent to an alternate facility or returned to the generator) or a regulated residue that cannot be removed from a container. Enter the reason for the rejection or the inability to remove the residue and a description of the waste. Also, reference the manifest tracking number for any additional manifests being used to track the rejected waste or residue shipment on the original manifest. Indicate the original manifest tracking number in Item 14, the Special Handling Block and Additional Information Block of the additional manifests.

3. Owners or operators of facilities located in unauthorized States (i.e., states in which the U.S. EPA administers the hazardous waste management program) who cannot resolve significant differences in quantity or type within 15 days of receiving the waste shall submit to their Regional Administrator a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (Subsections R315-264-72(c) and [~~CFR 265.72~~]R315-265-72(c))[~~, which is incorporated by reference in Section R315-265-1)~~].

4. Owners or operators of facilities located in authorized States (i.e., those States that have received authorization from the U.S. EPA to administer the hazardous waste management program) should contact their State agency for information on where to report discrepancies involving "significant differences" to state officials.

Item 18b. Alternate Facility (or Generator) for Receipt of Full Load Rejections

Enter the name, address, phone number, and EPA Identification Number of the Alternate Facility which the rejecting TSDF has designated, after consulting with the generator, to receive a fully rejected waste shipment. In the event that a fully rejected shipment is being returned to the generator, the rejecting TSDF may enter the generator's site information in this space. This field is not to be used to forward partially rejected loads or residue waste shipments.

Item 18c. Alternate Facility (or Generator) Signature

The authorized representative of the alternate facility (or the generator in the event of a returned shipment) shall sign and date this field of the form to acknowledge receipt of the fully rejected wastes or residues identified by the initial TSDF.

Item 19. Hazardous Waste Report Management Method Codes

Enter the most appropriate Hazardous Waste Report Management Method code for each waste listed in Item 9. The Hazardous Waste Report Management Method code is to be entered by the first treatment, storage, or disposal facility (TSDF) that receives the waste and is the code that best describes the way in which the waste is to be managed when received by the TSDF.

Item 20. Designated Facility Owner or Operator Certification of Receipt (Except As Noted in Item 18a)

Enter the name of the person receiving the waste on behalf of the owner or operator of the facility. That person shall acknowledge receipt or rejection of the waste described on the Manifest by signing and entering the date of receipt or rejection where indicated. Since the Facility Certification acknowledges receipt of the waste except as noted in the Discrepancy Space in Item 18a, the certification should be signed for both waste receipt and waste rejection, with the rejection being noted and described in the space provided in Item 18a. Fully rejected wastes may be forwarded or returned using Item 18b after consultation with the generator. Enter the name of the person accepting the waste on behalf of the owner or operator of the alternate facility or the original generator. That person shall acknowledge receipt or rejection of the waste described on the Manifest by signing and entering the date they received or rejected the waste in Item 18c. Partially rejected wastes and residues shall be re-shipped under a new manifest, to be initiated and signed by the rejecting TSDF as offeror of the shipment.

Instructions -- Continuation Sheet, U.S. EPA Form 8700-22A

Read all instructions before completing this form. This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used---press down hard.

This form shall be used as a continuation sheet to U.S. EPA Form 8700-22 if:

More than two transporters are to be used to transport the waste; or

More space is required for the U.S. DOT descriptions and related information in Item 9 of U.S. EPA Form 8700-22.

Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the uniform hazardous waste manifest (EPA Form 8700-22) and, if necessary, this continuation sheet (EPA Form 8700-22A) for both interstate and intrastate transportation.

Item 21. Generator's ID Number

Enter the generator's U.S. EPA twelve digit identification number or, the State generator identification number if the generator site does not have an EPA identification number.

Item 22. Page _---

Enter the page number of this Continuation Sheet.

Item 23. Manifest Tracking Number

Enter the Manifest Tracking number from Item 4 of the Manifest form to which this continuation sheet is attached.

Item 24. Generator's Name---

Enter the generator's name as it appears in Item 5 on the first page of the Manifest.

Item 25. Transporter---Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Also enter the U.S. EPA twelve digit identification number of the transporter described in Item 25.

Item 26. Transporter---Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet can record the names of two additional transporters. Also enter the U.S. EPA twelve digit identification number of the transporter named in Item 26.

Item 27. U.S. D.O.T. Description Including Proper Shipping Name, Hazardous Class, and ID Number (UN/NA)

For each row enter a sequential number under Item 27b that corresponds to the order of waste codes from one continuation sheet to the next, to reflect the total number of wastes being shipped. Refer to instructions for Item 9 of the manifest for the information to be entered.

Item 28. Containers (No. And Type)

Refer to the instructions for Item 10 of the manifest for information to be entered.

Item 29. Total Quantity

Refer to the instructions for Item 11 of the manifest form.

Item 30. Units of Measure (Weight/Volume)

Refer to the instructions for Item 12 of the manifest form.

Item 31. Waste Codes

Refer to the instructions for Item 13 of the manifest form.

Item 32. Special Handling Instructions and Additional Information

Refer to the instructions for Item 14 of the manifest form.

Transporters

Item 33. Transporter - Acknowledgment of Receipt of Materials

Enter the same number of the Transporter as identified in Item 25. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 25. That person shall acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 34. Transporter - Acknowledgment of Receipt of Materials

Enter the same number of the Transporter as identified in Item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 26. That person shall acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Owner and Operators of Treatment, Storage, or Disposal Facilities

Item 35. Discrepancy Indication Space

Refer to Item 18. This space may be used to more fully describe information on discrepancies identified in Item 18a of the manifest form.

Item 36. Hazardous Waste Report Management Method Codes

For each field here, enter the sequential number that corresponds to the waste materials described under Item 27, and enter the appropriate process code that describes how the materials will be processed when received. If additional continuation sheets are attached, continue numbering the waste materials and process code fields sequentially, and enter on each sheet the process codes corresponding to the waste materials identified on that sheet.

KEY: hazardous waste, generators
Date of Enactment or Last Substantive Amendment: [~~April 15,~~] 2019
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Waste Management and Radiation Control, Waste Management

R315-263

Standards Applicable to Transporters of Hazardous Waste and Standards Applicable to Emergency Control of Spills for All Hazardous Waste Handlers

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43974
FILED: 08/09/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In November of 2016, the Environmental Protection Agency (EPA) published final revisions to the Hazardous Waste Export-Import rules in the Federal Register (81 FR 85696). Then in December of 2017, the EPA published additional final revisions to rules regarding Confidentiality Determinations for Hazardous Waste Export and Import Documents in the Federal Register (82 FR 60894). Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The purpose of these changes is to adopt the appropriate revisions into Rule R315-263.

SUMMARY OF THE RULE OR CHANGE: Subsections R315-263-10(d), R315-263-20(a)(2), R315-263-20(c), R315-263-20(e)(2), R315-263-20(f)(2) and R315-253-20(g)(4) were revised in accordance with the revised import and export rules.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-104 and Section 19-6-105 and Section 19-6-106

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Because the state of Utah is not an importer or exporter of hazardous waste it is not anticipated that these revisions will have any impact on the state budget. Implementation of these rule changes by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the state budget because the export and import provisions of the rules are administered at the federal level by the EPA.
♦ LOCAL GOVERNMENTS: There are no local governments that are importers or exporters of hazardous waste and local governments will not be implementing these rule changes so it is not anticipated that there will be any cost or savings to local governments.
♦ SMALL BUSINESSES: Currently, there are no small businesses in Utah that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any small business that exports or imports hazardous waste should already be following the rules. Any costs or savings to small businesses are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any small businesses that are in addition to those created by following the EPA's rules.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Currently, there are not persons other than small businesses, businesses, or local governments that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any persons other than small businesses, businesses, or local governments that export or import hazardous waste should already be following the rules. Any costs to persons other than small businesses, businesses, or local governments are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any such persons that are in addition to those created by following the EPA's rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will not be any additional compliance costs for affected persons due to the adoption of these rule changes because the state of Utah is simply adopting these rules as required by EPA to maintain the equivalency of our program to that of EPA. The rule changes being adopted are administered at the federal government level by the EPA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. Because these rule changes are being administered by the federal government, it is not anticipated that their adoption by the state of Utah will have any fiscal impact beyond the impact created by the federal adoption of these rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
WASTE MANAGEMENT AND RADIATION
CONTROL, WASTE MANAGEMENT
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2019

AUTHORIZED BY: Scott Baird, Interim Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0

Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
There is one company (NAICS 562211) in Utah that operates three facilities and is a non-small business. All three facilities have submitted notification that they are importers of hazardous waste. Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018. At the time that these rules became effective these three facilities were required to comply with the rules as amended. In the document entitled Regulatory Impact Analysis Hazardous Waste Export-Import Revisions Final Rule dated August 2016 the EPA estimates the regulatory impact of the rule revisions. The document concludes that there are fiscal impacts to businesses involved in the export and import of hazardous waste. These impacts are mainly associated with the administrative part of the rule and include but are not limited to: obtaining a CDX registration, submitting notices, submitting annual reports, creating movement documents, confirming recovery and disposal and obtaining an EPA ID number. The state of Utah is adopting these rule revisions in order to maintain equivalency with the federal program. It is not anticipated that adoption of these rule revisions will result in any additional regulatory impact.

The interim head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-263. Standards Applicable to Transporters of Hazardous Waste and Standards Applicable to Emergency Control of Spills for All Hazardous Waste Handlers.
R315-263-10. Scope.

(a) Sections R315-263-11, 12, 20, 21, 22, 25, and 34 establish standards which apply to persons transporting hazardous waste within Utah if the transportation requires a manifest under Rule R315-262.

(b) Sections R315-263-11, 12, 20, 21, 22, 25, and 34 do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.

(c) A transporter of hazardous waste shall also comply with Rule R315-262 if he:

(1) Transports hazardous waste into Utah; or

(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 Rule R315-262, or subject to the waste management standards of Rule R315-273, that is being imported from or exported to any of the countries listed in Subsection R315-262-58(a)(1) for purposes of recovery is subject to Sections R315-263-10 through 12 and to all other relevant requirements of Sections R315-262-80 through 89, including, but not limited to, Section R315-262-84 for movement documents~~]A transporter of hazardous waste that is being imported from or exported to any other country for purposes of recovery or disposal is subject to Sections R315-263-10 through 263-12 and to all other relevant requirements of Sections R315-262-80 through 262-84, including, but not limited to, Subsections R315-262-83(d) and 262-84(d) for movement documents.

(e) Reserved

(f) Reserved

(g) Sections R315-263-30, 31, 32, and 33 apply to all handlers of hazardous waste or material that when spilled may become a hazardous waste.

R315-263-20. 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 form; EPA Form 8700-22, and if necessary, EPA Form 8700-22A; signed in accordance with the requirement of Section R315-262-23, or is provided with an electronic manifest that is obtained, completed, and transmitted in accordance with Subsection R315-262-20(a)(3), and signed with a valid and enforceable electronic signature as described in Section R315-262-25.

(2) Exports. [~~In the case of exports other than those subject to Sections R315-262-80 through 89, a transporter may not accept such 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 in accordance with Section R315-263-20, 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 Sections R315-262-80 through 89, a transporter may not accept hazardous waste without a tracking document that includes all information required by Section R315-262-84~~]For exports of hazardous waste subject to the requirements of Sections R315-262-80 through 262-84, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with Section R315-263-20, as appropriate, and for exports occurring under the terms of consent issued by EPA on or after December 31, 2016, a movement document that includes all information require by Subsection R315-262-83(d).

(3) Compliance date for form revisions. The revised Manifest form and procedures in Sections R315-260-10, 261-7, 263-20, and 263-21, had an effective date of September 5, 2006.

(4) Use of electronic manifest-legal equivalence to paper forms for participating transporters. Electronic manifests that are obtained, completed, and transmitted in accordance with Subsection R315-262-20(a)(3), and used in accordance with Section R315-263-20 in lieu of EPA Forms 8700-22 and 8700-22A, are the legal equivalent

of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.

(i) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of Section R315-262-25.

(ii) Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person by submission to the system.

(iii) Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that to the extent that the Hazardous Materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, a hazardous waste transporter shall carry one printed copy of the electronic manifest on the transport vehicle.

(iv) Any requirement in these regulations for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an electronic manifest in the transporter's account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or Utah inspector.

(v) No transporter may be held liable for the inability to produce an electronic manifest for inspection under Section R315-263-20 if that transporter can demonstrate that the inability to produce the electronic manifest is exclusively due to a technical difficulty with the EPA system for which the transporter bears no responsibility.

(5) A transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment provided by a participating generator, by another transporter, or by a designated facility.

(6) Special procedures when electronic manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the electronic manifest system should become unavailable for any reason, then:

(i) The transporter in possession of the hazardous waste when the electronic manifest becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to Subsection R315-263-20(a)(4)(iii)(A), or obtain and complete another paper manifest for this purpose. The transporter shall reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.

(ii) On each printed copy, the transporter shall include a notation in the Special Handling and Additional Description space, Item 14, that the paper manifest is a replacement manifest for a manifest originated in the electronic manifest system, shall include, if not pre-printed on the replacement manifest, the manifest tracking number of the electronic manifest that is replaced by the paper manifest, and shall also include a brief explanation why the electronic manifest was not available for completing the tracking of the shipment electronically.

(iii) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste shall ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.

(iv) From the point at which the electronic manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies shall be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

(7) Special procedures for electronic signature methods undergoing tests. If a transporter using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter shall sign the electronic manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with Subsection R315-263-20(a)(4)(iii)(A). This printed copy bearing the generator's and transporter's ink signatures shall also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner/operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy shall be delivered to the designated facility with the waste materials.

(8) Imposition of user fee for electronic manifest use. A transporter who is a user of the electronic manifest may be assessed a user fee by EPA for the origination or processing of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to 40 CFR part 262.

(b) Before transporting the hazardous waste, the transporter shall 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~~] occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, the transporter shall ensure that a movement document that includes all information required by Subsection R315-262-83(d) also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016, the transporter shall ensure that a movement document that includes all information required by Subsection R315-262-84(d) 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 Section R315-263-22; and

(3) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(e) The requirements of Subsections R315-263-20(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, generator certification, and signatures; and, for exports[~~, an EPA Acknowledgment of Consent~~] or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by Subsections R315-262-83(d) or 262-84(d) 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 designated facility; and

(5) A copy of the shipping paper or manifest is retained by each water, bulk shipment, transporter in accordance with Section R315-263-22.

(f) For shipments involving rail transportation, the requirements of Subsections R315-263-20(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 Section R315-263-22.

(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. Note: Intermediate rail transporters are not required to sign either the manifest or shipping paper.~~]or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by Subsections R315-262-83(d) or 262-84(d) accompanies the hazardous waste at all times.

Note to Subsection R315-263-20(f)(2): Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.

(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 Section R315-263-22.

(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 Section R315-263-22.

(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 in accordance with Subsection R315-263-22(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.~~]For paper manifest only,

(i) Send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in Subsection R315-264-71(a)(2)(v); and

(ii) For shipments initiated prior to the AES filing compliance date, when instructed by the exporter to do so, 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 but less than 1000 kilograms of hazardous waste in a calendar month need not comply with the requirements of Section 315-263-20 or those of Section R315-263-22 provided that:

(1) The waste is being transported pursuant to a reclamation agreement as provided for in Subsection R315-262-20(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.

KEY: hazardous waste

Date of Enactment or Last Substantive Amendment: [~~August 31, 2017~~]2019

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Waste Management and Radiation Control, Waste Management
R315-264
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43975
FILED: 08/09/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In November of 2016, the Environmental Protection Agency (EPA) published final revisions to the Hazardous Waste Export-Import rules in the Federal Register (81 FR 85696). Then in December of 2017, the EPA published additional final revisions to rules regarding Confidentiality Determinations for Hazardous Waste Export and Import Documents in the Federal Register (82 FR 60894). Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The purpose of these changes is to adopt the appropriate revisions into Rule R315-264.

SUMMARY OF THE RULE OR CHANGE: Subsections R315-264-12(a), R315-264-71(a)(3) and R315-264-71(d) were revised in accordance with the revised import and export rules.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-104 and Section 19-6-105 and Section 19-6-106

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Because the state of Utah is not an importer or exporter of hazardous waste it is not anticipated that these revisions will have any impact on the state budget. Implementation of these rule changes by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the state budget because the export and import provisions of the rules are administered at the federal level by the EPA.
♦ LOCAL GOVERNMENTS: There are no local governments that are importers or exporters of hazardous waste and local governments will not be implementing these rule changes so it is not anticipated that there will be any cost or savings to local governments.
♦ SMALL BUSINESSES: Currently, there are no small businesses in Utah that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any small business that exports or imports hazardous waste should already be following the rules. Any costs or savings to small businesses are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any small businesses that are in addition to those created by following the EPA's rules.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Currently, there are not persons other than small businesses, businesses, or local governments that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any persons other than small businesses, businesses, or local governments that export or import hazardous waste should already be following the rules. Any costs to persons other than small businesses, businesses, or local governments are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any such persons that are in addition to those created by following the EPA's rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will not be any additional compliance costs for affected persons due to the adoption of these rule changes because the state of Utah is simply adopting these rules as required by EPA to maintain the equivalency of our program to that of EPA. The rule changes being adopted are administered at the federal government level by the EPA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. Because these rule changes are being administered by the federal government, it is not anticipated that their adoption by the state of Utah will have any fiscal impact beyond the impact created by the federal adoption of these rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
WASTE MANAGEMENT AND RADIATION CONTROL, WASTE MANAGEMENT
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2019

AUTHORIZED BY: Scott Baird, Interim Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
There is one company (NAICS 562211) in Utah that operates three facilities and is a non-small business. All three facilities have submitted notification that they are importers of hazardous waste. Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the Federal program. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018. At the time that these rules became effective these three facilities were required to comply with the rules as amended. In the document entitled Regulatory Impact Analysis Hazardous Waste Export-Import Revisions Final Rule dated August 2016 the EPA estimates the regulatory impact of the rule revisions. The document concludes that there are fiscal impacts to businesses involved in the export and import of hazardous waste. These impacts are mainly associated with the administrative part of the rule and include but are not limited to: obtaining a CDX registration, submitting notices, submitting annual reports, creating movement documents, confirming recovery and disposal and obtaining an EPA ID number. The state of Utah is adopting these rule revisions in order to maintain equivalency with the Federal program. It is not anticipated that adoption of these rule revisions will result in any additional regulatory impact.

The interim head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-264-12. General Facility Standards - Required Notices.

(a)[~~(1)~~] The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to Sections R315-262-80 through 262-84 from a foreign source shall [~~notify the Director in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.~~]submit the following required notices:

(1) As per Subsection R315-262-84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, shall provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in Subsection R315-262-84(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(2) [~~The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to Sections R315-262-80 through 89 shall provide a copy of the movement document bearing all required signatures to the foreign exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to the competent authorities of all other countries~~

~~concerned within three working days of receipt of the shipment. The original of the signed movement document shall be maintained at the facility for at least three years. In addition, such owner or operator shall, as soon as possible, but no later than thirty (30) days after the completion of recovery and no later than one (1) calendar year following the receipt of the hazardous waste, send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to EPA's Office of Enforcement and Compliance Assurance at the above address by mail, e-mail without a digital signature followed by mail, or fax followed by mail~~]As per Subsection R315-262-84(d)(2)(xv), a copy of the movement document bearing all required signatures within three working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document shall be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or Utah inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under Section R315-264-12 if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the owner or operator of a facility bears no responsibility.

(3) As per Subsection R315-262-84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility shall inform EPA, using the allowable methods listed in Subsection R315-262-84(b)(1) of the need to return or arrange alternate management of the shipment.

(4) As per Subsection R315-262-84(g), such owner or operator shall:

(i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than 30 days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(ii) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in Section R315-264-12(a)(4)(ii) are defined in Section R315-262-81.

(b) The owner or operator of a facility that receives hazardous waste from an off-site source, except where the owner or operator is also the generator, shall inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator shall keep a copy of this written notice as part of the operating record.

(c) 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 Rule R315-264 and Rule R315-270. An owner's or operator's failure to notify the new owner or operator of the requirements of Rule R315-264 in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

R315-264-71. Manifest System, Recordkeeping, and Reporting -- Use of Manifest System.

(a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator or his/her agent shall sign and date the manifest as indicated in Subsection R315-264-71(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 the 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 discrepancies, as defined in Subsection R315-264-72(a), 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, Page 3, of the manifest to the generator,

(v) Within 30 days of delivery, send the top copy, Page 1, of the Manifest to the e-Manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under Subsection R315-264-71(a) shall be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system.

(vi) 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 and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and Utah Division of Waste Management and Radiation Control, P O Box 144880, Salt Lake City, Utah 84114-4880.~~]The owner or operator of a facility receiving

hazardous waste subject to Sections R315-262-80 through 262-84 from a foreign source shall:

(i) Additionally list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s), EPA Form 8700-22A; and

(ii) Send a copy of the manifest within 30 days of delivery to EPA using the addresses listed in Subsection R315-262-82(e) until the facility can submit such a copy to the e-Manifest system per Subsection R315-264-71(a)(2)(v).

(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 Subsection R315-264-72(a), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper. The Director does not intend that the owner or operator of a facility whose procedures under R315-264-13(c) include waste analysis shall perform that analysis before signing the shipping paper and giving it to the transporter. Subsection R315-264-72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(3) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper, if the manifest has not been received within 30 days after delivery, to the generator; and

Comment: Subsection R315-262-23(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

(5) Retain at the facility a copy of the manifest and shipping paper, if signed in lieu of the manifest at the time of delivery, for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of Rule R315-262. The provisions of Sections R315-262-15, R315-262-16, and R315-262-17 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of Sections R315-262-15, R315-262-16, and R315-262-17 only apply to owners or operators who are shipping hazardous waste which they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under Subsection R315-262-17(f).

(d) As per Subsection R315-262-84(d)(2)(xv), [~~Within~~]within three working days of the receipt of a shipment subject to Sections R315-262-80 through [~~89~~]262-84 the owner or operator of a facility shall provide a copy of the movement document bearing all required signatures to the foreign exporter[~~, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the movement document shall be maintained at the facility for at least three years from the date of signature~~]; to the competent authorities of the countries of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document shall be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or Utah inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under Section R315-264-71 if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

(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.

(f) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with Subsection R315-262-20(a)(3), and used in accordance with Section R315-264-71 in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

(1) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of Section R315-262-25.

(2) Any requirement in these regulations to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

(3) Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment.

(4) Any requirement in these regulations for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or Division of Waste Management and Radiation Control inspector.

(5) No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under Section R315-264-71 if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical

difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

(g) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

(h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(1) Upon delivery of the hazardous waste to the designated facility, the owner or operator shall sign and date each copy of the paper replacement manifest by hand in Item 20, Designated Facility Certification of Receipt, and note any discrepancies in Item 18, Discrepancy Indication Space, of the paper replacement manifest,

(2) The owner or operator of the facility shall give back to the final transporter one copy of the paper replacement manifest,

(3) Within 30 days of delivery of the waste to the designated facility, the owner or operator of the facility shall send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the electronic manifest system, and

(4) The owner or operator of the facility shall retain at the facility one copy of the paper replacement manifest for at least three years from the date of delivery.

(i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this original copy among its records for at least 3 years from the date of delivery of the waste.

(j) Imposition of user fee for electronic manifest use. An owner or operator who is a user of the electronic manifest format may be assessed a user fee by EPA for the origination or processing of each electronic manifest. An owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators shall submit to the electronic manifest system operator under Subsection R315-264-71(a)(2)(v). EPA shall maintain and update from time-to-time the current schedule of electronic manifest system user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to 40 CFR 262.

(k) Electronic manifest signatures. Electronic manifest signatures shall meet the criteria described in Section R315-262-25.

KEY: hazardous waste, TSD facilities
Date of Enactment or Last Substantive Amendment: [~~August 31, 2017~~]2019
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Waste Management and Radiation Control, Waste Management
R315-265
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43976
FILED: 08/09/2019

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the past, the state of Utah rules for hazardous waste management relied heavily on incorporating by reference the federal rules found in 40 CFR (Code of Federal Regulations). In January of 2016, the state of Utah rules for hazardous waste management were re-numbered so that the numbering and content of the rules essentially matched that of 40 CFR. This was done so that regulated entities and the public in Utah would only have to go to one source to be able to read and understand the rules for management of hazardous waste instead of being referred from one source to another. Due to a misunderstanding, Rule R315-265 was not included in this re-numbering and continued to incorporate by reference 40 CFR. It has been determined that certain sections of 40 CFR 265 need to be adopted into Rule R315-265. It has been decided that this will be done in parts; as other rules are revised that make reference to 40 CFR 265 these rules will be adopted into Rule R315-265. As part of the adoption of the revised import and export rules, the following sections are being added into Rule R315-265: R315-265-1, 265-4, 265-10 through 19, 265-30 through 35, 265-37, 265-50 through 56, 265-70 through 77, 265-90 through 94, 265-110 through 121, 265-140 through 148, 265-170 through 174, 265-176 through 178, 265-190 through 200, 265-202, 265-220 through 226, 265-228 through 231, 265-250 through 260.

SUMMARY OF THE RULE OR CHANGE: The rules being adopted are essentially identical to the rules contained in 40 CFR. "Director" is substituted for "Regional Administrator" and for most references to "EPA". The "Utah Division of Waste Management and Radiation Control" and the "Utah Department of Environmental Quality" are placed into the rules as the agencies to contact for various purposes. "Utah" is substituted for "State".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-104 and Section 19-6-105 and Section 19-6-106

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Adoption of these rules by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the state budget because these rules are already in effect in the state of Utah. This rulemaking simply adopts the rule language into Rule R315-265 instead of incorporating the language from 40 CFR 265 by reference. No new rules are being adopted.
♦ LOCAL GOVERNMENTS: Adoption of these rules by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the budgets of any local governments because these rules are already in effect in the state of Utah. This rulemaking simply adopts the rule language into Rule R315-265 instead of incorporating the language from 40 CFR 265 by reference. No new rules are being adopted.
♦ SMALL BUSINESSES: Adoption of these rules by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the budgets of any small businesses because these rules are already in effect in the state of Utah. This rulemaking simply adopts the rule language into Rule R315-265 instead of incorporating the language from 40 CFR 265 by reference. No new rules are being adopted.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Adoption of these rules by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the budgets of any persons other than small businesses, businesses, or local government entities because these rules are already in effect in the state of Utah. This rulemaking simply adopts the rule language into Rule R315-265 instead of incorporating the language from 40 CFR 265 by reference. No new rules are being adopted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will not be any additional compliance costs for affected persons due to the adoption of these rules changes these rules are already in effect in the state of Utah. This rulemaking simply adopts the rule language into Rule R315-265 instead of incorporating the language from 40 CFR 265 by reference. No new rules are being adopted.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the rules being adopted are already in place and this is simply an administrative change it is not anticipated that there will be any fiscal impact.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
WASTE MANAGEMENT AND RADIATION
CONTROL, WASTE MANAGEMENT
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2019

AUTHORIZED BY: Scott Baird, Interim Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the**

narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
It is anticipated that there will not be any additional regulatory impact for affected non-small businesses due to the adoption of these rule changes because these rules are already in effect in the state of Utah. This rulemaking simply adopts the rule language into Rule R315-265 instead of incorporating the language from 40 CFR 265 by reference. No new rules are being adopted.

The interim head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-265-1. Incorporation, General -- Purpose, Scope, and Applicability.

40 CFR 265.270 through 265.282, 265.300 through 265.316, 265.340 through 265.352, 265.370 through 265.383, 265.400 through 265.406, 265.430, 265.440 through 265.445, 265.1030 through 265.1035, 265.1050 through 265.1064, 265.1080 through 265.1091, 265.1100 through 265.1102, 265.1200 through 265.1202, 265.1300 through 265.1316 and Appendices I and III through VI of 40 CFR 265, 2015 edition, as amended by 81 FR 85827, [~~is~~]are adopted and incorporated by reference [~~with the following exceptions:~~

~~(a) Substitute~~]except that "Director" is substituted for all references to "Regional Administrator[~~:~~]", and for all references to "EPA" or "Environmental Protection Agency"[

~~(b) Substitute "Director" or "Board" for EPA as appropriate~~] except for references to "EPA identification number" and where EPA is used in reference to actions under [~~40 CFR 268.42(b)~~]Subsection R315-268-42(b) and in [~~265.71(a)(3)~~]Subsection R315-265-71(a)(3).[~~;~~

~~(c) Substitute "Utah Division of Waste Management and Radiation Control " or "Director" as appropriate for "Environmental Protection Agency;" and~~

~~(d) The language that reads "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions" in 40 CFR 265.143(g) and 256.145(g) is changed to read as follows: If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance must be submitted to the Director as is submitted to all other states and to all appropriate EPA Regional Administrators.~~

~~(e) Add, following December 6, 1990, in 40 CFR 265.440(a), "for all HSWA drip pads or January 31, 1992 for all non-HSWA drip pads."~~

~~(f) Add, following December 24, 1992, in 40 CFR 265-440(a), "for all HSWA drip pads or July 30, 1993 for all non-HSWA drip pads."~~]

(a) The purpose of Rule R315-265 is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(b) Except as provided in 40 CFR 265.1080(b), which is adopted and incorporated by reference, the standards of Rule R315-265, and of Sections R315-264-552, R315-264-553, and R315-264-554, apply to owners and operators of facilities that treat, store or dispose of hazardous waste who have fully complied with the requirements for interim status under section 3005(e) of RCRA and Section R315-270-10 until either a permit is issued under Rule R315-270 or until applicable Rule R315-265 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980 who have failed to provide timely notification as required by section 3010(a) of RCRA, failed to file Part A of the permit application as required by Subsections R315-270-10 (e) and (g), or both. These standards apply to all treatment, storage and disposal of hazardous waste at these facilities after the effective date of these regulations, except as specifically provided otherwise in Rule R315-265 or Rule R315-261.

Comment: As stated in section 3005(a) of RCRA, after the effective date of regulations under that section, i.e., Rules R315-270 and R315-124, the treatment, storage and disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility that meets certain conditions, until final administrative disposition of the owner's and operator's permit application is made.

(c) The requirements of Rule R315-265 do not apply to:

(1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act;

Comment: These Rule R315-265 regulations do apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea, as provided in Subsection R315-265-1(b).

(2) Reserved

(3) The owner or operator of a POTW which treats, stores, or disposes of hazardous waste;

Comment: The owner or operator of a facility under Subsections R315-265-1(c)(1) through (3) is subject to the requirements of Rule R315-264 to the extent they are included in a permit by rule granted to such a person under 40 CFR 122, or are required by 40 CFR 144.14.

(4) Reserved

(5) The owner or operator of a facility permitted under Rules R315-301 through R315-320 to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under Rule R315-265 by Section R315-262-14;

(6) The owner or operator of a facility managing recyclable materials described in Subsections R315-261-6(a)(2), (3), and (4), except to the extent they are referred to in Rule R315-279 or Sections R315-266-20 through 266-23, R315-266-70, R315-266-80, or R315-266-100 through 266-112.

(7) A generator accumulating waste on site in compliance with applicable conditions for exemption in Sections R315-262-14 through 262-17 and Sections R315-262-200 through 262-216 and R315-262-230 through 262-233, except to the extent the requirements of Rule R315-265 are included in those sections;

(8) A farmer disposing of waste pesticides from his own use in compliance with Section R315-262-70; or

(9) The owner or operator of a totally enclosed treatment facility, as defined in Section R315-260-10.

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in Section R315-260-10, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in

Section R315-268-40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator shall comply with the requirements set out in Subsection R315-265-17(b).

(11)(i) Except as provided in Subsection R315-265-1(c)(11)(ii), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

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

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

(ii) An owner or operator of a facility otherwise regulated by this Rule R315-265 shall comply with all applicable requirements of Sections R315-265-30 through 265-37 and Sections R315-265-50 through 265-56.

(iii) Any person who is covered by Subsection R315-265-1(c)(11)(i) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Rule R315-265 and Rule R315-124 for those activities.

(12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section R315-262-30 at a transfer facility for a period of ten days or less.

(13) The addition of absorbent material to waste in a container, as defined in Section R315-260-10, or the addition of waste to the absorbent material in a container provided that these actions occur at the time waste is first placed in the containers; and Subsection R315-265-17(b), Sections R315-265-171, and 265-172 are complied with.

(14) Universal waste handlers and universal waste transporters, as defined in Section R315-260-10, handling the wastes listed below. These handlers are subject to regulation under Rule R315-273, when handling the below listed universal wastes.

(i) Batteries as described in Section R315-273-2;

(ii) Pesticides as described in Section R315-273-3;

(iii) Mercury-containing equipment as described in Section R315-273-4; and

(iv) Lamps as described in Section R315-273-5;

(v) Antifreeze as described in Subsection R315-273-6(a); and

(vi) Aerosol cans as described in Subsection R315-273-6(b).

(d) The following hazardous wastes shall not be managed at facilities subject to regulation under Rule R315-265.

(1) EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, or FO27 unless:

(i) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

(ii) The waste is stored in tanks or containers;

(iii) The waste is stored or treated in waste piles that meet the requirements of Subsection R315-264-250(c) as well as all other applicable requirements of Sections R315-265-250 through 265-260;

(iv) The waste is burned in incinerators that are certified pursuant to the standards and procedures in 40 CFR 265.352, which is adopted by reference; or

(v) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in 40 CFR 265.383, which is adopted by reference.

(e) The requirements of Rule R315-265 apply to owners or operators of all facilities which treat, store or dispose of hazardous waste referred to in Rule R315-268, and the Rule R315-268 standards are considered material conditions or requirements of the Rule R315-265 interim status standards.

R315-265-4. General -- Imminent Hazard Action.

Notwithstanding any other provisions of these regulations, enforcement actions may be brought pursuant to Section 19-5-115.

R315-265-10. General Facility Standards -- Applicability.

The regulations in Section R315-262-10 through 262-19 apply to owners and operators of all hazardous waste facilities, except as Section R315-265-1 provides otherwise.

R315-265-11. General Facility Standards -- Identification Number.

Every facility owner or operator shall apply to the Director for an EPA identification number using EPA form 8700-12. Information on obtaining this number can be acquired by contacting the Utah Division of Waste Management and Radiation Control.

R315-265-12. General Facility Standards -- Required Notices.

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to Sections R315-262-80 through 262-84 from a foreign source shall submit the following required notices:

(1) As per Subsection R315-262-84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, shall provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in Subsection R315-262-84(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(2) As per Subsection R315-262-84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document shall be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or Utah inspector. No owner or operator of a facility may be held liable for the inability to produce the documents

for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

(3) As per Subsection R315-262-84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility shall inform EPA, using the allowable methods listed in Subsection R315-262-84(b)(1) of the need to return or arrange alternate management of the shipment.

(4) As per Subsection R315-262-84(g), such owner or operator shall:

(i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(ii) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in Subsection R315-265-12(a)(4)(ii) are defined in Section R315-262-81.

(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 Rule R315-265 and Rule R315-270. Also see Section R315-270-72.

Comment: An owner's or operator's failure to notify the new owner or operator of the requirements of Rule R315-265 in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

R315-265-13. General Facility Standards -- General Waste Analysis.

(a)(1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or nonhazardous wastes if applicable under Subsection R315-265-113(d), he shall obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis shall contain all the information which must be known to treat, store, or dispose of the waste in accordance with Rule R315-265 and Rule R315-268.

(2) The analysis may include data developed under Rule R315-261, and existing published or documented data on the hazardous waste or on waste generated from similar processes.

Comment: For example, the facility's records of analyses performed on the waste before the effective date of these regulations, or studies conducted on hazardous waste generated from processes similar to that which generated the waste to be managed at the facility, may be included in the data base required to comply with Subsection R315-265-13(a)(1). The owner or operator of an off-site facility may arrange for the generator of the hazardous waste to supply part of the information required by Subsection R315-265-13(a)(1), except as otherwise specified in Subsections R315-268-7(b) and (c). If the generator does not supply the information, and the owner or operator chooses to accept a hazardous waste, the owner or operator is responsible for obtaining the information required to comply with Section R315-265-13.

(3) The analysis shall be repeated as necessary to ensure that it is accurate and up to date. At a minimum, the analysis shall be repeated:

(i) When the owner or operator is notified, or has reason to believe, that the process or operation generating the hazardous wastes or non-hazardous wastes, if applicable, under Subsection R315-265-113(d) has changed; and

(ii) For off-site facilities, when the results of the inspection required in Subsection R315-265-13(a)(4) indicate that the hazardous waste received at the facility does not match the waste designated on the accompanying manifest or shipping paper.

(4) The owner or operator of an off-site facility shall inspect and, if necessary, analyze each hazardous waste movement received at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

(b) The owner or operator shall develop and follow a written waste analysis plan which describes the procedures which he will carry out to comply with Subsection R315-265-13(a). He shall keep this plan at the facility. At a minimum, the plan shall specify:

(1) The parameters for which each hazardous waste, or non-hazardous waste if applicable under Subsection R315-265-113(d), will be analyzed and the rationale for the selection of these parameters, i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with Subsection R315-265-13(a);

(2) The test methods which will be used to test for these parameters;

(3) The sampling method which will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either:

(i) One of the sampling methods described in Section R315-261-1090; or

(ii) An equivalent sampling method.

Comment: See Subsection R315-260-20(c) for related discussion.

(4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up to date;

(5) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply; and

(6) Where applicable, the methods that will be used to meet the additional waste analysis requirements for specific waste management methods as specified in Sections R315-265-200, R315-265-225, and R315-265-252, and 40 CFR 265.273, 265.314, 265.341, 265.375, 265.402, 265.1034(d), 265.1063(d), 265.1084, which are adopted and incorporated by reference and Section R315-268-7.

(7) For surface impoundments exempted from land disposal restrictions under Subsection R315-268-4(a), the procedures and schedule for:

(i) The sampling of impoundment contents;
(ii) The analysis of test data; and,
(iii) The annual removal of residues which are not delisted under Section R315-260-22 or which exhibit a characteristic of hazardous waste and either:
(A) Do not meet applicable treatment standards of Sections R315-268-40 through R315-268-49; or
(B) Where no treatment standards have been established;
(I) Such residues are prohibited from land disposal under Section R315-268-32 or RCRA section 3004(d); or
(II) Such residues are prohibited from land disposal under Subsection R315-268-33(f).
(8) For owners and operators seeking an exemption to the air emission standards of 40 CFR 265 Subpart CC, in accordance with 40 CFR 265.1083, which are adopted and incorporated by reference.
(i) If direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption.
(ii) If knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.
(c) For off-site facilities, the waste analysis plan required in Subsection R315-265-13(b) shall also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan shall describe:
(1) The procedures which will be used to determine the identity of each movement of waste managed at the facility; and
(2) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling.
(3) The procedures that the owner or operator of an off-site landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container.

R315-265-14. General Facility Standards -- Security.
(a) The 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 with 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 Rule R315-265.
(b) Unless exempt under Subsections R315-265-14(a)(1) and (2), a facility shall ha ve:
(1) A 24-hour surveillance system, for example, 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, for example, a fence in good repair or a fence combined with 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, for example, an attendant, television monitors, locked entrance, or controlled roadway access to the facility.
Comment: The requirements of Subsection R315-265-14(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 Subsections R315-265-14(b)(1) or (2).
(c) Unless exempt under Subsections R315-265-14(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 this active portion. The legend shall be written in English and in any other language predominant in the area surrounding the facility, for example, facilities in counties bordering the Canadian province of Quebec shall post signs in French; facilities in counties bordering Mexico shall post signs in Spanish, and shall be legible from a distance of at least 25 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 can be dangerous.
Comment: See Subsection R315-265-117(b) for discussion of security requirements at disposal facilities during the post-closure care period.

R315-265-15. General Facility Standards -- General Inspection Requirements.
(a) The owner or operator shall inspect his facility 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. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.
(b)(1) The owner or operator shall develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment, such as dikes and sump pumps, that are important to preventing, detecting, or responding to environmental or human health hazards.
(2) He shall keep this schedule at the facility.
(3) The schedule shall identify the types of problems, for example, malfunctions or deterioration, which are to be looked for during the inspection, for example, 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 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 Sections R315-265-174, R315-265-193, R315-265-195, R315-265-226, and R315-265-260, 40 CFR 265.278, 265.304, 265.347, 265.377, 265.403, 265.1033, 265.1052, 265.1053, 265.1058, and 265.1084 through 265.1090, which are adopted and incorporated by reference, where applicable.

(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 record inspections in an inspection log or summary. He shall keep these records for at least three years from the date of inspection. 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 or other remedial actions.

R315-265-16. General Facility Standards -- 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 Rule R315-265. The owner or operator shall ensure that this program includes all the elements described in the document required under Subsection R315-265-16(d)(3).

(2) This program shall be directed by a person trained in hazardous waste management procedures, and shall include instruction 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 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;

(iv) Response to fires or explosions;

(v) Response to ground-water contamination incidents; and

(vi) Shutdown of operations.

(4) For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to Section R315-265-16, provided that the overall facility training meets all the requirements of Section R315-265-16.

(b) Facility personnel shall successfully complete the program required in Subsection R315-265-16(a) within six months after the effective date of these regulations or six months after the date of their 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 regulations shall not work in unsupervised positions until they have completed the training requirements of Subsection R315-265-16(a).

(c) Facility personnel shall take part in an annual review of the initial training required in Subsection R315-265-16(a).

(d) The owner or operator shall maintain the following documents and records at the facility:

(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 Subsection R315-265-16(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 Subsection R315-265-16(d)(1);

(4) Records that document that the training or job experience required under Subsections R315-265-16(a), (b), and (c) has been given to, and completed by, facility personnel.

(e) Training records on current personnel shall be kept until closure of the facility. Training records on former employees shall be kept 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.

R315-265-17. General Facility Standards -- 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, for example, 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 flame 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 other sections of Rule R315-265, 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 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 explosions;

(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.

R315-265-18. General Facility Standards -- 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.

R315-265-19. General Facility Standards -- 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 Subsection R315-265-221(a), Section R315-265-254, and 40 CFR 265.301(a), which is adopted and incorporated by reference. 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 Subsection R315-265-19(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 Subsection R315-265-19(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 Section R315-265-73.

(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 Subsection R315-265-19(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, for example, pipes, according to design specifications;

(iii) Conformity of all materials used with design and other material specifications under Sections R315-264-221, R315-264-251, and R315-264-301.

(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 Subsections R315-264-221(c)(1), R315-264-251(c)(1), and R315-264-301(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 Subsections R315-264-221(c)(1), R315-264-251(c)(1), and R315-264-301(c)(1) in the field.

(d) Certification. The owner or operator of units subject to Section R315-265-19 shall submit to the 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 Subsections R315-265-221(a), Section R315-265-254, or 40 CFR 265.301(a), which is adopted and incorporated by reference. The owner or operator may receive waste in the unit after 30 days from the Director's receipt of the CQA certification unless the 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 Director upon request.

R315-265-30. Preparedness and Prevention -- Applicability.

The regulations in Section R315-265-30 through 37 apply to owners and operators of all hazardous waste facilities, except as Section R315-265-1 provides otherwise.

R315-265-31. Preparedness and Prevention -- Maintenance and Operation of Facility.

Facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

R315-265-32. Preparedness and Prevention -- Required Equipment.

All facilities shall be equipped with the following, unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:

(a) An internal communications or alarm system capable of providing immediate emergency instruction, voice or signal, to facility personnel;

(b) A device, such as a telephone, immediately available at the scene of operations, or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment, including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals, spill control equipment, and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

R315-265-33. Preparedness and Prevention -- Testing and Maintenance of Equipment.

All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment,

where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency.

R315-265-34. Preparedness and Prevention -- Access to Communications or Alarm System.

(a) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under Section R315-265-32.

(b) If there is ever just one employee on the premises while the facility is operating, he shall have immediate access to a device, such as a telephone, immediately available at the scene of operation, or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under Section R315-265-32.

R315-265-35. Preparedness and Prevention -- Required Aisle Space.

The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

R315-265-37. Preparedness and Prevention -- Arrangements with Local Authorities.

(a) The owner or operator shall attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:

(1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

(4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(b) Where State or local authorities decline to enter into such arrangements, the owner or operator shall document the refusal in the operating record.

R315-265-50. Contingency Plan and Emergency Procedures -- Applicability.

The regulations in Sections R315-265-50 through 56 apply to owners and operators of all hazardous waste facilities, except as Section R315-265-1 provides otherwise.

R315-265-51. Contingency Plan and Emergency Procedures -- Purpose and Implementation of Contingency Plan.

(a) Each owner or operator shall have a contingency plan for his facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release 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 human health or the environment.

R315-265-52. Contingency Plan and Emergency Procedures -- Content of Contingency Plan.

(a) The contingency plan shall describe the actions facility personnel shall take to comply with Sections R315-265-51 and R315-265-56 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

(b) If the owner or operator has already 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 that are sufficient to comply with the requirements of Rule R315-265. The owner or operator may develop one contingency plan which meets all regulatory requirements. EPA recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.

(c) The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to Section R315-265-37.

(d) The plan shall list names, addresses, and phone numbers, office and home, of all persons qualified to act as emergency coordinator, see Section R315-265-55, 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, spill 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 a 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 releases of hazardous waste or fires.

R315-265-53. Contingency Plan and Emergency Procedures -- Copies of Contingency Plan.

A copy of the contingency plan and all revisions to the plan shall be:

(a) Maintained at the facility; and

(b) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

R315-265-54. Contingency Plan and Emergency Procedures --Amendment of Contingency Plan.

The contingency plan shall be reviewed, and immediately amended, if necessary, whenever:

(a) Applicable regulations are revised;

(b) The plan fails in an emergency;

(c) The facility changes-in its design, construction, operation, maintenance, or other circumstances-in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes.

R315-265-55. Contingency Plan and Emergency Procedures --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 emergency coordinator shall be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan. Comment: The emergency coordinator's responsibilities are more fully spelled out in Section R315-265-56. 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.

R315-265-56. Contingency Plan and Emergency Procedures --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 if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator shall immediately identify the character, exact source, amount, and areal extent of any released materials. He may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

(c) Concurrently, the emergency coordinator shall assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment shall consider both direct and indirect effects of the release, fire, or explosion, for example, 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 release, 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 help appropriate officials decide whether local areas should be evacuated; and

(2) He shall immediately notify the Utah Department of Environmental Quality as specified in Section R315-263-30 and either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center, using their 24-hour toll free number 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, for example, release, fire;

(iv) Name and quantity of material(s) involved, to the extent known;

(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 emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions, and releases 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 released waste, and removing or isolating containers.

(f) If the facility stops operations in response to a fire, explosion or release, the 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 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 release, fire, or explosion at the facility.

Comment: Unless the owner or operator can demonstrate, in accordance with Subsections R315-261-3(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 of Rules R315-262, R315-263, and R315-265.

(h) The emergency coordinator shall ensure that, in the affected area(s) of the facility:

(1) No waste that may be incompatible with the released 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 owner or operator shall note 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 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, for example, fire, explosion;

(4) Name and quantity of material(s) involved;
(5) The extent of injuries, if any;
(6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
(7) Estimated quantity and disposition of recovered material that resulted from the incident.

R315-265-70. Manifest System, Recordkeeping, and Reporting --Applicability.

(a) The regulations in R315-265-70 through R315-265-77 apply to owners and operators of both on-site and off-site facilities, except as Section R315-265-1 provides otherwise. Sections R315-265-71, R315-265-72, and R315-265-76 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources.

R315-265-71. Manifest System, Recordkeeping, and Reporting --Use of Manifest System.

(a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator or his/her agent shall sign and date the manifest as indicated in Subsection R315-265-71(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 the 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 discrepancies, as defined in Subsection R315-265-72(a), 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, Page 2, of the manifest to the generator;

(v) Paper manifest submission requirements are:

(A) Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy, Page 1, of any paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

(B) Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy, Page1, of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services; and

(vi) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) The owner or operator of a facility that receives hazardous waste subject to Sections R315-262-80 through 265-84 from a foreign source shall:

(i) Additionally list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s), EPA Form 8700-22A; and

(ii) Send a copy of the manifest to EPA using the addresses listed in Subsection R315-262-82(e) within 30 days of delivery until the facility can submit such a copy to the e-Manifest system per Subsection R315-265-71(a)(2)(v).

(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 Subsection R315-265-72(a), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper;

Comment: The Director does not intend that the owner or operator of a facility whose procedures under Subsection R315-265-13(c) include waste analysis shall perform that analysis before signing the shipping paper and giving it to the transporter. Subsection R315-265-72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(3) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper, if the manifest has not been received within 30 days after delivery, to the generator; and

Comment: Subsection R315-262-23(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

(5) Retain at the facility a copy of the manifest and shipping paper, if signed in lieu of the manifest at the time of delivery, for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of Rule R315-262. The provisions of Sections R315-262-15, R315-262-16, and R315-262-17 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of Sections R315-262-15, R315-262-16, and R315-262-17 only apply to owners or operators who are shipping hazardous waste which they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under Subsection R315-262-17(f).

Comment: The provisions of Section R315-262-34 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of Section R315-262-34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

(d) As per Subsection R315-262-84(d)(2)(xv), within three working days of the receipt of a shipment subject to Sections R315-262-80 through 262-84, the owner or operator of a facility shall provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document shall be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or Utah inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

(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.

(f) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with Subsection R315-262-20(a)(3), and used in accordance with this Section R315-265-71 in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

(1) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of Section R315-262-25.

(2) Any requirement in these regulations to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

(3) Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.

(4) Any requirement in these regulations for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or Utah inspector.

(5) No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this Section R315-265-71 if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the EPA system for which the owner or operator bears no responsibility.

(g) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility

(h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(1) Upon delivery of the hazardous waste to the designated facility, the owner or operator shall sign and date each copy of the paper replacement manifest by hand in Item 20, Designated Facility Certification of Receipt, and note any discrepancies in Item 18, Discrepancy Indication Space, of the replacement manifest,

(2) The owner or operator of the facility shall give back to the final transporter one copy of the paper replacement manifest,

(3) Within 30 days of delivery of the hazardous waste to the designated facility, the owner or operator of the facility shall send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the EPA e-Manifest system, and

(4) The owner or operator of the facility shall retain at the facility one copy of the paper replacement manifest for at least three years from the date of delivery.

(i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this original copy among its records for at least three years from the date of delivery of the waste.

(j) Imposition of user fee for electronic manifest use.

(1) As prescribed in 40 CFR 265.1311, and determined in 40 CFR 265.1312, which are adopted and incorporated by reference, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 CFR 265.1313, which is adopted and incorporated by reference.

(2) An owner or operator subject to user fees under Section R315-265-71 shall make user fee payments in accordance with the requirements of 40 CFR 265.1314, subject to the informal fee dispute resolution process of 40 CFR 265.1316, and subject to the sanctions for delinquent payments under 40 CFR 265.1315, which are adopted and incorporated by reference.

(k) Electronic manifest signatures.

(1) Electronic manifest signatures shall meet the criteria described in Section R315-262-25.

(l) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person, for example, waste handler, shown on the manifest.

(1) Interested persons shall make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(2) Each correction submission shall include the following information:

(i) The Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(ii) The Item Number(s) of the original manifest that is the subject of the submitted correction(s); and

(iii) For each Item Number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete.

(i) The certification statement shall be executed with a valid electronic signature; and

(ii) A batch upload of data corrections may be submitted under one certification statement.

(4) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in Subsection R315-265-71(l)(3), and with notice of the corrections to other interested persons shown on the manifest.

R315-265-72. Manifest System, Recordkeeping, and Reporting -- Manifest Discrepancies.

(a) Manifest discrepancies are:

(1) Significant differences, as defined by Subsection R315-265-72(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 TSDF cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in Subsection R315-261-7(b).

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 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 difference in quantity or type, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter, for example, with telephone conversations. If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the Director a letter describing the discrepancy and attempts to reconcile it, and 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 Subsection R315-261-7(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 this Section R315-265-72, it shall 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 Subsections R315-265-72(e) or (f).

(e) Except as provided in Subsection R315-265-72(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 Subsection R315-262-20(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 in 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 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 Subsections R315-265-72(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 shall also comply with the exception reporting requirements in Subsection R315-262-42(a).

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in Subsection R315-261-7(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.

R315-265-73. Manifest System, Recordkeeping, and Reporting -- Operating Record.

(a) The owner or operator shall keep a written operating record at his facility.

(b) The following information shall be recorded, as it becomes available, and maintained in the operating record for three years unless noted below:

(1) A description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by Appendix I to 40 CFR part 265, which is adopted and incorporated by reference. This information shall be maintained in the operating record until closure of the facility;

(2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste shall be recorded on a map or diagram of each cell or disposal area. For all facilities, this information shall include cross-references to manifest document numbers if the waste was accompanied by a manifest. This information shall be maintained in the operating record until closure of the facility;

Comment: See Section R315-265-119, 40 CFR 265.279, and 40 CFR 265.309, which are adopted and incorporated by reference, for related requirements.

(3) Records and results of waste analysis, waste determinations, and trial tests performed as specified in Sections R315-265-13, R315-265-200, R315-265-225, R315-265-252, 40 CFR 265.273, 265.314, 265.341, 265.375, 265.402, 265.1034, 265.1063, 265.1084, which are adopted and incorporated by reference, Subsection R315-268-4(a), and Section R315-268-7.

(4) Summary reports and details of all incidents that require implementing the contingency plan as specified in Subsection R315-265-56(j);

(5) Records and results of inspections as required by Subsection R315-265-15(d), except these data need be kept only three years;

(6) Monitoring, testing or analytical data, and corrective action where required by Sections R315-265-90 through 265-94 and by Sections R315-265-19, R315-265-94, R315-265-191, R315-265-193, R315-265-195, R315-265-224, R315-265-226, R315-265-255, R315-265-260, 40 CFR 265.276, 265.278, 265.280(d)(1), 265.302, 265.304, 265.347, 265.377, 265.1034(c) through 265.1034(f), 265.1035, 265.1063(d) through 265. 265.1063(i), 265.1064, and 265.1083 through 265.1090, which are adopted and incorporated by reference. Maintain in the operating record for three years, except for records and results pertaining to ground-water monitoring and cleanup, and response action plans for surface impoundments, waste piles, and landfills, which shall be maintained in the operating record until closure of the facility.

Comment: As required by Section R315-265-94, monitoring data at disposal facilities shall be kept throughout the post-closure period.

(7) All closure cost estimates under Section R315-265-142 and, for disposal facilities, all post-closure cost estimates under Section R315-265-144 shall be maintained in the operating record until closure of the facility.

(8) Records of the quantities, and date of placement, for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to Section R315-268-5, monitoring data required pursuant to a petition under Section R315-268-6, or a certification under Section R315-268-8, and the applicable notice required by a generator under Subsection R315-268-7(a). All of this information shall be maintained in the operating record until closure of the facility.

(9) For an off-site treatment facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under Sections R315-268-7 or R315-268-8;

(10) For an on-site treatment facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required by the generator or the owner or operator under Sections R315-268-7 or R315-268-8;

(11) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under Sections R315-268-7 or R315-268-8;

(12) For an on-site land disposal facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under Sections R315-268-7 or R315-268-8.

(13) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under Sections R315-268-7 or R315-268-8; and

(14) For an on-site storage facility, the information contained in the notice, except the manifest number, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under Sections R315-268-7 or R315-268-8.

(15) Monitoring, testing or analytical data, and corrective action where required by Section R315-265-90, Subsections R315

-265-93(d)(2), and R315-265-93(d)(5), and the certification as required by Subsection R315-265-196(f) shall be maintained in the operating record until closure of the facility.

R315-265-74. Manifest System, Recordkeeping, and Reporting -- Availability, Retention, and Dispostion of Records.

(a) All records, including plans, required under Rule R315-265 shall be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the Director.

(b) The retention period for all records required under Rule R315-265 is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the Director.

(c) A copy of records of waste disposal locations and quantities under Subsection R315-265-73(b)(2) shall be submitted to the Director and local land authority upon closure of the facility, see Section R315-265-119.

R315-265-75. Manifest System, Recordkeeping, and Reporting -- Biennial Report.

The owner or operator shall complete and submit EPA Form 8700-13 A/B to the Director by March 1 of the following even numbered year and shall cover activities during the previous year.

R315-265-76. Manifest System, Recordkeeping, and Reporting -- 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 by Subsection R315-263-20(e), and if the waste is not excluded from the manifest requirement by Rules R315-260 through R315-266, R315-268, R315-270 or R315-273, then the owner or operator shall prepare and submit a letter to the Director within fifteen days after receiving the waste. The unmanifested waste report shall contain 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.

R315-265-77. Manifest System, Recordkeeping, and Reporting -- Additional Reports.

In addition to submitting the biennial report and unmanifested waste reports described in Sections R315-265-75 and 265-76, the owner or operator shall also report to the Director:

(a) Releases, fires, and explosions as specified in Subsection R315-265-56(j);

(b) Ground-water contamination and monitoring data as specified in Sections R315-265-93 and R315-265-94; and

(c) Facility closure as specified in Section R315-265-115.

(d) As otherwise required by 40 CFR 265 Subparts AA, BB, and CC, which are adopted and incorporated by reference.

R315-265-90. Ground-Water Monitoring - Applicability.

(a) Within one year after the effective date of these regulations, the owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste shall implement a ground-water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility, except as Section R315-265-1 and Subsection R315-265-90(c) provide otherwise.

(b) Except as Subsections R315-265-90(c) and (d) provide otherwise, the owner or operator shall install, operate, and maintain a ground-water monitoring system which meets the requirements of Section R315-265-91, and shall comply with Sections R315-265-92 through 265-94. This ground-water 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 ground-water monitoring requirements of Sections R315-265-90 through 265-94 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 ground water; 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 ground-water 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 ground-water monitoring of indicator parameters in accordance with Sections R315-265-91 and 265-92 would show statistically significant increases, or decreases in the case of pH, when evaluated under Subsection R315-265-93(b), he may install, operate, and maintain an alternate ground-water monitoring system, other than the one described in Sections R315-265-91 and 265-92. If the owner or operator decides to use an alternate ground-water monitoring system he shall:

(1) Within one year after the effective date of these regulations, develop a specific plan, certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of Subsection R315-265-93(d)(3), for an alternate ground-water

monitoring system. This plan is to be placed in the facility's operating record and maintained until closure of the facility.

(2) Not later than one year after the effective date of these regulations, initiate the determinations specified in Subsection R315-265-93(d)(4);

(3) Prepare a report in accordance with Subsection R315-265-93(d)(5) and place it in the facility's operating record and maintain until closure of the facility.

(4) Continue to make the determinations specified in Subsection R315-265-93(d)(4) on a quarterly basis until final closure of the facility; and

(5) Comply with the recordkeeping and reporting requirements in Subsection R315-265-94(b).

(e) The ground-water monitoring requirements of this Sections R315-265-90 through 265-94 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 characteristic under Section R315-261-22 or are listed as hazardous wastes in Sections R315-261-30 through 261-35 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 shall establish, 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 shall be in writing and shall be certified by a qualified professional.

(f) The Director may replace all or part of the requirements of Sections R315-265-90 through 265-94 applying to a regulated unit, as defined in Section R315-264-90, 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 Subsection R315-270-1(c)(7), where the 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 Sections R315-265-90 through 265-94 because the alternative requirements will protect human health and the environment. The alternative standards for the regulated unit shall meet the requirements of Subsection R315-264-101(a).

R315-265-91. Ground-Water Monitoring -- Ground-Water Monitoring System.

(a) A ground-water monitoring system shall be capable of yielding ground-water 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 ground-water samples that are:

(i) Representative of background ground-water quality in the uppermost aquifer near the facility; and

(ii) Not affected by the facility; and

(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 shall be in writing and kept at the facility. The demonstration shall 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 Section R315-265-91.

(b) Separate monitoring systems for each waste management component of a 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, for example, cement grout or bentonite slurry, to prevent contamination of samples and the ground water.

R315-265-92. Ground-Water Monitoring -- Sampling and Analysis.

(a) The owner or operator shall obtain and analyze samples from the installed ground-water monitoring system. The owner or operator shall develop and follow a ground-water 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.

Comment: See "Procedures Manual For Ground-water 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 ground-water samples in accordance with Subsections R315-265-92(c) and (d):

(1) Parameters characterizing the suitability of the ground water as a drinking water supply, as specified in Appendix III to 40 CFR 265, which is adopted and incorporated by reference.

(2) Parameters establishing ground-water quality:

(i) Chloride

(ii) Iron

(iii) Manganese

(iv) Phenols

(v) Sodium

(vi) Sulfate

Comment: These parameters are to be used as a basis for comparison in the event a ground-water quality assessment is required under Subsection R315-265-93(d).

(3) Parameters used as indicators of ground-water 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 Subsection R315-265-92(b). He shall do this quarterly for one year.

(2) For each of the indicator parameters specified in Subsection R315-265-92(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 ground-water quality shall be obtained and analyzed for the parameters specified in Subsection R315-265-92(b)(2) at least annually.

(2) Samples collected to indicate ground-water contamination shall be obtained and analyzed for the parameters specified in Subsection R315-265-92(b)(3) at least semi-annually.

(e) Elevation of the ground-water surface at each monitoring well shall be determined each time a sample is obtained.

R315-265-93. Ground-Water Monitoring -- Preparation, Evaluation, and Response.

(a) Within one year after the effective date of these regulations, the owner or operator shall prepare an outline of a ground-water quality assessment program. The outline shall describe a more comprehensive ground-water monitoring program, than that described in Sections R315-265-91 and 265-92, capable of determining:

(1) Whether hazardous waste or hazardous waste constituents have entered the ground water;

(2) The rate and extent of migration of hazardous waste or hazardous waste constituents in the ground water; and

(3) The concentrations of hazardous waste or hazardous waste constituents in the ground water.

(b) For each indicator parameter specified in Subsection R315-265-92(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 Subsection R315-265-92(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 Student's t-test at the 0.01 level of significance, see Appendix IV to 40 CFR 265, which is adopted and incorporated by reference, 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 Subsection R315-265-93(b) show a significant increase, or pH decrease, the owner or operator shall submit this information in accordance with Subsection R315-265-94(a)(2)(ii).

(2) If the comparisons for downgradient wells made under Subsection R315-265-93(b) show a significant increase, or pH decrease, the owner or operator shall then immediately obtain additional ground-water samples from those downgradient wells where a significant difference was detected, split the samples in two, and 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 Subsection R315-265-93(c)(2) confirm the significant increase, or pH decrease, the owner or operator shall provide written notice to the Director---within seven days of the date of such confirmation---that the facility may be affecting ground-water quality.

(2) Within 15 days after the notification under Subsection R315-265-93(d)(1), the owner or operator shall develop a specific plan, based on the outline required under Subsection R315-265-93(a) and certified by a qualified geologist or geotechnical engineer, for a ground-water quality assessment at the facility. This plan shall be placed in the facility operating record and be maintained until closure of the facility.

(3) The plan to be submitted under Subsection R315-265-90(d)(1) or Subsection R315-265-93(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 ground-water quality information; and

(iv) A schedule of implementation.

(4) The owner or operator shall implement the ground-water quality assessment plan which satisfies the requirements of Subsection R315-265-93(d)(3), and, at a minimum, determine:

(i) The rate and extent of migration of the hazardous waste or hazardous waste constituents in the ground water; and

(ii) The concentrations of the hazardous waste or hazardous waste constituents in the ground water.

(5) The owner or operator shall make his first determination under Subsection R315-265-93(d)(4), as soon as technically feasible, and prepare a report containing an assessment of ground-water quality. This report shall be placed in the facility operating record and be maintained until closure of the facility.

(6) If the owner or operator determines, based on the results of the first determination under Subsection R315-265-93(d)(4), that no hazardous waste or hazardous waste constituents from the facility have entered the ground water, then he may reinstate the indicator evaluation program described in Section R315-265-92 and Subsection R315-265-93(b). If the owner or operator reinstates the indicator evaluation program, he shall so notify the Director in the report submitted under Subsection R315-265-93(d)(5).

(7) If the owner or operator determines, based on the first determination under Subsection R315-265-93(d)(4), that hazardous waste or hazardous waste constituents from the facility have entered the ground water, then he:

(i) Shall continue to make the determinations required under Subsection R315-265-93(d)(4) on a quarterly basis until final closure of the facility, if the ground-water quality assessment plan was implemented prior to final closure of the facility; or

(ii) May cease to make the determinations required under Subsection R315-265-93(d)(4), if the ground-water quality assessment plan was implemented during the post-closure care period.

(e) Notwithstanding any other provision of Sections R315-265-90 through R315-265-94, any ground-water quality assessment to satisfy the requirements of Subsection R315-265-93(d)(4) which is initiated prior to final closure of the facility shall be completed and reported in accordance with Subsection R315-265-93(d)(5).

(f) Unless the ground water is monitored to satisfy the requirements of Subsection R315-265-93(d)(4), at least annually the owner or operator shall evaluate the data on ground-water surface elevations obtained under Subsection R315-265-92(e) to determine whether the requirements under Subsection R315-265-91(a) for locating the monitoring wells continues to be satisfied. If the evaluation shows that Subsection R315-265-91(a) is no longer satisfied, the owner or operator shall immediately modify the number, location, or depth of the monitoring wells to bring the ground-water monitoring system into compliance with this requirement.

R315-265-94. Ground-Water Monitoring -- Recordkeeping and Reporting.

(a) Unless the ground water is monitored to satisfy the requirements of Subsection R315-265-93(d)(4), the owner or operator shall:

(1) Keep records of the analyses required in Subsections R315-265-92(c) and (d), the associated ground-water surface elevations required in Subsection R315-265-92(e), and the evaluations required in Subsection R315-265-93(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 ground-water monitoring information to the Director:

(i) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters listed in Subsection R315-265-92(b)(1) for each ground-water 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 Appendix III to 40 CFR 265, which is adopted and incorporated by reference.

(ii) Annually: Concentrations or values of the parameters listed in Subsection R315-265-92(b)(3) for each ground-water monitoring well, along with the required evaluations for these parameters under Subsection R315-265-93(b). The owner or operator shall separately identify any significant differences from initial background found in the upgradient wells, in accordance with Subsection R315-265-93(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 evaluations of ground-water surface elevations under Subsection R315-265-93(f), and a description of the response to that evaluation, where applicable.

(b) If the ground water is monitored to satisfy the requirements of Subsection R315-265-93(d)(4), the owner or operator shall:

(1) Keep records of the analyses and evaluations specified in the plan, which satisfies the requirements of Subsection R315-265-93(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 Director a report containing the results of his or her ground-water 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 ground water during the reporting period. This information shall be submitted no later than March 1 following each calendar year.

R315-265-110. Closure and Post-Closure -- Applicability.

Except as Section R315-265-1 provides otherwise:

(a) Sections R315-265-111 through 265-115, which concern closure, apply to the owners and operators of all hazardous waste management facilities; and

(b) Sections R315-265-116 through R315-265-120, which concern post-closure care, apply to the owners and operators of:

(1) All hazardous waste disposal facilities;

(2) Waste piles and surface impoundments for which the owner or operator intends to remove the wastes at closure to the extent that these sections are made applicable to such facilities in Sections R315-265-228 or R315-265-258;

(3) Tank systems that are required under Section R315-265-197 to meet requirements for landfills; and

(4) Containment buildings that are required under 40 CFR 265.1102, which is adopted and incorporated by reference, to meet the requirement for landfills.

(c) Section R315-265-121 applies to owners and operators of units that are subject to the requirements of Subsection R315-270-1(c)(7) and are regulated under an enforceable document, as defined in Subsection R315-270-1(c)(7).

(d) The Director may replace all or part of the requirements of Sections R315-265-110 through 265-121, and the unit-specific standards in Subsection R315-265-111(c), applying to a regulated unit, as defined in Section R315-264-90, with alternative requirements for closure set out in an approved closure or post-closure plan, or in an enforceable document, as defined in Subsection R315-270-1(c)(7), where the 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 closure requirements of Sections R315-265-110 through 265-121, those referenced herein, or both, because the alternative requirements will protect human health and the environment, and will satisfy the closure performance standard of Subsections R315-265-111(a) and (b).

R315-265-111. Closure and Post-Closure -- Closure Performance Standard.

The owner or operator shall close the facility in a manner that:

(a) Minimizes the need for further maintenance, and

(b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, and

(c) Complies with the closure requirements of Sections R315-110 through 121, including, but not limited to, the requirements of Sections R315-265-197, R315-265-228, R315-265-258, and 40 CFR 265.280, 265.310, 265.351, 265.381, 265.404, and 265.1102, which are adopted and incorporated by reference.

R315-265-112. Closure and Post-Closure -- Closure Plan; Amendment of Plan.

(a) Written plan. By May 19, 1981, or by six months after the effective date of the rule that first subjects a facility to provisions of Section R315-265-112, the owner or operator of a hazardous waste management facility shall have a written closure plan. Until final closure is completed and certified in accordance with Section R315-265-115, a copy of the most current plan shall be furnished to the Director upon request, including request by mail. In addition, for facilities without approved plans, it shall also be provided during site inspections, on the day of inspection, to any officer, employee, or representative of the Director who is duly designated by the Director.

(b) Content of plan. The plan shall identify steps necessary to perform partial, final, or both, closure of the facility at any point during its active life. The closure plan shall include, at least:

(1) A description of how each hazardous waste management unit at the facility will be closed in accordance with Section R315-265-111; and

(2) A description of how final closure of the facility will be conducted in accordance with Section R315-265-111. The description shall identify the maximum extent of the operation which will be unclosed during the active life of the facility; and

(3) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to methods for removing, transporting, treating, storing or disposing of all hazardous waste, identification of and the type(s) of off-site hazardous waste management unit(s) to be used, if applicable; and

(4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard; and

(5) A detailed description of other activities necessary during the partial and final closure periods to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground-water monitoring, leachate collection, and run-on and run-off control; and

(6) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule shall include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover shall be included.; and

(7) An estimate of the expected year of final closure for facilities that use trust funds to demonstrate financial assurance under Sections R315-265-143 or 265-145 and whose remaining operating life is less than twenty years, and for facilities without approved closure plans.

(8) For facilities where the Director has applied alternative requirements at a regulated unit under Subsections R315-265-90(f), R315-265-110(d), R315-265-140(d), or all three, either the alternative requirements applying to the regulated unit, or a reference to the enforceable document containing those alternative requirements.

(c) Amendment of plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan shall submit a written request to the Director to authorize a change to the approved closure plan. The written request shall include a copy of the amended closure plan for approval by the Director.

(1) The owner or operator shall amend the closure plan whenever:

(i) Changes in operating plans or facility design affect the closure plan, or

(ii) There is a change in the expected year of closure, if applicable, or

(iii) In conducting partial or final closure activities, unexpected events require a modification of the closure plan.

(iv) The owner or operator requests the Director to apply alternative requirements to a regulated unit under Subsections R315-265-90(f), R315-265-110(d), R315-265-140(d), or all three.

(2) The owner or operator shall amend the closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator shall amend the closure plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure, but are required to close as landfills in accordance with 40 CFR 265.310, which is adopted and incorporated by reference.

(3) An owner or operator with an approved closure plan shall submit the modified plan to the Director at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator shall submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with 40 CFR 265.310, which is adopted and incorporated by reference. If the amendment to the plan is a Class 2 or 3 modification according to the

criteria in Section R315-270-42, the modification to the plan will be approved according to the procedures in Subsection R315-265-112(d)(4).

(4) The Director may request modifications to the plan under the conditions described in Subsection R315-265-112(c)(1). An owner or operator with an approved closure plan shall submit the modified plan within 60 days of the request from the Director, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in Section R315-270-42, the modification to the plan will be approved in accordance with the procedures in Subsection R315-265-112(d)(4).

(d) Notification of partial closure and final closure.

(1) The owner or operator shall submit the closure plan to the Director at least 180 days prior to the date on which he expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator shall submit the closure plan to the Director at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace. The owner or operator shall submit the closure plan to the Director at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans shall notify the Director in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners or operators with approved closure plans shall notify the Director in writing at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace. Owners or operators with approved closure plans shall notify the Director in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

(2) The date when he "expects to begin closure" shall be either:

(i) Within 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes, or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit can demonstrate to the Director that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all interim status requirements, the Director may approve an extension to this one-year limit; or

(ii) For units meeting the requirements of Subsection R315-265-113(d), no later than 30 days after the date on which the hazardous waste management unit receives the known final volume of nonhazardous wastes, or if there is a reasonable possibility that the hazardous waste management unit will receive additional nonhazardous wastes, no later than one year after the date on which the unit received the most recent volume of nonhazardous wastes. If the owner or operator can demonstrate to the Director that the hazardous waste management unit has the capacity to receive additional nonhazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements, the Director may approve an extension to this one-year limit.

(3) The owner or operator shall submit his closure plan to the Director no later than 15 days after:

(i) Termination of interim status except when a permit is issued simultaneously with termination of interim status; or

(ii) Issuance of a judicial decree or final order under section 3008 of RCRA to cease receiving hazardous wastes or close.

(4) The Director will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications to the plan no later than 30 days from the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Director will give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined. The Director will approve, modify, or disapprove the plan within 90 days of its receipt. If the Director does not approve the plan he shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator shall modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Director will approve or modify this plan in writing within 60 days. If the Director modifies the plan, this modified plan becomes the approved closure plan. The Director shallt assure that the approved plan is consistent with Sections R315-265-111 through 265-115 and the applicable requirements of Sections R315-265-90 through 265-94, and Sections R315-265-197, R315-265-228, R315-265-258, and 40 CFR 265.280, 265.310, 265.351, 265.381, 265.404, and 265.1102, which are adopted and incorporated by reference. A copy of the modified plan with a detailed statement of reasons for the modifications shall be mailed to the owner or operator.

(e) Removal of wastes and decontamination or dismantling of equipment. Nothing in Section R315-265-112 shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

R315-265-113. Closure and Post-Closure -- Closure; Time Allowed for Closure.

(a) Within 90 days after receiving the final volume of hazardous wastes, or the final volume of nonhazardous wastes if the owner or operator complies with all applicable requirements in Subsections R315-265-113(d) and (e), at a hazardous waste management unit or facility, or within 90 days after approval of the closure plan, whichever is later, the owner or operator shall treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan. The Director may approve a longer period if the owner or operator demonstrates that:

(1)(i) The activities required to comply with this Subsection R315-265-113(a) will, of necessity, take longer than 90 days to complete; or

(ii)(A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity

to receive non-hazardous wastes if the facility owner or operator complies with Subsections R315-265-113(d) and (e); and

(B) There is a reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements.

(b) The owner or operator shall complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of nonhazardous wastes if the owner or operator complies with all applicable requirements in Subsections R315-265-113(d) and (e), at the hazardous waste management unit or facility, or 180 days after approval of the closure plan, if that is later. The Director may approve an extension to the closure period if the owner or operator demonstrates that:

(1)(i) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

(ii)(A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes if the facility owner or operator complies with Subsections R315-265-113(d) and (e); and

(B) There is reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

(c) The demonstrations referred to in Subsections R315-265-113(a)(1) and (b)(1) shall be made as follows:

(1) The demonstrations in Subsection R315-265-113(a)(1) shall be made at least 30 days prior to the expiration of the 90-day period in Subsection R315-265-113(a); and

(2) The demonstration in Subsection R315-265-113(b)(1) shall be made at least 30 days prior to the expiration of the 180-day period in Subsection R315-265-113(b), unless the owner or operator is otherwise subject to the deadlines in Subsection R315-265-113(d).

(d) The Director may allow an owner or operator to receive non-hazardous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of hazardous wastes at that unit if:

(1) The owner or operator submits an amended part B application, or a part B application, if not previously required, and demonstrates that:

(i) The unit has the existing design capacity as indicated on the part A application to receive non-hazardous wastes; and

(ii) There is a reasonable likelihood that the owner or operator or another person will receive non-hazardous wastes in the unit within one year after the final receipt of hazardous wastes; and

(iii) The non-hazardous wastes will not be incompatible with any remaining wastes in the unit or with the facility design and operating requirements of the unit or facility under Rule R315-265; and

(iv) Closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and

(v) The owner or operator is operating and will continue to operate in compliance with all applicable interim status requirements; and

(2) The part B application includes an amended waste analysis plan, ground-water monitoring and response program, human exposure assessment required under RCRA section 3019, and closure and post-closure plans, and updated cost estimates and demonstrations of financial assurance for closure and post-closure care as necessary and appropriate to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes, and changes in closure activities, including the expected year of closure if applicable under Subsection R315-265-112(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes; and

(3) The part B application is amended, as necessary and appropriate, to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

(4) The part B application and the demonstrations referred to in Subsections R315-265-113(d)(1) and (d)(2) are submitted to the Director no later than 180 days prior to the date on which the owner or operator of the facility receives the known final volume of hazardous wastes, or no later than 90 days after the effective date of Rule R315-265, whichever is later.

(e) In addition to the requirements in Subsection R315-265-113(d), an owner or operator of a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements in 42 U.S.C. 3004(o)(1) and 3005(j)(1) or 42 U.S.C. 3004(o)(2) or (3) or 3005(j) (2), (3), (4) or (13) shall:

(1) Submit with the part B application:

(i) A contingent corrective measures plan; and

(ii) A plan for removing hazardous wastes in compliance with Subsection R315-265-113(e)(2); and

(2) Remove all hazardous wastes from the unit by removing all hazardous liquids and removing all hazardous sludges to the extent practicable without impairing the integrity of the liner(s), if any.

(3) Removal of hazardous wastes shall be completed no later than 90 days after the final receipt of hazardous wastes. The Director may approve an extension to this deadline if the owner or operator demonstrates that the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete and that an extension will not pose a threat to human health and the environment.

(4) If a release that is a statistically significant increase, or decrease in the case of pH, in hazardous constituents over background levels is detected in accordance with the requirements in Sections R315-265-90 through 265-94, the owner or operator of the unit:

(i) Shall implement corrective measures in accordance with the approved contingent corrective measures plan required by Subsection R315-265-113(e)(1) no later than one year after detection of the release, or approval of the contingent corrective measures plan, whichever is later;

(ii) May receive wastes at the unit following detection of the release only if the approved corrective measures plan includes a demonstration that continued receipt of wastes will not impede corrective action; and

(iii) May be required by the Director to implement corrective measures in less than one year or to cease receipt of wastes until corrective measures have been implemented if necessary to protect human health and the environment.

(5) During the period of corrective action, the owner or operator shall provide annual reports to the Director describing the progress of the corrective action program, compile all ground-water monitoring data, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

(6) The Director may require the owner or operator to commence closure of the unit if the owner or operator fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within one year as required in Subsection R315-265-113(e)(4), or fails to make substantial progress in implementing corrective action and achieving the facility's background levels.

(7) If the owner or operator fails to implement corrective measures as required in Subsection R315-265-113(e)(4), or if the Director determines that substantial progress has not been made pursuant to Subsection R315-265-113(e)(6) he shall:

(i) Notify the owner or operator in writing that the owner or operator shall begin closure in accordance with the deadline in Subsections R315-265-113(a) and (b) and provide a detailed statement of reasons for this determination, and

(ii) Provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision no later than 20 days after the date of the notice.

(iii) If the Director receives no written comments, the decision will become final five days after the close of the comment period. The Director will notify the owner or operator that the decision is final, and that a revised closure plan, if necessary, shall be submitted within 15 days of the final notice and that closure shall begin in accordance with the deadlines in Subsections R315-265-113(a) and (b).

(iv) If the Director receives written comments on the decision, he shall make a final decision within 30 days after the end of the comment period, and provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision. If the Director determines that substantial progress has not been made, closure shall be initiated in accordance with the deadlines in Subsections R315-265-113(a) and (b).

(v) The final determinations made by the Director under Subsections R315-265-113(e)(7)(iii) and (iv) are not subject to administrative appeal.

R315-265-114. Closure and Post-Closure -- Disposal or Decontamination of Equipment, Structures and Soils.

During the partial and final closure periods, all contaminated equipment, structures and soil shall be properly disposed of, or decontaminated unless specified otherwise in Sections R315-265-197, 265-228, 265-258, or 40 CFR 265.280, or 265.310, which are adopted and incorporated by reference. By removing all hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and shall handle that hazardous waste in accordance with all applicable requirements of Rule R315-262.

R315-265-115. Closure and Post-Closure -- Certification of Closure.

Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of completion of final closure, the owner or operator shall submit to the Director, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification shall be signed by the owner or operator and by a qualified Professional Engineer. Documentation supporting the Professional Engineer's certification shall be furnished to the Director upon request until he releases the owner or operator from the financial assurance requirements for closure under Subsection R315-265-143(h).

R315-265-116. Closure and Post-Closure -- Survey Plat.

No later than the submission of the certification of closure of each hazardous waste disposal unit, an owner or operator shall submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Director, a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat shall be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use shall contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable regulations in Sections R315-265-110 through 265-121.

R315-265-117. Closure and Post-Closure -- Post-Closure Care and Use of Property.

(a)(1) Post-closure care for each hazardous waste management unit subject to the requirements of Sections R315-265-117 through 265-120 shall begin after completion of closure of the unit and continue for 30 years after that date. It shall consist of at least the following:

(i) Monitoring and reporting in accordance with the requirements of Sections R315-265-90 through 265-94, R315-265-220 through 265-231, R315-265-250 through 265-260, and subparts M, and N of 40 CFR 265, which are adopted and incorporated by reference; and

(ii) Maintenance and monitoring of waste containment systems in accordance with the requirements of Sections R315-265-90 through 265-94, R315-265-220 through 265-231, R315-265-250 through 265-260, and subparts M, and N of 40 CFR 265, which are adopted and incorporated by reference.

(2) Any time preceding closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular hazardous waste disposal unit, the Director may:

(i) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if he finds that the reduced period is sufficient to protect human health and the environment, for example, leachate or ground-water monitoring results, characteristics of the hazardous waste, application of advanced technology, or alternative disposal, treatment,

or re-use techniques indicate that the hazardous waste management unit or facility is secure; or

(ii) Extend the post-closure care period applicable to the hazardous waste management unit or facility, if he finds that the extended period is necessary to protect human health and the environment, for example, leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment.

(b) The Director may require, at partial and final closure, continuation of any of the security requirements of Section R315-265-14 during part or all of the post-closure period when:

(1) Hazardous wastes may remain exposed after completion of partial or final closure; or

(2) Access by the public or domestic livestock may pose a hazard to human health.

(c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure shall never be allowed to disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the facility's monitoring systems, unless the Director finds that the disturbance:

(1) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(2) Is necessary to reduce a threat to human health or the environment.

(d) All post-closure care activities shall be in accordance with the provisions of the approved post-closure plan as specified in Section R315-265-118.

R315-265-118. Closure and Post-Closure -- Post-Closure Plan; Amendment of Plan.

(a) Written plan. By May 19, 1981, the owner or operator of a hazardous waste disposal unit shall have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure shall prepare a post-closure plan and submit it to the Director within 90 days of the date that the owner or operator or Director determines that the hazardous waste management unit or facility shall be closed as a landfill, subject to the requirements of Sections R315-265-117 through 265-120.

(b) Until final closure of the facility, a copy of the most current post-closure plan shall be furnished to the Director upon request, including request by mail. In addition, for facilities without approved post-closure plans, it shall also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Director. After final closure has been certified, the person or office specified in Subsection R315-265-118(c)(3) shall keep the approved post-closure plan during the post-closure period.

(c) For each hazardous waste management unit subject to the requirements of this Section R315-265-118, the post-closure plan shall identify the activities that will be carried on after closure of each disposal unit and the frequency of these activities, and include at least:

(1) A description of the planned monitoring activities and frequencies at which they will be performed to comply with Sections R315-265-90 through 265-94, R315-265-220 through 265-231, R315-265-250 through 265-260, and subparts M, and N of 40 CFR 265, which are adopted and incorporated by reference, during the post-closure care period; and

(2) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(i) The integrity of the cap and final cover or other containment systems in accordance with the requirements of Sections R315-265-90 through 265-94, R315-265-220 through 265-231, R315-265-250 through 265-260, and subparts M, and N of 40 CFR 265, which are adopted and incorporated by reference; and

(ii) The function of the monitoring equipment in accordance with the requirements of Sections R315-265-90 through 265-94, R315-265-220 through 265-231, R315-265-250 through 265-260, and subparts M, and N of 40 CFR 265, which are adopted and incorporated by reference; and

(3) The name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period.

(4) For facilities subject to Section R315-265-121, provisions that satisfy the requirements of Subsections R315-265-121(a)(1) and (3).

(5) For facilities where the Director has applied alternative requirements at a regulated unit under Subsections R315-265-90(f), R315-265-110(d), R315-265-140(d), or all three, either the alternative requirements that apply to the regulated unit, or a reference to the enforceable document containing those requirements.

(d) Amendment of plan. The owner or operator may amend the post-closure plan any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure plan shall submit a written request to the Director to authorize a change to the approved plan. The written request shall include a copy of the amended post-closure plan for approval by the Director.

(1) The owner or operator shall amend the post-closure plan whenever:

(i) Changes in operating plans or facility design affect the post-closure plan, or

(ii) Events which occur during the active life of the facility, including partial and final closures, affect the post-closure plan.

(iii) The owner or operator requests the Director to apply alternative requirements to a regulated unit under Subsections R315-265.90(f), R315-265.110(d), R315-265.140(d) or all three.

(2) The owner or operator shall amend the post-closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan.

(3) An owner or operator with an approved post-closure plan shall submit the modified plan to the Director at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the post-closure plan. If an owner or operator of a surface impoundment or a waste pile who intended to remove all hazardous wastes at closure in accordance with Subsections R315-265-228(b) or R315-265-258(a) is required to close as a landfill in accordance with 40 CFR 265.310, which is adopted and incorporated by reference, the owner or operator shall submit a post-closure plan within 90 days of the determination by the owner or operator or Director that the unit shall be closed as a landfill. If the amendment to the post-closure plan is a Class 2 or 3 modification according to the criteria in Section R315-270-42, the modification to the plan will be approved according to the procedures in Subsection R315-265-118(f).

(4) The Director may request modifications to the plan under the conditions described in Section R315-265-118(d)(1). An owner or operator with an approved post-closure plan shall submit the

modified plan no later than 60 days of the request from the Director. If the amendment to the plan is considered a Class 2 or 3 modification according to the criteria in Section R315-270-42, the modifications to the post-closure plan will be approved in accordance with the procedures in Subsection R315-265-118(f). If the Director determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure shall close the facility as a landfill, the owner or operator shall submit a post-closure plan for approval to the Director within 90 days of the determination.

(e) The owner or operator of a facility with hazardous waste management units subject to these requirements shall submit his post-closure plan to the Director at least 180 days before the date he expects to begin partial or final closure of the first hazardous waste disposal unit. The date he "expects to begin closure" of the first hazardous waste disposal unit shall be either within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. The owner or operator shall submit the post-closure plan to the Director no later than 15 days after:

(1) Termination of interim status, except when a permit is issued to the facility simultaneously with termination of interim status; or

(2) Issuance of a judicial decree or final orders under section 3008 of RCRA to cease receiving wastes or close.

(f) The Director will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the post-closure plan and request modifications to the plan no later than 30 days from the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a post-closure plan. The Director will give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined. The Director will approve, modify, or disapprove the plan within 90 days of its receipt. If the Director does not approve the plan he shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator shall modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Director will approve or modify this plan in writing within 60 days. If the Director modifies the plan, this modified plan becomes the approved post-closure plan. The Director shall ensure that the approved post-closure plan is consistent with Sections R315-265-117 through 265-120. A copy of the modified plan with a detailed statement of reasons for the modifications shall be mailed to the owner or operator.

(g) The post-closure plan and length of the post-closure care period may be modified any time prior to the end of the post-closure care period in either of the following two ways:

(1) The owner or operator or any member of the public may petition the Director to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause, or alter the requirements of the post-closure care period based on cause.

(i) The petition shall include evidence demonstrating that:

(A) The secure nature of the hazardous waste management unit or facility makes the post-closure care requirement(s) unnecessary or supports reduction of the post-closure care period specified in the current post-closure plan, for example, leachate or ground-water monitoring results, characteristics of the wastes, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the facility is secure, or

(B) The requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health and the environment, e.g., leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment.

(ii) These petitions will be considered by the Director only when they present new and relevant information not previously considered by the Director. Whenever the Director is considering a petition, he will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The Director will give the public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two notices may be combined. After considering the comments, he will issue a final determination, based upon the criteria set forth in Subsection R315-265-118(g)(1).

(iii) If the Director denies the petition, he will send the petitioner a brief written response giving a reason for the denial.

(2) The Director may tentatively decide to modify the post-closure plan if he deems it necessary to prevent threats to human health and the environment. He may propose to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause or alter the requirements of the post-closure care period based on cause.

(i) The Director will provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice and the opportunity for a public hearing as in Subsection R315-265-118(g)(1)(ii). After considering the comments, he will issue a final determination.

(ii) The Director will base his final determination upon the same criteria as required for petitions under Subsection R315-265-118(g)(1)(i). A modification of the post-closure plan may include, where appropriate, the temporary suspension rather than permanent deletion of one or more post-closure care requirements. At the end of the specified period of suspension, the Director would then determine whether the requirement(s) should be permanently discontinued or reinstated to prevent threats to human health and the environment.

R315-265-119. Closure and Post-Closure -- Post-Closure Notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator shall submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Director, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator shall identify the type,

location and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within 60 days of certification of closure of the first hazardous waste disposal unit and within 60 days of certification of closure of the last hazardous waste disposal unit, the owner or operator shall:

(1) Record, in accordance with Utah law, a notation on the deed to the facility property---or on some other instrument which is normally examined during title search---that will in perpetuity notify any potential purchaser of the property that:

(i) The land has been used to manage hazardous wastes; and

(ii) Its use is restricted under regulations in Sections R315-265-110 through 265-121; and

(iii) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by Section R315-265-116 and Subsection R315-265-119(a) have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Director; and

(2) Submit a certification signed by the owner or operator that he has recorded the notation specified in Subsection R315-265-119(b)(1) and a copy of the document in which the notation has been placed, to the Director.

(c) If the owner or operator or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated structures, equipment, and soils, he shall request a modification to the approved post-closure plan in accordance with the requirements of Subsection R315-265-118(g). The owner or operator shall demonstrate that the removal of hazardous wastes will satisfy the criteria of Subsection R315-265-117(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and shall manage it in accordance with all applicable requirements of Rules R315-260 through 266, R315-268, R315-270 and R315-273. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the Director approve either:

(1) The removal of the notation on the deed to the facility property or other instrument normally examined during title search, or

(2) The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

R315-265-120. Closure and Post-Closure -- Certification of Completion of Post-Closure Care.

No later than 60 days after the completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator shall submit to the Director, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification shall be signed by the owner or operator and a qualified Professional Engineer. Documentation supporting the Professional Engineer's certification shall be furnished to the Director upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under Subsection R315-265-145(h).

R315-265-121. Closure and Post-Closure -- Post-Closure Requirements for Facilities that Obtain Enforceable Documents in Lieu of Post-Closure Permits.

(a) Owners and operators who are subject to the requirement to obtain a post-closure permit under Subsection R315-270-1(c), but who obtain enforceable documents in lieu of post-closure permits, as provided under Subsection R315-270-1(c)(7), shall comply with the following requirements:

(1) The requirements to submit information about the facility in Section R315-270-28;

(2) The requirements for facility-wide corrective action in Section R315-264-101;

(3) The requirements of Sections R315-264-91 through 264-100.

(b)(1) The Director, in issuing enforceable documents under Section R315-265-121 in lieu of permits, will assure a meaningful opportunity for public involvement which, at a minimum, includes public notice and opportunity for public comment:

(i) When the Director becomes involved in a remediation at the facility as a regulatory or enforcement matter;

(ii) On the proposed preferred remedy and the assumptions upon which the remedy is based, in particular those related to land use and site characterization; and

(iii) At the time of a proposed decision that remedial action is complete at the facility. These requirements shall be met before the Director may consider that the facility has met the requirements of Subsection R315-270-1(c)(7), unless the facility qualifies for a modification to these public involvement procedures under Subsections R315-265-121(b)(2) or (3).

(2) If the Director determines that even a short delay in the implementation of a remedy would adversely affect human health or the environment, the Director may delay compliance with the requirements of Subsection R315-265-121(b)(1) and implement the remedy immediately. However, the Director shall assure involvement of the public at the earliest opportunity, and, in all cases, upon making the decision that additional remedial action is not needed at the facility.

(3) The Director may allow a remediation initiated prior to October 22, 1998 to substitute for corrective action required under a post-closure permit even if the public involvement requirements of Subsection R315-265-121(b)(1) have not been met so long as the Director assures that notice and comment on the decision that no further remediation is necessary to protect human health and the environment takes place at the earliest reasonable opportunity after October 22, 1998.

R315-265-140. Financial Requirements -- Applicability.

(a) The requirements of Sections R315-265-142, R315-265-143, R315-265-147 and R315-265-148 apply to owners or operators of all hazardous waste facilities, except as provided otherwise in this Section R315-265-140 or in Section R315-265-1.

(b) The requirements of Sections R315-265-144 and R315-265-145 apply only to owners and operators of:

(1) Disposal facilities;

(2) Tank systems that are required under Section R315-265-197 to meet the requirements for landfills; and

(3) Containment buildings that are required under 40 CFR 265.1102, which is adopted and incorporated by reference, to meet the requirements for landfills.

(c) States and the Federal government are exempt from the requirements of Sections R315-265-140 through 265-148.

(d) The Director may replace all or part of the requirements of Sections R315-265-140 through 265-148 applying to a regulated

unit with alternative requirements for financial assurance set out in the permit or in an enforceable document, as defined in Subsection R315-270-1(c)(7), where the Director:

(1) Prescribes alternative requirements for the regulated unit under Subsection R315-265-90(f), Subsection R315-265-110(d), or both, and

(2) Determines that it is not necessary to apply the requirements of Sections R315-265-140 through 265-148 because the alternative financial assurance requirements will protect human health and the environment.

R315-265-141. Financial Requirements -- Definitions of Terms as Used in Sections R315-265-140 through R315-265-148.

(a) Closure plan means the plan for closure prepared in accordance with the requirements of Section R315-265-112.

(b) Current closure cost estimate means the most recent of the estimates prepared in accordance with Subsections R315-265-142(a), (b), and (c).

(c) Current post-closure cost estimate means the most recent of the estimates prepared in accordance with Subsections R315-265-144(a), (b), and (c).

(d) Parent corporation means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

(e) Post-closure plan means the plan for post-closure care prepared in accordance with the requirements of Sections R315-265-117 through 265-120.

(f) The following terms are used in the specifications for the financial tests for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

Assets means all existing and all probable future economic benefits obtained or controlled by a particular entity.

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.

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.

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).

Independently audited refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

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.

Net working capital means current assets minus current liabilities.

Net worth means total assets minus total liabilities and is equivalent to owner's equity.

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.

(g) In the liability insurance requirements the terms bodily injury and property damage shall have the meanings given these terms by applicable Utah law. However, these terms do not include those liabilities which, consistent with standard industry practice, are excluded from coverage in liability policies for bodily injury and property damage. The Director intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

Accidental occurrence means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

Legal defense costs means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

Nonsudden accidental occurrence means an occurrence which takes place over time and involves continuous or repeated exposure.

Sudden accidental occurrence means an occurrence which is not continuous or repeated in nature.

(h) Substantial business relationship means the extent of a business relationship necessary under applicable Utah law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the Director.

R315-265-142. Financial Requirements -- Cost Estimate for Closure.

(a) The owner or operator shall have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections R315-265-111 through R315-265-115 and applicable closure requirements in Sections R315-265-197, R315-265-228, R315-265-258, and 40 CFR 265.280, 265.310, 265.351, 265.381, 265.404, and 265.1102, which are adopted and incorporated by reference.

(1) The estimate shall equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan, see Subsection R315-265-112(b); and

(2) The closure cost estimate shall be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. See definition of parent corporation in Subsection R315-265-141(d). The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

(3) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-hazardous wastes if applicable under Subsection R315-265-113(d), facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.

(4) The owner or operator may not incorporate a zero cost for hazardous wastes, or non-hazardous wastes if applicable under Subsection R315-265-113(d), that might have economic value.

(b) During the active life of the facility, the owner or operator shall adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with Section R315-265-143. For owners and operators using the financial test or corporate guarantee, the closure cost estimate shall be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Director as specified in Subsection R315-265-143(e)(3). The adjustment may be made by recalculating the closure cost estimate in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business, as specified in Subsections R315-265-142(b)(1) and (2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(2) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(c) During the active life of the facility, the owner or operator shall revise the closure cost estimate no later than 30 days after a revision has been made to the closure plan which increases the cost of closure. If the owner or operator has an approved closure plan, the closure cost estimate shall be revised no later than 30 days after the Director has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate shall be adjusted for inflation as specified in Subsection R315-265-142(b).

(d) The owner or operator shall keep the following at the facility during the operating life of the facility: The latest closure cost estimate prepared in accordance with Subssections R315-265-142(a) and (c) and, when this estimate has been adjusted in accordance with Subsection R315-265-142(b), the latest adjusted closure cost estimate.

R315-265-143. Financial Requirements -- Financial Assurance for Closure.

By the effective date of these regulations, an owner or operator of each facility shall establish financial assurance for closure of the facility. He shall choose from the options as specified in Subsections R315-265-143(a) through (e).

(a) Closure trust fund.

(1) An owner or operator may satisfy the requirements of Section R315-265-143 by establishing a closure trust fund which conforms to the requirements of Subsection R315-265-143(a) and submitting an originally signed duplicate of the trust agreement to the Director. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or Utah agency.

(2) The wording of the trust agreement shall be identical to the wording specified in Subsection R315-264-151(a)(1), and the trust agreement shall be accompanied by a formal certification of acknowledgment, for example, see Subsection R315-264-151(a)(2). Schedule A of the trust agreement shall be updated within 60 days after a change in the amount of the current closure cost estimate covered by the agreement.

(3) Payments into the trust fund shall be made annually by the owner or operator over the 20 years beginning with the effective date of these regulations or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the closure trust fund shall be made as follows:

(i) The first payment shall be made by the effective date of these regulations, except as provided in Subsection R315-265-143(a)(5). The first payment shall be at least equal to the current closure cost estimate, except as provided in Subsection R315-265-143(f), divided by the number of years in the pay-in period.

(ii) Subsequent payments shall be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment shall be determined by this formula: Next payment=(CE-CV)/Y, where CE is the current closure cost estimate, 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 may accelerate payments into the trust fund or he may deposit the full amount of the current closure cost estimate at the time the fund is established. However, he shall maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Subsection R315-265-143(a)(3).

(5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in Section R315-265-143, his first payment shall be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in Subsection R315-265-143(a)(3).

(6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, shall either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in Section R315-265-143 to cover the difference.

(7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Director for release of the amount in excess of the current closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in Section R315-265-143 for all or part of the trust fund, he may submit a written request to the Director for release of the amount in excess of the current closure cost estimate covered by the trust fund.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in Subsections R315-265-143(a)(7) or (8), the Director will instruct the trustee to release to the owner or operator such funds as the Director specifies in writing.

(10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Director. The owner or operator may request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than 60 days

after receiving bills for partial or final closure activities, the Director will instruct the trustee to make reimbursements in those amounts as the Director specifies in writing, if the Director determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Director has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with Subsection R315-265-143(h) that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Director does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

(11) The Director will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in Section R315-265-143; or

(ii) The Director releases the owner or operator from the requirements of Section R315-265-143 in accordance with Subsection R315-265-143(h).

(b) Surety bond guaranteeing payment into a closure trust fund.

(1) An owner or operator may satisfy the requirements of Section R315-265-143 by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the Director. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The wording of the surety bond shall be identical to the wording specified in Subsection R315-264-151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of Section R315-265-143 shall also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund shall meet the requirements specified in Subsection R315-265-143(a), except that:

(i) An originally signed duplicate of the trust agreement shall be submitted to the Director with the surety bond; and

(ii) Until the standby trust fund is funded pursuant to the requirements of Section R315-265-143, the following are not required by these regulations:

(A) Payments into the trust fund as specified in Subsection R315-265-143(a);

(B) Updating of Schedule A of the trust agreement, see Subsection R315-264-151(a), to show current closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond shall guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin final closure issued by the Director becomes final, or within 15 days after an order to begin final closure is issued by a U.S. district court or other court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in Section R315-265-143, and obtain the Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the bond from the surety.

(5) 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.

(6) The penal sum of the bond shall be in an amount at least equal to the current closure cost estimate, except as provided in Subsection R315-265-143(f).

(7) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, shall either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in Section R315-265-143 to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, as evidenced by the return receipts.

(9) The owner or operator may cancel the bond if the Director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in Section R315-265-143.

(c) Closure letter of credit.

(1) An owner or operator may satisfy the requirements of Section R315-265-143 by obtaining an irrevocable standby letter of credit which conforms to the requirements of Subsection R315-265-143(c) and submitting the letter to the Director. The issuing institution shall be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or Utah agency.

(2) The wording of the letter of credit shall be identical to the wording specified in Subsection R315-264-151(d).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of Section R315-265-143 shall also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund shall meet the requirements of the trust fund specified in Subsection R315-265-143(a), except that:

(i) An originally signed duplicate of the trust agreement shall be submitted to the Director with the letter of credit; and

(ii) Unless the standby trust fund is funded pursuant to the requirements of Section R315-265-143, the following are not required by these regulations:

(A) Payments into the trust fund as specified in Subsection R315-265-143(a);

(B) Updating of Schedule A of the trust agreement, see Subsection R315-264-151(a), to show current closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The letter of credit shall be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: The EPA Identification Number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.

(5) The letter of credit shall be irrevocable and issued for a period of at least 1 year. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Director have received the notice, as evidenced by the return receipts.

(6) The letter of credit shall be issued in an amount at least equal to the current closure cost estimate, except as provided in Subsection R315-265-143(f).

(7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, shall either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in Section R315-265-143 to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(8) Following a final administrative determination that the owner or operator has failed to perform final closure in accordance with the approved closure plan when required to do so, the Director may draw on the letter of credit.

(9) If the owner or operator does not establish alternate financial assurance as specified in Section R315-265-143 and obtain written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Director will draw on the letter of credit. The Director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in Section R315-265-143 and obtain written approval of such assurance from the Director.

(10) The Director will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in Section R315-265-143; or

(ii) The Director releases the owner or operator from the requirements of Section R315-265-143 in accordance with Subsection R315-265-143(h).

(d) Closure insurance.

(1) An owner or operator may satisfy the requirements of Section R315-265-143 by obtaining closure insurance which conforms to the requirements of Subsection R315-265-143(d) and submitting a certificate of such insurance to the Director. By the effective date of these regulations the owner or operator shall submit to the Director a letter from an insurer stating that the insurer is considering issuance of closure insurance conforming to the requirements of this paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator shall submit the certificate of insurance to the Director or establish other financial assurance as specified in Section R315-265-143. At a minimum, the insurer shall 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.

(2) The wording of the certificate of insurance shall be identical to the wording specified in Subsection R315-264-151(e).

(3) The closure insurance policy shall be issued for a face amount at least equal to the current closure cost estimate, except as provided in Subsection R315-265-143(f). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The closure insurance policy shall guarantee that funds will be available to close the facility whenever final closure occurs. The policy shall also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Director, to such party or parties as the Director specifies.

(5) After beginning partial or final closure, an owner or operator or any other person authorized to conduct closure may request reimbursements for closure expenditures by submitting itemized bills to the Director. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Director will instruct the insurer to make reimbursements in such amounts as the Director specifies in writing if the Director determines that the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified. If the Director has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with Subsection R315-265-143(h), that the owner or operator is no longer required to maintain financial assurance for final closure of the particular facility. If the Director does not instruct the insurer to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

(6) The owner or operator shall maintain the policy in full force and effect until the Director consents to termination of the policy by the owner or operator as specified in Subsection R315-265-143(d)(10). Failure to pay the premium, without substitution of alternate financial assurance as specified in this section, will constitute a significant violation of these regulations, warranting such remedy as the Director deems necessary. Such violation will be deemed to begin upon receipt by the Director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy shall contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(8) The policy shall provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the

premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Director deems the facility abandoned; or

(ii) Interim status is terminated or revoked; or

(iii) Closure is ordered by the Director or a U.S. district court or other court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(9) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, shall either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in Section R315-265-143 to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(10) The Director will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in Section R315-265-143; or

(ii) The Director releases the owner or operator from the requirements of Section R315-265-143 in accordance with Subsection R315-265-143(h).

(e) Financial test and corporate guarantee for closure.

(1) An owner or operator may satisfy the requirements of Section R315-265-143 by demonstrating that he passes a financial test as specified in Subsection R315-265-143(e). To pass this test the owner or operator shall meet the criteria of either Subsection R315-265-143(e)(1)(i) or (ii):

(i) The owner or operator shall have:

(A) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) The owner or operator shall have:

(A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current closure and post-closure cost estimates" as used in Subsection R315-265-143(e)(1) refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer, for example see Subsection R315-264-151(f). The phrase "current plugging and abandonment cost estimates" as used in Subsection R315-265-143(e)(1) refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer, for example see 40 CFR 144.70(f).

(3) To demonstrate that he meets this test, the owner or operator shall submit the following items to the Director:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in Subsection R314-264-151(f); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(A) He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) The owner or operator may obtain an extension of the time allowed for submission of the documents specified in Subsection R315-265-143(e)(3) if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer shall send, by the effective date of these regulations, a letter to the Director. This letter from the chief financial officer shall:

(i) Request the extension;

(ii) Certify that he has grounds to believe that the owner or operator meets the criteria of the financial test;

(iii) Specify for each facility to be covered by the test the EPA Identification Number, name, address, and current closure and post-closure cost estimates to be covered by the test;

(iv) Specify the date ending the owner's or operator's last complete fiscal year before the effective date of these regulations;

(v) Specify the date, no later than 90 days after the end of such fiscal year, when he will submit the documents specified in Subsection R315-265-143(e)(3); and

(vi) Certify that the year-end financial statements of the owner or operator for such fiscal year will be audited by an independent certified public accountant.

(5) After the initial submission of items specified in Subsection R315-265-143(e)(3), the owner or operator shall send updated information to the Director within 90 days after the close of each succeeding fiscal year. This information shall consist of all three items specified in Subsection R315-265-143(e)(3).

(6) If the owner or operator no longer meets the requirements of Subsection R315-265-143(e)(1), he shall send notice to the Director of intent to establish alternate financial assurance as specified in this section. The notice shall be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator shall provide the alternate financial assurance within 120 days after the end of such fiscal year.

(7) The Director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of Subsection R315-265-143(e)(1), require reports of financial condition at any time from the owner or operator in addition to those specified in Subsection R315-265-143(e)(3). If the Director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of Subsection R315-265-143(e)(1), the owner or operator shall provide alternate financial assurance as specified in Section R315-265-143 within 30 days after notification of such a finding.

(8) The Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements, see Subsection R315-265-143(e)(3)(ii). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Director will evaluate other qualifications on an individual basis. The owner or operator shall provide alternate financial assurance as specified in this section within 30 days after notification of the disallowance.

(9) The owner or operator is no longer required to submit the items specified in Subsection R315-265-143(e)(3) when:

(i) An owner or operator substitutes alternate financial assurance as specified in Section R315-265-143; or

(ii) The Director releases the owner or operator from the requirements of Section R315-265-143 in accordance with Subsection R315-265-143(h).

(10) An owner or operator may meet the requirements of Section R315-265-143 by obtaining a written guarantee. The guarantor shall 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. The guarantor shall meet the requirements for owners or operators in Subsections R315-265-143(e)(1) through (8) and shall comply with the terms of the guarantee. The wording of the guarantee shall be identical to the wording specified in Subsection R315-264-151(h). A certified copy of the guarantee shall accompany the items sent to the Director as specified in Subsection R315-265-143(e)(3). One of these items shall be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter shall describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter shall describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee shall provide that:

(i) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Subsection R315-265-143(a) in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in Section R315-265-143 and obtain the written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(f) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of Section R315-265-143 by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms shall be as specified in Subsections R315-265-143(a) through (d), respectively, except that it is the combination of mechanisms, rather than the single mechanism, which shall provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Director may use any or all of the mechanisms to provide for closure of the facility.

(g) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in Section R315-265-143 to meet the requirements of Section R315-265-143 for more than one facility. Evidence of financial assurance submitted to the Director shall include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism shall be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(h) Release of the owner or operator from the requirements of Section R315-265-143. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by Section R315-265-143 to maintain financial assurance for final closure of the facility, unless the Director has reason to believe that final closure has not been in accordance with the approved closure plan. The Director shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

R315-265-144. Financial Requirements -- Cost Estimate for Post-Closure Care.

(a) The owner or operator of a hazardous waste disposal unit shall have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in Sections R315-265-117 through R315-265-120, R315-265-228, R315-265-258, and 40 CFR 265.280 and 265.310, which are adopted and incorporated by reference.

(1) The post-closure cost estimate shall be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor subsidiary of the owner or operator. See definition of parent corporation in Subsection R315-265-141(d).

(2) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under Section R315-265-117.

(b) During the active life of the facility, the owner or operator shall adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with Section R315-265-145. For owners or operators using the financial test or corporate guarantee, the post-closure care cost estimate shall be updated for inflation no later than 30 days after the close of the firm's fiscal year and before submission of updated information to the Director as specified in Subsection R315-265-145(d)(5). The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business as specified in Subsections R315-265-145(b)(1) and (2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(1) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(2) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(c) During the active life of the facility, the owner or operator shall revise the post-closure cost estimate no later than 30 days after a revision to the post-closure plan which increases the cost of post-closure care. If the owner or operator has an approved post-closure plan, the post-closure cost estimate shall be revised no later than 30 days after the Director has approved the request to modify the plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate shall be adjusted for inflation as specified in Subsection R315-265-144(b).

(d) The owner or operator shall keep the following at the facility during the operating life of the facility: the latest post-closure cost estimate prepared in accordance with Subsections R315-265-144(a) and (c) and, when this estimate has been adjusted in accordance with Subsection R315-265-144(b), the latest adjusted post-closure cost estimate.

R315-265-145. Financial Requirements -- Financial Assurance for Post-Closure Care.

By the effective date of these regulations, an owner or operator of a facility with a hazardous waste disposal unit must establish financial assurance for post-closure care of the disposal unit(s).

(a) Post-closure trust fund.

(1) An owner or operator may satisfy the requirements of Section R315-265-145 by establishing a post-closure trust fund which conforms to the requirements of Subsection R315-265-145(a) and submitting an originally signed duplicate of the trust agreement to the Director. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or Utah agency.

(2) The wording of the trust agreement shall be identical to the wording specified in Subsection R315-264-151(a)(1), and the trust agreement shall be accompanied by a formal certification of acknowledgment, for example see Subsection R315-264-151(a)(2). Schedule A of the trust agreement shall be updated within 60 days after a change in the amount of the current post-closure cost estimate covered by the agreement.

(3) Payments into the trust fund shall be made annually by the owner or operator over the 20 years beginning with the effective date of these regulations or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the post-closure trust fund shall be made as follows:

(i) The first payment shall be made by the effective date of these regulations, except as provided in Subsection R315-265-145(a)(5). The first payment shall be at least equal to the current post-closure cost estimate, except as provided in Subsection R315-265-145(f), divided by the number of years in the pay-in period.

(ii) Subsequent payments shall be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula: Next payment = (CE-CV)/Y, where CE is the current post-closure cost estimate, 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 may accelerate payments into the trust fund or he may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, he shall maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Subsection R315-265-145(a)(3).

(5) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in this section, his first payment shall be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in Subsection R315-265-145 (a)(3).

(6) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, shall either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in Section R315-265-145 to cover the difference.

(7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post

-closure cost estimate, the owner or operator may submit a written request to the Director for release of the amount in excess of the current post-closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the Director for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in Subsections R315-265-145(a) (7) or (8), the Director will instruct the trustee to release to the owner or operator such funds as the Director specifies in writing.

(10) During the period of post-closure care, the Director may approve a release of funds if the owner or operator demonstrates to the Director that the value of the trust fund exceeds the remaining cost of post-closure care.

(11) An owner or operator or any other person authorized to conduct post-closure care may request reimbursements for post-closure expenditures by submitting itemized bills to the Director. Within 60 days after receiving bills for post-closure care activities, the Director will instruct the trustee to make reimbursements in those amounts as the Director specifies in writing, if the Director determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Director does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

(12) The Director will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Director releases the owner or operator from the requirements of Section R315-265-145 in accordance with Subsection R315-265-145(h).

(b) Surety bond guaranteeing payment into a post-closure trust fund.

(1) An owner or operator may satisfy the requirements of Section R315-265-145 by obtaining a surety bond which conforms to the requirements of Subsection R315-265-145(b) and submitting the bond to the Director. 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.

(2) The wording of the surety bond must be identical to the wording specified in Subsection R315-264-151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this section shall also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund shall meet the requirements specified in Subsection R315-265-145(a), except that:

(i) An originally signed duplicate of the trust agreement shall be submitted to the Director with the surety bond; and

(ii) Until the standby trust fund is funded pursuant to the requirements of Section R315-265-145, the following are not required by these regulations:

(A) Payments into the trust fund as specified in Subsection R315-265-145(a);

(B) Updating of Schedule A of the trust agreement, see Subsection R315-264-151(a), to show current post-closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond shall guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin final closure issued by the Director becomes final, or within 15 days after an order to begin final closure is issued by a U.S. district court or other court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in Section R315-265-145, and obtain the Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the bond from the surety.

(5) 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.

(6) The penal sum of the bond shall be in an amount at least equal to the current post-closure cost estimate, except as provided in Subsection R315-265-145(f).

(7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, shall either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in Section R315-265-145 to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, as evidenced by the return receipts.

(9) The owner or operator may cancel the bond if the Director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in Section R315-265-145.

(c) Post-closure letter of credit.

(1) An owner or operator may satisfy the requirements of Section R315-265-145 by obtaining an irrevocable standby letter of credit which conforms to the requirements of Subsection R315-265-145(c) and submitting the letter to the Director. The issuing institution shall be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or Utah agency.

(2) The wording of the letter of credit shall be identical to the wording specified in Subsection R315-264-151(d).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this section shall also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements of the trust fund specified in Subsection R315-265-145(a), except that:

(i) An originally signed duplicate of the trust agreement shall be submitted to the Director with the letter of credit; and

(ii) Unless the standby trust fund is funded pursuant to the requirements of Section R315-265-145, the following are not required by these regulations:

(A) Payments into the trust fund as specified in Subsection R315-265-145(a);

(B) Updating of Schedule A of the trust agreement, see Subsection R315-264-151(a), to show current post-closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

4) The letter of credit shall be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: The EPA Identification Number, name, and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.

(5) The letter of credit shall be irrevocable and issued for a period of at least one year. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Director have received the notice, as evidenced by the return receipts.

(6) The letter of credit shall be issued in an amount at least equal to the current post-closure cost estimate, except as provided in Subsection R315-265-145(f).

(7) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, shall either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in Section R315-265-145 to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(8) During the period of post-closure care, the Director may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Director that the amount exceeds the remaining cost of post-closure care.

(9) Following a final administrative determination that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other permit requirements, the Director may draw on the letter of credit.

(10) If the owner or operator does not establish alternate financial assurance as specified in Section R315-265-145 and obtain written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Director will draw on the letter of credit. The Director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in Section R315-265-145 and obtain written approval of such assurance from the Director.

(11) The Director will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in Section R315-265-145; or

(ii) The Director releases the owner or operator from the requirements of Section R315-265-145 in accordance with Subsection R315-265-145(h).

(d) Post-closure insurance.

(1) An owner or operator may satisfy the requirements of Section R315-265-145 by obtaining post-closure insurance which conforms to the requirements of Subsection R315-265-145(d) and submitting a certificate of such insurance to the Director. By the effective date of these regulations the owner or operator shall submit to the Director a letter from an insurer stating that the insurer is considering issuance of post- closure insurance conforming to the requirements of Subsection R315-265-145(d) to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator shall submit the certificate of insurance to the Director or establish other financial assurance as specified in Section R315-265-145. At a minimum, the insurer shall 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.

(2) The wording of the certificate of insurance shall be identical to the wording specified in Subsection R315-264-151(e).

(3) The post-closure insurance policy shall be issued for a face amount at least equal to the current post-closure cost estimate, except as provided in Subsection R315-265-145(f). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The post-closure insurance policy shall guarantee that funds will be available to provide post-closure care of the facility whenever the post-closure period begins. The policy shall also guarantee that once post-closure care begins the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Director, to such party or parties as the Director specifies.

(5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Director. Within 60 days after receiving bills for post-closure care activities, the Director will instruct the insurer to make reimbursements in those amounts as the Director specifies in writing, if the Director determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Director does not

instruct the insurer to make such reimbursements, he will provide a detailed written statement of reasons.

(6) The owner or operator shall maintain the policy in full force and effect until the Director consents to termination of the policy by the owner or operator as specified in Subsection R315-265-145(d)(11). Failure to pay the premium, without substitution of alternate financial assurance as specified in the section, will constitute a significant violation of these regulations, warranting such remedy as the Director deems necessary. Such violation will be deemed to begin upon receipt by the Director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy shall contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(8) The policy shall provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Director deems the facility abandoned; or

(ii) Interim status is terminated or revoked; or

(iii) Closure is ordered by the Director or a U.S. district court or other court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(9) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, shall either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in Section R315-265-145 to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(10) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase shall be equivalent to the face amounts of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(11) The Director will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in Section R315-265-145; or

(ii) The Director releases the owner or operator from the requirements of Section R315-265-145 in accordance with Subsection R315-265-145(h).

(e) Financial test and corporate guarantee for post-closure care.

(1) An owner or operator may satisfy the requirements of Section R315-265-145 by demonstrating that he passes a financial test as specified in Subsection R315-265-145(e). To pass this test the owner or operator shall meet the criteria either of Subsections R315-265-145(e)(1)(i) or (ii):

(i) The owner or operator shall have:

(A) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) The owner or operator shall have:

(A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current closure and post-closure cost estimates" as used in Subsection R315-265-145(e)(1) refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer, for example see Subsection R315-264-151(f). The phrase "current plugging and abandonment cost estimates" as used in Subsection R315-265-145(e)(1) refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer, for example see 40 CFR 144.70(f).

(3) To demonstrate that he meets this test, the owner or operator shall submit the following items to the Director:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in Subsection R315-264-151(f); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(A) He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) The owner or operator may obtain an extension of the time allowed for submission of the documents specified in Subsection R315-265-145(e)(3) if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer shall send, by the effective date of these regulations, a letter to the Director. This letter from the chief financial officer shall:

(i) Request the extension;

(ii) Certify that he has grounds to believe that the owner or operator meets the criteria of the financial test;

(iii) Specify for each facility to be covered by the test the EPA Identification Number, name, address, and the current closure and post-closure cost estimates to be covered by the test;

(iv) Specify the date ending the owner's or operator's latest complete fiscal year before the effective date of these regulations;

(v) Specify the date, no later than 90 days after the end of such fiscal year, when he will submit the documents specified in Subsection R315-265-145(e)(3); and

(vi) Certify that the year-end financial statements of the owner or operator for such fiscal year will be audited by an independent certified public accountant.

(5) After the initial submission of items specified in Subsection R315-265-145(e)(3), the owner or operator shall send updated information to the Director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Subsection R315-265-145(e)(3).

(6) If the owner or operator no longer meets the requirements of Subsection R315-265-145 (e)(1), he shall send notice to the Director of intent to establish alternate financial assurance as specified in Section R315-265-145. The notice shall be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator shall provide the alternate financial assurance within 120 days after the end of such fiscal year.

(7) The Director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of Subsection R315-265-145(e)(1), require reports of financial condition at any time from the owner or operator in addition to those specified in Subsection R315-265-145(e)(3). If the Director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of Subsection R315-265-145(e)(1), the owner or operator shall provide alternate financial assurance as specified in Section R315-265-145 within 30 days after notification of such a finding.

(8) The Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements, see Subsection R315-265-145(e)(3)(ii). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Director will evaluate other qualifications on an individual basis. The owner or operator shall provide alternate financial assurance as specified in Section R315-265-145 within 30 days after notification of the disallowance.

(9) During the period of post-closure care, the Director may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Director that the amount of the cost estimate exceeds the remaining cost of post-closure care.

(10) The owner or operator is no longer required to submit the items specified in Subsection R315-265-145(e)(3) when:

(i) An owner or operator substitutes alternate financial assurance as specified in Section R315-265-145; or

(ii) The Director releases the owner or operator from the requirements of Section R315-265-145 in accordance with Subsection R315-265-145(h).

(11) An owner or operator may meet the requirements of Section R315-265-145 by obtaining a written guarantee. The guarantor shall 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. The guarantor shall meet the requirements for owners or operators in Subsections R315-265-145(e)(1) through (9) and shall comply with the terms of the guarantee. The wording of the guarantee shall be identical to the wording specified in Subsection R315-264-151(h). A certified copy of the guarantee shall accompany the items sent to the Director as specified in Subsection R315-265-145(e)(3). One of these items shall be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter shall describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter shall describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide that:

(i) If the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordance with the post-closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Subsection R315-265-145(a) in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in Section R315-265-145 and obtain the written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(f) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of Section R315-265-145 by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in Subsections R315-265-145(a) through (d), respectively, of this section, except that it is the combination of mechanisms, rather than the single mechanism, which shall provide financial assurance for an amount at least equal to

the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Director may use any or all of the mechanisms to provide for post-closure care of the facility.

(g) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in Section R315-265-145 to meet the requirements of Section R315-265-145 for more than one facility. Evidence of financial assurance submitted to the Director shall include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for post-closure care assured by the mechanism. The amount of funds available through the mechanism shall be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the Director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(h) Release of the owner or operator from the requirements of Section R315-265-145. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that the post-closure care period has been completed for a hazardous waste disposal unit in accordance with the approved plan, the Director will notify the owner or operator in writing that he is no longer required to maintain financial assurance for post-closure care of that unit, unless the Director has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The Director shall provide the owner or operator a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.

R315-265-146. Financial Requirements -- Use of a Mechansim for Financial Assurance of Both Closure and Post-Closure Care.

An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both Sections R315-265-143 and R315-265-145. The amount of funds available through the mechanism shall be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care.

R315-265-147. Financial Requirements -- Liability Requirements.

(a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in Subsections R315-265-147(a)(1), (2), (3), (4), (5), or (6):

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in Subsection R315-265-147(a)(1).

(i) Each insurance policy shall be amended by attachment of the Hazardous Waste Facility Liability Endorsement, or evidenced by a Certificate of Liability Insurance. The wording of the endorsement shall be identical to the wording specified in Subsection R315-264-151(i). The wording of the certificate of insurance shall be identical to the wording specified in Subsection R315-264-151(j). The owner or operator shall submit a signed duplicate original of the endorsement or the certificate of insurance to the Director. If requested by the Director, the owner or operator shall provide a signed duplicate original of the insurance policy.

(ii) Each insurance policy shall be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(2) An owner or operator may meet the requirements of Section R315-265-147 by passing a financial test or using the guarantee for liability coverage as specified in Subsections R315-265-147(f) and (g).

(3) An owner or operator may meet the requirements of Section R315-265-147 by obtaining a letter of credit for liability coverage as specified in Subsection R315-265-147(h).

(4) An owner or operator may meet the requirements of Section R315-265-147 by obtaining a surety bond for liability coverage as specified in Subsection R315-265-147(i).

(5) An owner or operator may meet the requirements of Section R315-265-147 by obtaining a trust fund for liability coverage as specified in Subsection R315-265-147(j).

(6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated shall total at least the minimum amounts required by Section R315-265-147. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under Subsection R315-265-147(a)(6), the owner or operator shall specify at least one such assurance as "primary" coverage and shall specify other assurance as "excess" coverage.

(7) An owner or operator shall notify the Director in writing within 30 days whenever:

(i) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in SubSections R315-265-147(a)(1) through (a)(6); or

(ii) A Certification of Valid Claim for bodily injury or property damages caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage under Subsections R315-265-147(a)(1) through (a)(6); or

(iii) A final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste

treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under Subsections R315-265-147(a)(1) through (a)(6).

(b) Coverage for nonsudden accidental occurrences. An owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. An owner or operator who must meet the requirements of Section R315-265-147 may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. Owners or operators who combine coverage levels for sudden and nonsudden accidental occurrences shall maintain liability coverage in the amount of at least $4 million per occurrence and $8 million annual aggregate. This liability coverage may be demonstrated as specified in Subsections R315-265-147(b)(1), (2), (3), (4), (5), or (6):

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in Subsection R315-265-147(b)(1).

(i) Each insurance policy shall be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement shall be identical to the wording specified in Subsection R315-264-151(i). The wording of the certificate of insurance shall be identical to the wording specified in Subsection R315-264-151(j). The owner or operator shall submit a signed duplicate original of the endorsement or the certificate of insurance to the Director. If requested by the Director, the owner or operator must provide a signed duplicate original of the insurance policy.

(ii) Each insurance policy shall be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(2) An owner or operator may meet the requirements of Section R315-265-147 by passing a financial test or using the guarantee for liability coverage as specified in Subsections R315-265-147(f) and (g).

(3) An owner or operator may meet the requirements of Section R315-265-147 by obtaining a letter of credit for liability coverage as specified in Subsection R315-265-147(h).

(4) An owner or operator may meet the requirements of Section R315-265-147 by obtaining a surety bond for liability coverage as specified in Subsection R315-265-147(i).

(5) An owner or operator may meet the requirements of Section R315-265-147 by obtaining a trust fund for liability coverage as specified in Subsection R315-265-147(j).

(6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated shall total at least the minimum amounts required by Section R315-265-147. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under Subsection R315-265-147(b), the owner or operator shall specify at least one such assurance as "primary" coverage and shall specify other assurance as "excess" coverage.

(7) An owner or operator shall notify the Director in writing within 30 days whenever:

(i) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in Subsections R315-265-147(b)(1) through (b)(6); or

(ii) A Certification of Valid Claim for bodily injury or property damages caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage under Subsections R315-265-147(b)(1) through (b)(6); or

(iii) A final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under Subsections R315-265-147(b)(1) through (b)(6).

(c) Request for an exception. If an owner or operator can demonstrate to the satisfaction of the Director that the levels of financial responsibility required by Subsections R315-265-147(a) or (b) are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain an exception from the Director. The request for an exception must be submitted in writing to the Director. If granted, the exception will take the form of an adjusted level of required liability coverage, such level to be based on the Director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Director may require an owner or operator who requests an exception to provide such technical and engineering information as is deemed necessary by the Director to determine a level of financial responsibility other than that required by Subsections R315-265-147(a) or (b). The Director will process an exception request as if it were a permit modification request under Subsection R315-270-41(a)(5) and subject to the procedures of Section R315-124-5. Notwithstanding any other provision, the Director may hold a public hearing at his discretion or whenever he finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to grant an exception.

(d) Adjustments by the Director. If the Director determines that the levels of financial responsibility required by Subsections R315-265-147(a) or (b) are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the Director may adjust the level of financial responsibility required under Subsection R315-265-147(a) or (b) as may be necessary to protect human health and the environment. This adjusted level will be based on the Director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Director determines that there is a significant risk to human health and the environment

from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, he may require that an owner or operator of the facility comply with Subsection R315-265-147(b). An owner or operator shall furnish to the Director, within a reasonable time, any information which the Director requests to determine whether cause exists for such adjustments of level or type of coverage. The Director will process an adjustment of the level of required coverage as if it were a permit modification under Subsection R315-270-41(a)(5) and subject to the procedures of Section R315-124-5. Notwithstanding any other provision, the Director may hold a public hearing at his discretion or whenever he finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to adjust the level or type of required coverage.

(e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by Section R315-265-147 to maintain liability coverage for that facility, unless the Director has reason to believe that closure has not been in accordance with the approved closure plan.

(f) Financial test for liability coverage.

(1) An owner or operator may satisfy the requirements of Section R315-265-147 by demonstrating that he passes a financial test as specified in this Subsection R315-265-147(f). To pass this test the owner or operator shall meet the criteria of Subsections R315-265-147(f)(1)(i) or (ii):

(i) The owner or operator shall have:

(A) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and

(B) Tangible net worth of at least $10 million; and

(C) Assets in the United States amounting to either: (1) At least 90 percent of his total assets; or (2) at least six times the amount of liability coverage to be demonstrated by this test.

(ii) The owner or operator shall have:

(A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's, or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) Tangible net worth of at least $10 million; and

(C) Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

(D) Assets in the United States amounting to either: (1) At least 90 percent of his total assets; or (2) at least six times the amount of liability coverage to be demonstrated by this test.

(2) The phrase "amount of liability coverage" as used in Subsection R315-265-147(f)(1) refers to the annual aggregate amounts for which coverage is required under Subsections R315-265-147(a) and (b).

(3) To demonstrate that he meets this test, the owner or operator shall submit the following three items to the Director:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in Subsection R315-264-151(g). If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by Subsections R315-264-143(f), R315-264-145(f), R315-265-143(e), and R315-265-145(e), and liability coverage, he shall submit the letter specified in Subsection R315-264-151(g) to cover both forms of financial responsibility; a separate letter as specified in Subsection R315-264-151(f) is not required.

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(A) He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) The owner or operator may obtain a one-time extension of the time allowed for submission of the documents specified in Subsection R315-265-147(f)(3) if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer shall send, by the effective date of these regulations, a letter to the Director. This letter from the chief financial officer shall:

(i) Request the extension;

(ii) Certify that he has grounds to believe that the owner or operator meets the criteria of the financial test;

(iii) Specify for each facility to be covered by the test the EPA Identification Number, name, address, the amount of liability coverage and, when applicable, current closure and post-closure cost estimates to be covered by the test;

(iv) Specify the date ending the owner's or operator's last complete fiscal year before the effective date of these regulations;

(v) Specify the date, no later than 90 days after the end of such fiscal year, when he will submit the documents specified in Subsection R315-265-147(f)(3); and

(vi) Certify that the year-end financial statements of the owner or operator for such fiscal year will be audited by an independent certified public accountant.

(5) After the initial submission of items specified in Subsection R315-265-147(f)(3), the owner or operator shall send updated information to the Director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Subsection R315-265-147(f)(3).

(6) If the owner or operator no longer meets the requirements of Subsection R315-265-147(f)(1), he shall obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in Section R315-265-147. Evidence of liability coverage must be submitted to the Director within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

(7) The Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements, see Subsection R315-265-147(f)(3)(ii). An adverse opinion or a disclaimer of opinion will be cause for

disallowance. The Director will evaluate other qualifications on an individual basis. The owner or operator shall provide evidence of insurance for the entire amount of required liability coverage as specified in Section R315-265-147 within 30 days after notification of disallowance.

(g) Guarantee for liability coverage.

(1) Subject to Subsection R315-265-147(g)(2), an owner or operator may meet the requirements of Section R315-265-147 by obtaining a written guarantee, hereinafter referred to as "guarantee." The guarantor shall 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. The guarantor shall meet the requirements for owners or operators in Subsections R315-265-147(f)(1) through (f)(6). The wording of the guarantee must be identical to the wording specified in Subsection R315-264-151(h)(2). A certified copy of the guarantee shall accompany the items sent to the Director as specified in Subsection R315-265-147(f)(3). One of these items shall be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter shall describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter shall describe this "substantial business relationship" and the value received in consideration of the guarantee.

(i) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences, or both as the case may be, arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.

(2)(i) In the case of corporations incorporated in the United States, a guarantee may be used to satisfy the requirements of Section R315-265-147 only if the Attorneys General or Insurance Commissioners of (A) the State in which the guarantor is incorporated, and (B) Utah have submitted a written statement to the Director that a guarantee executed as described in Section R315-265-147 and Subsection R315-264-151(h)(2) is a legally valid and enforceable obligation in Utah.

(ii) In the case of corporations incorporated outside the United States, a guarantee may be used to satisfy the requirements of Section R315-265-147 only if (A) the non-U.S. corporation has identified a registered agent for service of process in each Utah and in the State in which it has its principal place of business, and if (B) the Attorney General or Insurance Commissioner of each Utah and the State in which the guarantor corporation has its principal place of business, has submitted a written statement to the Director that a guarantee executed as described in Section R315-265-147 and Subsection R315-264-151(h)(2) is a legally valid and enforceable obligation in that Utah.

(h) Letter of credit for liability coverage.

(1) An owner or operator may satisfy the requirements of Section R315-265-147 by obtaining an irrevocable standby letter of credit that conforms to the requirements of Subsection R315-265-147(h) and submitting a copy of the letter of credit to the Director.

(2) The financial institution issuing the letter of credit shall be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or Utah agency.

(3) The wording of the letter of credit must be identical to the wording specified in Subsection R315-264-151(k).

(4) An owner or operator who uses a letter of credit to satisfy the requirements of Section R315-265-147 may also establish a standby trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the issuing institution into the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or Utah agency.

(5) The wording of the standby trust fund shall be identical to the wording specified in Subsection R315-264-151(n).

(i) Surety bond for liability coverage.

(1) An owner or operator may satisfy the requirements of Section R315-265-147 by obtaining a surety bond that conforms to the requirements of Subsection R315-265-147(i) and submitting a copy of the bond to the Director.

(2) The surety company issuing the bond must be among those listed as acceptable sureties on Federal bonds in the most recent Circular 570 of the U.S. Department of the Treasury.

(3) The wording of the surety bond must be identical to the wording specified in Subsection R315-264-151(l).

(4) A surety bond may be used to satisfy the requirements of Section R315-265-147 only if the Attorneys General or Insurance Commissioners of (i) the State in which the surety is incorporated, and (ii) Utah have submitted a written statement to the Director that a surety bond executed as described in Section R315-265-147 and Subsection R315-264-151(l) is a legally valid and enforceable obligation in Utah.

(j) Trust fund for liability coverage.

(1) An owner or operator may satisfy the requirements of Section R315-265-147 by establishing a trust fund that conforms to the requirements of Subsection R315-265-147(j) and submitting an originally signed duplicate of the trust agreement to the Director.

(2) The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or Utah agency.

(3) The trust fund for liability coverage shall be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of Section R315-265-147. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of the liability coverage to be provided, the owner or operator, by the anniversary date of the establishment of the Fund, shall either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or obtain other financial assurance as specified in Section R315-265-147 to cover the difference. For purposes of Subsection R315-265-147(j), "the full amount of the liability coverage to be provided" means the amount of coverage for sudden occurrences, nonsudden occurrences, or both required to be provided by the owner or operator by Section R315-265-147, less the amount of financial assurance for liability coverage that is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

(4) The wording of the trust fund must be identical to the wording specified in Subsection R315-264-151(m).

R315-265-148. Financial Requirements -- Incapacity of Owners or Operators, Guarantors, or Financial Institutions.

(a) An owner or operator shall notify the Director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11, Bankruptcy, U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in Subsections R315-265-143(e) and R315-265-145(e) shall make such a notification if he is named as debtor, as required under the terms of the corporate guarantee, see Subsection R315-264-151(h).

(b) An owner or operator who fulfills the requirements of Sections R315-265-143, R315-265-145, or R315-265-147 by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator shall establish other financial assurance or liability coverage within 60 days after such an event.

R315-265-170. Use and Management of Containers -- Applicability.

The regulations in this Sections R315-265-170 through 265-178 apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as Section R315-265-1 provides otherwise.

R315-265-171. Use and Management of Containers -- Condition of Containers.

If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator shall transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements of Rule R315-265.

R315-265-172. Use and Management of Containers -- Compatibility of Waste with Container.

The owner or operator shall use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

R315-265-173. Use and Management of Containers -- Management of Containers.

(a) A container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.

(b) A container holding hazardous waste shall not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

Comment: Re-use of containers in transportation is governed by U.S. Department of Transportation regulations, including those set forth in 49 CFR 173.28.

R315-265-174. Use and Management of Containers -- Inspections.

At least weekly, the owner or operator shall inspect areas where containers are stored. The owner or operator shall look for leaking containers and for deterioration of containers caused by corrosion or other factors. See Section R315-265-171 for remedial action required if deterioration or leaks are detected.

R315-265-176. Use and Management of Containers -- Special Requirements for Ignitable or Reactive Waste.

Containers holding ignitable or reactive waste shall be located at least 15 meters, 50 feet, from the facility's property line.

Comment: See Subsection R315-265-17(a) for additional requirements.

R315-265-177. Use and Management of Containers -- Special Requirements for Incompatible Wastes.

(a) Incompatible wastes, or incompatible wastes and materials, see 40 CFR 265 appendix V which is adopted and incorporated by reference for examples, shall not be placed in the same container, unless Subsection R315-265-17(b) is complied with.

(b) Hazardous waste shall not be placed in an unwashed container that previously held an incompatible waste or material, see 40 CFR 265 appendix V which is adopted and incorporated by reference for examples, unless Subsection R315-265-17(b) is complied with.

(c) A storage container holding a hazardous waste that is incompatible with any waste or other materials 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.

Comment: The purpose of this is to prevent fires, explosions, gaseous emissions, leaching, or other discharge of hazardous waste or hazardous waste constituents which could result from the mixing of incompatible wastes or materials if containers break or leak.

R315-265-178. Use and Management of Containers -- Air Emission Standards.

The owner or operator shall manage all hazardous waste placed in a container in accordance with the applicable requirements of subparts AA, BB, and CC of 40 CFR 265 which is adopted and incorporated by reference.

R315-265-190. Tank Systems -- Applicability.

The requirements of Sections R315-265-190 through 265-202 apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste except as otherwise provided in Subsections R315-265-190(a), (b), and (c) or in Section R315-265-1.

(a) Tank systems that are used to store or treat hazardous waste which contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in Section R315-265-193. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test must be used: Method 9095B, Paint Filter Liquids Test, as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in Section R315-260-11.

(b) Tank systems, including sumps, as defined in Section R315-260-10, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in Subsection R315-265-193(a).

(c) Tanks, sumps, and other collection devices used in conjunction with drip pads, as defined in Section R315-260-10 and

regulated under 40 CFR part 265 subpart W, which is adopted and incorporated by reference, must meet the requirements of Sections R315-265-190 through 265-202.

R315-265-191. Tank Systems -- Assessment of Existing Tank System's Integrity.

(a) For each existing tank system that does not have secondary containment meeting the requirements of Section R315-265-193, the owner or operator shall determine that the tank system is not leaking or is unfit for use. Except as provided in Subsection R315-265-191(c), the owner or operator shall obtain and keep on file at the facility a written assessment reviewed and certified by a qualified Professional Engineer in accordance with Subsection R315-270-11(d), that attests to the tank system's integrity by January 12, 1988.

(b) This assessment shall determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(1) Design standard(s), if available, according to which the tank and ancillary equipment were constructed;

(2) Hazardous characteristics of the waste(s) that have been or will be handled;

(3) Existing corrosion protection measures;

(4) Documented age of the tank system, if available, otherwise, an estimate of the age; and

(5) Results of a leak test, internal inspection, or other tank integrity examination such that:

(i) For non-enterable underground tanks, this assessment shall consist of a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects,

(ii) For other than non-enterable underground tanks and for ancillary equipment, this assessment shall be either a leak test, as described above, or an internal inspection, or other tank integrity examination, or a combination of assessment mechanisms, certified by a qualified Professional Engineer in accordance with Subsection R315-270-11(d) that addresses cracks, leaks, corrosion, and erosion.

Note: The practices described in the American Petroleum Institute (API) Publication, Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines in conducting the integrity examination of an other than non-enterable underground tank system.

(c) Tank systems that store or treat materials that become hazardous wastes subsequent to July 14, 1986 shall conduct this assessment within 12 months after the date that the waste becomes a hazardous waste.

(d) If, as a result of the assessment conducted in accordance with Subsection R315-265-191(a), a tank system is found to be leaking or unfit for use, the owner or operator shall comply with the requirements of Section R315-265-196.

R315-265-192. Tank Systems -- Design and Installation of New Tank Systems or Components.

(a) Owners or operators of new tank systems or components shall ensure that the foundation, structural support, seams, connections, and pressure controls, if applicable, are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator shall obtain a written assessment reviewed and certified by a qualified Professional Engineer in accordance with Subsection R315-270-11(d) attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment shall include the following information:

(1) Design standard(s) according to which the tank(s) and ancillary equipment is or will be constructed.

(2) Hazardous characteristics of the waste(s) to be handled.

(3) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system is or will be in contact with the soil or with water, a determination by a corrosion expert of:

(i) Factors affecting the potential for corrosion, including but not limited to:

(A) Soil moisture content;

(B) Soil pH;

(C) Soil sulfides level;

(D) Soil resistivity;

(E) Structure to soil potential;

(F) Influence of nearby underground metal structures, for example, piping;

(G) Stray electric current; and,

(H) Existing corrosion-protection measures, for example, coating, cathodic protection, and

(ii) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

(A) Corrosion-resistant materials of construction such as special alloys or fiberglass-reinforced plastic;

(B) Corrosion-resistant coating, such as epoxy or fiberglass, with cathodic protection, for example, impressed current or sacrificial anodes; and

(C) Electrical isolation devices such as insulating joints and flanges.

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)---Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

(4) For underground tank system components that are likely to be affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(5) Design considerations to ensure that:

(i) Tank foundations will maintain the load of a full tank;

(ii) Tank systems will be anchored to prevent flotation or dislodgement where the tank system is placed in a saturated zone, or is located within a seismic fault zone; and

(iii) Tank systems will withstand the effects of frost heave.

(b) The owner or operator of a new tank system shall ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent,

qualified installation inspector or a qualified Professional Engineer, either of whom is trained and experienced in the proper installation of tank systems, shall inspect the system or component for the presence of any of the following items:

(1) Weld breaks;

(2) Punctures;

(3) Scrapes of protective coatings;

(4) Cracks;

(5) Corrosion;

(6) Other structural damage or inadequate construction or installation.

All discrepancies shall be remedied before the tank system is covered, enclosed, or placed in use.

(c) New tank systems or components and piping that are placed underground and that are backfilled shall be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is carefully installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

(d) All new tanks and ancillary equipment shall be tested for tightness prior to being covered, enclosed or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system shall be performed prior to the tank system being covered, enclosed, or placed in use.

(e) Ancillary equipment shall be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion or contraction.

Note: The piping system installation procedures described in American Petroleum Institute (API) Publication 1615 (November 1979), "Installation of Underground Petroleum Storage Systems," or ANSI Standard B31.3, "Petroleum Refinery System," may be used, where applicable, as guidelines for proper installation of piping systems.

(f) The owner or operator shall provide the type and degree of corrosion protection necessary, based on the information provided under Subsection R315-265-192(a)(3), to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated shall be supervised by an independent corrosion expert to ensure proper installation.

(g) The owner or operator shall obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of Subsections R315-265-192(b) through (f) to attest that the tank system was properly designed and installed and that repairs, pursuant to Subsections R315-265-192(b) and (d) were performed. These written statements shall also include the certification statement as required in Subsection R315-270-11(d).

R315-265-193. Tank Systems -- Containment and Detection of Releases.

(a) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of Section R315-265-193 shall be provided, except as provided in Subsections R315-265-193(f) and (g):

(1) For all new and existing tank systems or components, prior to their being put into service.

(2) For tank systems that store or treat materials that become hazardous wastes, within 2 years of the hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later.

(b) Secondary containment systems shall be:

(1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of Subsection R315-265-193(b), secondary containment systems shall be at a minimum:

(1) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and shall have sufficient strength and thickness to prevent failure due to pressure gradients, including static head and external hydrological forces, physical contact with the waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation, including stresses from nearby vehicular traffic;

(2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure due to settlement, compression, or uplift;

(3) Provided with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or at the earliest practicable time if the existing detection technology or site conditions will not allow detection of a release within 24 hours;

(4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation shall be removed from the secondary containment system within 24 hours, or in as timely a manner as is possible to prevent harm to human health or the environment, if removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

Note: If the collected material is a hazardous waste under Rule R315-261, it is subject to management as a hazardous waste in accordance with all applicable requirements of Rules R315-262 through R315-265. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of sections 301, 304, and 402 of the Clean Water Act, as amended. If discharged to Publicly Owned Treatment Works (POTWs), it is subject to the requirements of section 307 of the Clear Water Act, as amended. If the collected material is released to the environment, it may be subject to the reporting requirements of 40 CFR part 302.

(d) Secondary containment for tanks shall include one or more of the following devices:

(1) A liner, external to the tank;

(2) A vault;

(3) A double-walled tank; or

(4) An equivalent device as approved by the Director.

(e) In addition to the requirements of Subsections R315-265-193(b), (c), and (d), secondary containment systems shall satisfy the following requirements:

(1) External liner systems must be:

(i) Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

(ii) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity shall be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

(iii) Free of cracks or gaps; and

(iv) Designed and installed to completely surround the tank and to cover all surrounding earth likely to come into contact with the waste if released from the tank(s), for example, capable of preventing lateral as well as vertical migration of the waste.

(2) Vault systems shall be:

(i) Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

(ii) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

(iii) Constructed with chemical-resistant water stops in place at all joints, if any;

(iv) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(v) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

(A) Meets the definition of ignitable waste under Section R315-261-21, or

(B) Meets the definition of reactive waste under Section R315-261-23 and may form an ignitable or explosive vapor; and

(vi) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(3) Double-walled tanks shall be:

(i) Designed as an integral structure, for example, an inner tank within an outer shell, so that any release from the inner tank is contained by the outer shell;

(ii) Protected, if constructed of metal, from both corrosion of the primary tank interior and the external surface of the outer shell; and

(iii) Provided with a built-in, continuous leak detection system capable of detecting a release within 24 hours or at the earliest practicable time, if the owner or operator can demonstrate to the Director, and the Director concurs, that the existing leak detection technology or site conditions will not allow detection of a release within 24 hours.

Note: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tank" may be used as guidelines for aspects of the design of underground steel double-walled tanks.

(f) Ancillary equipment shall be provided with full secondary containment, for example, trench, jacketing, double-walled piping, that meets the requirements of Subsections R315-265-193(b) and (c) except for:

(1) Aboveground piping, exclusive of flanges, joints, valves, and connections, that are visually inspected for leaks on a daily basis;

(2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;

(3) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(4) Pressurized aboveground piping systems with automatic shut-off devices, for example, excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices, that are visually inspected for leaks on a daily basis.

(g) The owner or operator may obtain an exception from the requirements of Section R315-265-193 if the Director finds, as a result of a demonstration by the owner or operator, either: that alternative design and operating practices, together with location characteristics, will prevent the migration of hazardous waste or hazardous constituents into the ground water or surface water at least as effectively as secondary containment during the active life of the tank system or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with Subsection R315-265-193(g)(2), be exempted from the secondary containment requirements of Section R315-265-193. Application for an exception as allowed in Subsection R315-265-193(g) does not waive compliance with the requirements of Sections R315-265-190 through R315-265-202 for new tank systems.

(1) In deciding whether to grant an excpetion based on a demonstration of equivalent protection of ground water and surface water, the Director will consider:

(i) The nature and quantity of the waste;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the thickness of soils between the tank system and ground water; and

(iv) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to ground water or surface water.

(2) In deciding whether to grant an excpetion, based on a demonstration of no substantial present or potential hazard, the Director will consider:

(i) The potential adverse effects on ground water, surface water, and land quality taking into account:

(A) The physical and chemical characteristics of the waste in the tank system, including its potential for migration,

(B) The hydrogeological characteristics of the facility and surrounding land,

(C) The potential for health risks caused by human exposure to waste constituents,

(D) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents, and

(E) The persistence and permanence of the potential adverse effects;

(ii) The potential adverse effects of a release on ground-water quality, taking into account:

(A) The quantity and quality of ground water and the direction of ground-water flow,

(B) The proximity and withdrawal rates of water in the area,

(C) The current and future uses of ground water in the area, and

(D) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality;

(iii) The potential adverse effects of a release on surface water quality, taking into account:

(A) The quantity and quality of ground water and the direction of ground-water flow,

(B) The patterns of rainfall in the region,

(C) The proximity of the tank system to surface waters,

(D) The current and future uses of surface waters in the area and any water quality standards established for those surface waters, and

(E) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality; and

(iv) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

(A) The patterns of rainfall in the region, and

(B) The current and future uses of the surrounding land.

(3) The owner or operator of a tank system, for which an excpetion from secondary containment had been granted in accordance with the requirements of Subsection R315-265-193(g)(1), at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control, as established in the exception, shall:

(i) Comply with the requirements of Section R315-265-196, except Subsection R315-265-196(d); and

(ii) Decontaminate or remove contaminated soil to the extent necessary to:

(A) Enable the tank system, for which the excpetion was granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release, and

(B) Prevent the migration of hazardous waste or hazardous constituents to ground water or surface water; and

(iii) If contaminated soil cannot be removed or decontaminated in accordance with Subsection R315-265-193(g)(3)(ii), comply with the requirements of Subsection R315-265-197(b);

(4) The owner or operator of a tank system, for which an exception from secondary containment had been granted in accordance with the requirements of Subsection R315-265-193(g)(1), at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control, as established in the exception, shall:

(i) Comply with the requirements of Subsections R315-265-196(a), (b), (c), and (d); and

(ii) Prevent the migration of hazardous waste or hazardous constituents to ground water or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if ground water has been contaminated, the owner or operator shall comply with the requirements of Subsection R315-265-197(b);

(iii) If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of Subsections R315-265-193(a) through (f) or reapply for an exception from secondary containment and meet the requirements for new tank systems in Section R315-265-192 if the tank system is replaced. The owner or operator shall comply with these requirements even if contaminated soil can be decontaminated or removed, and ground water or surface water has not been contaminated.

(h) The following procedures shall be followed in order to request an exception from secondary containment:

(1) The Director shall be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for an exception from secondary containment as allowed in paragraph (g) of this section according to the following schedule:

(i) For existing tank systems, at least 24 months prior to the date that secondary containment shall be provided in accordance with Subsection R315-265-193(a); and

(ii) For new tank systems, at least 30 days prior to entering into a contract for installation of the tank system.

(2) As part of the notification, the owner or operator shall also submit to the Director a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration shall address each of the factors listed in Subsection R315-265-193(g)(1) or Subsection R315-265-193(g)(2).

(3) The demonstration for an exception shall be completed and submitted to the Director within 180 days after notifying the Director of intent to conduct the demonstration.

(4) The Director will inform the public, through a newspaper notice, of the availability of the demonstration for an exception. The notice shall be placed in a daily or weekly major local newspaper of general circulation and shall provide at least 30 days from the date of the notice for the public to review and comment on the demonstration for an exception. The Direction also will hold a public hearing, in response to a request or at his own discretion, whenever such a hearing might clarify one or more issues concerning the demonstration for an exception. Public notice of the hearing will be given at least 30 days prior to the date of the hearing and may be given at the same time as notice of the opportunity for the public to review and comment on the demonstration. These two notices may be combined.

(5) The Director will approve or disapprove the request for an exception within 90 days of receipt of the demonstration from the owner or operator and will notify in writing the owner or operator and each person who submitted written comments or requested notice of the exception decision. If the demonstration for an exception is incomplete or does not include sufficient information, the 90-day time period will begin when the Director receives a complete demonstration, including all information necessary to make a final determination. If the public comment period in Subsection R315-265-193(h)(4) is extended, the 90-day time period will be similarly extended.

(i) All tank systems, until such time as secondary containment meeting the requirements of Section R315-265-193 is provided, shall comply with the following:

(1) For non-enterable underground tanks, a leak test that meets the requirements of Subsection R315-265-191(b)(5) shall be conducted at least annually;

(2) For other than non-enterable underground tanks, and for all ancillary equipment, the owner or operator shall either conduct a leak test as in Subsection R315-265-193(i)(1) or an internal inspection or other tank integrity examination by a qualified Professional Engineer that addresses cracks, leaks, and corrosion or erosion at least annually. The owner or operator shall remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed.

Note: The practices described in the American Petroleum Institute (API) Publication Guide for Inspection of Refining Equipment, Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," 4th edition, 1981, may be used, when applicable, as guidelines for assessing the overall condition of the tank system.

(3) The owner or operator shall maintain on file at the facility a record of the results of the assessments conducted in accordance with Subsections R315-265-193(i)(1) through (i)(3).

(4) If a tank system or component is found to be leaking or unfit-for-use as a result of the leak test or assessment in Subsections R315-265-193(i)(1) through (i)(3), the owner or operator shall comply with the requirements of Subsection R315-265-196.

R315-265-194. Tank Systems -- General Operating Requirements.

(a) Hazardous wastes or treatment reagents shall not be placed in a tank system if they could cause the tank, its ancillary equipment, or the secondary containment system to rupture, leak, corrode, or otherwise fail.

(b) The owner or operator shall use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. These include at a minimum:

(1) Spill prevention controls, for example, check valves, dry disconnect couplings;

(2) Overfill prevention controls, for example, level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank; and

(3) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The owner or operator must comply with the requirements of Section R315-265-196 if a leak or spill occurs in the tank system.

R315-265-195. Tank Systems -- Inspections.

(a) The owner or operator shall inspect, where present, at least once each operating day, data gathered from monitoring and leak detection equipment, for example, pressure or temperature gauges, monitoring wells, to ensure that the tank system is being operated according to its design.

Note: Subsection R315-265-15(c) requires the owner or operator to remedy any deterioration or malfunction he finds. Section R315-265-196 requires the owner or operator to notify the Director within 24 hours of confirming a release. Also, 40 CFR part 302 may require the owner or operator to notify the National Response Center of a release.

(b) Except as noted under Subsection R315-265-195(c), the owner or operator shall inspect at least once each operating day:

(1) Overfill/spill control equipment, for example, waste-feed cutoff systems, bypass systems, and drainage systems, to ensure that it is in good working order;

(2) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and

(3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, for example, dikes, to detect erosion or signs of releases of hazardous waste, for example, wet spots, dead vegetation.

(c) Owners or operators of tank systems that either use leak detection equipment to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, shall inspect at least weekly those areas described in Subsections R315-265-195(b)(1) through (3). Use of the alternate inspection schedule shall be documented in the facility's operating record. This documentation shall include a description of the established workplace practices at the facility.

(d) (Reserved)

(e) Ancillary equipment that is not provided with secondary containment, as described in Subsections R315-265-193(f)(1) through (4), shall be inspected at least once each operating day.

(f) The owner or operator shall inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(1) The proper operation of the cathodic protection system shall be confirmed within six months after initial installation, and annually thereafter; and

(2) All sources of impressed current shall be inspected and/or tested, as appropriate, at least bimonthly, for example, every other month.

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)-Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

(g) The owner or operator shall document in the operating record of the facility an inspection of those items in Subsections R315-265-195(a) and (b).

R315-265-196. Tank Systems -- Response to Leaks or Spills and Dispostion of Leaking or Unfit-For-Use Tank Systems.

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, shall be removed from service immediately, and the owner or operator shall satisfy the following requirements:

(a) Cessation of use; prevent flow or addition of wastes. The owner or operator shall immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(b) Removal of waste from tank system or secondary containment system.

(1) If the release was from the tank system, the owner or operator shall, within 24 hours after detection of the leak or, if the owner or operator demonstrates that that is not possible, at the earliest practicable time remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.

(2) If the release was to a secondary containment system, all released materials shall be removed within 24 hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(c) Containment of visible releases to the environment. The owner or operator shall immediately conduct a visual inspection of the release and, based upon that inspection:

(1) Prevent further migration of the leak or spill to soils or surface water; and

(2) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(d) Notifications, reports.

(1) Any release to the environment, except as provided in Subsection R315-265-196(d)(2), shall be reported to the Director within 24 hours of detection. If the release has been reported pursuant to 40 CFR part 302, that report will satisfy this requirement.

(2) A leak or spill of hazardous waste that is:

(i) Less than or equal to a quantity of one pound, and

(ii) Immediately contained and cleaned-up is exempted from the requirements of Subsection R315-265-196(d).

(3) Within 30 days of detection of a release to the environment, a report containing the following information shall be submitted to the Director:

(i) Likely route of migration of the release;

(ii) Characteristics of the surrounding soil, soil composition, geology, hydrogeology, climate;

(iii) Results of any monitoring or sampling conducted in connection with the release, if available. If sampling or monitoring data relating to the release are not available within 30 days, these data shall be submitted to the Director as soon as they become available;

(iv) Proximity to downgradient drinking water, surface water, and population areas; and

(v) Description of response actions taken or planned.

(e) Provision of secondary containment, repair, or closure.

(1) Unless the owner or operator satisfies the requirements of Subsections R315-265-196(e) (2) through (4), the tank system shall be closed in accordance with Section R315-265-197.

(2) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system shall be repaired prior to returning the tank system to service.

(4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner or operator shall provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Section R315-265-193 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system. If the source is an aboveground component that can be inspected visually, the component shall be repaired and may be returned to service without secondary containment as long as the requirements of Subsection R315-265-196(f) are satisfied. If a component is replaced to comply with the requirements of Subsection R315-265-196(e)(4), that component shall satisfy the requirements for new tank systems or components in Sections R315-265-192 and R315-265-193. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection, for example, the bottom of an inground or onground tank, the entire component shall be provided with secondary containment in accordance with Section R315-265-193 prior to being returned to use.

(f) Certification of major repairs. If the owner or operator has repaired a tank system in accordance with Subsection R315-265-196(e), and the repair has been extensive, for example, installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel, the tank system shall not be returned to service unless the owner or operator has obtained a certification by a qualified Professional Engineer in accordance with Subsection R315-270-11(d) that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification is to be placed in the operating record and maintained until closure of the facility.

Note: The Director may, on the basis of any information received that there is or has been a release of hazardous waste or hazardous constituents into the environment, issue an order under Sections 19-6-101 through 125 requiring corrective action or such other response as deemed necessary to protect human health or the environment.

Note: See Subsection R315-265-15(c) for the requirements necessary to remedy a failure. Also, 40 CFR Part 302 requires the owner or operator to notify the National Response Center of a release of any "reportable quantity."

R315-265-197. Tank Systems -- Closure and Post-Closure Care.

(a) At closure of a tank system, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components, for example, liners, contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste, unless Subsection R315-261-3(d) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems shall meet all of the requirements specified in Sections R315-265-110 through 265-121 and Sections R315-265-140 through 265-147.

(b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in Subsection R315-265-197(a), then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills, 40 CFR 265.310. In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator shall meet all of the requirements for landfills specified in Sections R315-265-110 through 265-121 and Sections R315-265-140 through 265-147.

(c) If an owner or operator has a tank system which does not have secondary containment that meets the requirements of Subsections R315-265-193(b) through (f) and which is not exempt from the secondary containment requirements in accordance with Subsection R315-265-193(g), then,

(1) The closure plan for the tank system shall include both a plan for complying with Subsection R315-265-197(a) and a contingent plan for complying with Subsection R315-265-197(b).

(2) A contingent post-closure plan for complying with Subsection R315-265-197(b)shall be prepared and submitted as part of the permit application.

(3) The cost estimates calculated for closure and post-closure care shall reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if these costs are greater than the costs of complying with the closure plan prepared for the expected closure under Subsection R315-265-197(a).

(4) Financial assurance must be based on the cost estimates in Subsection R315-265-197(c)(3).

(5) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a landfill, and the contingent plans shall meet all of the closure, post-closure, and financial responsibility requirements for landfills under Sections R315-265-110 through 265-121 and Sections R315-265-140 through 265-147.

R315-265-198. Tank Systems -- Special Requirements for Ignitable or Reactive Wastes.

(a) Ignitable or reactive waste shall not be placed in a tank system, unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that:

(i) The resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste under Sections R315-261-21 or R315-261-23; and

(ii) Subsection R315-265-17(b) is complied with; or

(2) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(3) The tank system is used solely for emergencies.

(b) The owner or operator of a facility where ignitable or reactive waste is stored or treated in tanks shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," 1977 or 1981, incorporated by reference, see Section R315-260-11.

R315-265-199. Tank Systems -- Special Requirements for Incompatible Wastes.

(a) Incompatible wastes, or incompatible waste and materials, shall not be placed in the same tank system, unless Subsection R315-265-17(b) is complied with.

(b) Hazardous waste shall not be placed in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless Subsection R315-265-17(b) is complied with.

R315-265-200. Tank Systems -- Waste Analysis and Trial Tests.

In addition to performing the waste analysis required by Section R315-265-13, the owner or operator shall, whenever a tank system is to be used to treat chemically or to store a hazardous waste that is substantially different from waste previously treated or stored in that tank system; or treat chemically a hazardous waste with a substantially different process than any previously used in that tank system:

(a) Conduct waste analyses and trial treatment or storage tests, for example, bench-scale or pilot-plant scale tests; or

(b) Obtain written, documented information on similar waste under similar operating conditions to show that the proposed treatment or storage will meet the requirements of Subsection R315-265-194(a).

Note: Section R315-265-13 requires the waste analysis plan to include analyses needed to comply with Sections R315-265-198 and 265-199. Section R315-265-73 requires the owner or operator to place the results from each waste analysis and trial test, or the documented information, in the operating record of the facility.

R315-265-202. Tank Systems -- Air Emission Standards.

The owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of 40 CFR 265 subparts AA, BB, and CC.

R315-265-220. Surface Impoundments -- Applicability.

The regulations in Sections R315-265-220 through 265-231 apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste, except as Section R315-265-1 provides otherwise.

R315-265-221. Surface Impoundments -- Design and Operating Requirements.

(a) The owner or operator of each new surface impoundment unit, each lateral expansion of a surface impoundment unit, and each replacement of an existing surface impoundment unit shall install two or more liners, and a leachate collection and removal system between the liners, and operate the leachate collection and removal system, in accordance with Subsection R315-264-221(c), unless exempted under Subsections R315-264-221(d), (e), or (f).

(b) The owner or operator of each unit referred to in Subsection R315-265-221(a) shall notify the Director at least sixty 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 such notice.

(c) The owner or operator of any replacement surface impoundment unit is exempt from Subsection R315-265-221(a) if:

(1) The existing unit was constructed in compliance with the design standards of Subsections 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 Subsection R315-265-221(a) may be waived by the Director for any monofill, if:

(1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the Toxicity Characteristic in Section R315-261-24, with EPA Hazardous Waste Numbers D004 through D017; an

(2)(i)(A) The monofill has at least one liner for which there is no evidence that such liner is leaking. For the purposes of Subsection R315-265-221(d) 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, ground water, 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 Subsection R315-265-221(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 such impoundment the owner or operator shall remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment shall comply with appropriate post-closure requirements, including but not limited to ground-water 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 Section R315-270-2; and

(C) The monofill is in compliance with generally applicable ground-water monitoring requirements for facilities with permits under RCRA section 3005(c); 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 ground water 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 Subsection R315-265-221(a) and in good faith compliance with Subsection R315-265-221(a) and with guidance documents governing liners and leachate collection systems under Subsection R315-265-221(a), no liner or leachate collection system which is different from that which was so installed pursuant to Subsection R315-265-221(a) will be required for such unit by the Director when issuing the first permit to such facility, except that the Director will not be precluded from requiring installation of a new liner when the Director has reason to believe that any liner installed pursuant to the requirements of Subsection R315-265-221(a) is leaking.

(f) A surface impoundment shall maintain enough freeboard to prevent any overtopping of the dike by overfilling, wave action, or a storm. Except as provided in Subsection R315-265-221(b), there shall be at least 60 centimeters, two feet, of freeboard.

(g) A freeboard level less than 60 centimeters, two feet, may 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 a 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 RCRA section 3005(j)(1) due to the promulgation of additional listings or characteristics for the identification of hazardous waste shall be in compliance with Subsections R315-265-221(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 Rule R315-268 or the granting of an extension to the effective date of a prohibition pursuant to Section R315-268-5, within this 48-month period.

R315-265-222. Surface Impoundments -- Action Leakage Rate.

(a) The owner or operator of surface impoundment units subject to Subsection R315-265-221(a) shall submit a proposed action leakage rate to the Director when submitting the notice required under Subsection R315-265-221(b). Within 60 days of receipt of the notification, the Director will: Establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in Section R315-265-222; or extend the review period for up to 30 days. If no action is taken by the 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 Director shall approve an action leakage rate for surface impoundment units subject to Subsection R315-265-221(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 1 foot. The action leakage rate shall include an adequate safety margin to allow for uncertainties in the design, for example, slope, hydraulic conductivity, and 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, for example, the action leakage rate must 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 Subsection R315-265-226(b), to an average daily flow rate, gallons per acre per day, for each sump. Unless the 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 Subsection R315-265-228(a)(2), monthly during the post-closure care period when monthly monitoring is required under Subsection R315-265-226(b).

R315-265-223. Surface Impoundments -- 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.

R315-265-224. Surface Impoundments -- Response Actions.

(a) The owner or operator of surface impoundment units subject to Subsection R315-265-221(a) shall develop and keep on site until closure of the facility a response action plan. 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 Subsection R315-265-224(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 Director in writing of the exceedance within 7 days of the determination;

(2) Submit a preliminary written assessment to the 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 Director the results of the analyses specified in Subsections R315-265-224(b)(3), (4), and (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 Director a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak, remediation or both determinations in Subsections R315-265-224(b)(3), (4), and (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.

R315-265-225. Surface Impoundments -- Waste Analysis and Trial Tests.

(a) In addition to the waste analyses required by Section R315-265-13, whenever a surface impoundment is to be 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, for example, 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 Subsection R315-265-17(b).

Comment: As required by Section R315-265-13, the waste analysis plan shall include analyses needed to comply with Sections R315-265-229 and 265-230. As required by Section R315-265-73, the owner or operator shall place the results from each waste analysis and trial test, or the documented information, in the operating record of the facility.

R315-265-226. Surface Impoundments -- Monitoring and Inspection.

(a) The owner or operator shall inspect:

(1) The freeboard level at least once each operating day to ensure compliance with Section R315-265-222, and

(2) The surface impoundment, including dikes and vegetation surrounding the dike, at least once a week to detect any leaks, deterioration, or failures in the impoundment.

(b)(1) An owner or operator required to have a leak detection system under Subsection R315-265-221(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 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 Subsection R315-265-222(a).

Comment: As required by Subsection R315-265-15(c), the owner or operator shall remedy any deterioration or malfunction he finds.

R315-265-228. Surface Impoundments -- Closure and Post-Closure Care.

(a) At closure, the owner or operator shall:

(1) 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 Subsection R315-261-3(d) applies; or

(2) Close the impoundment and provide post-closure care for a landfill under Sections R315-265-110 through 265-121 and 40 CFR 265.310, which is adopted and incorporated by reference, including the following:

(i) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(ii) Stabilize remaining wastes to a bearing capacity sufficient to support the final cover; and

(iii) Cover the surface impoundment with a final cover designed and constructed to:

(A) Provide long-term minimization of the migration of liquids through the closed impoundment;

(B) Function with minimum maintenance;

(C) Promote drainage and minimize erosion or abrasion of the cover;

(D) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(E) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) In addition to the requirements of Sections R315-265-110 through R315-265-121, and 40 CFR 265.310, which is adopted and incorporated by reference, during the post-closure care period, the owner or operator of a surface impoundment in which wastes, waste residues, or contaminated materials remain after closure in accordance with the provisions of Subsection R315-265-228(a)(2)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 Subsections R315-264-221(c)(2)(iv) and (3) and Subsection R315-265-226(b) and comply with all other applicable leak detection system requirements of Rule R315-265;

(3) Maintain and monitor the ground-water monitoring system and comply with all other applicable requirements of Sections R315-265-90 through 265-94; and

(4) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

R315-265-229. Surface Impoundments -- 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 Rule R315-268, 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 Sections R315-261-21 or R315-261-23; and

(2) Subsection R315-265-17(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) 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

(3) The certification and the basis for it are maintained at the facility; or

(c) The surface impoundment is used solely for emergencies.

R315-265-230. Surface Impoundments -- Special Requirements for Incompatible Wastes.

Incompatible wastes, or incompatible wastes and materials, see 40 CFR 265 appendix V, which is adopted and incorporated by reference for examples, shall not be placed in the same surface impoundment, unless Subsection R315-265-17(b) is complied with.

R315-265-231. Surface Impoundments -- Air Emission Standards.

The owner or operator shall manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of 40 CFR 265 subparts BB and CC, which are adopted and incorporated by reference.

R315-265-250. Waste Piles-- Applicability.

The regulations in Sections R315-265-250 through R315-265-260 apply to owners and operators of facilities that treat or store hazardous waste in piles, except as Section R315-265-1 provides otherwise. Alternatively, a pile of hazardous waste may be managed as a landfill under 40 CFR subpart N.

R315-265-251. Waste Piles-- Protection from Wind.

The owner or operator of a pile containing hazardous waste which could be subject to dispersal by wind shall cover or otherwise manage the pile so that wind dispersal is controlled.

R315-265-252. Waste Piles-- Waste Analysis.

In addition to the waste analyses required by Section R315-265-13, the owner or operator shall analyze a representative sample of waste from each incoming movement before adding the waste to any existing pile, unless (1) The only wastes the facility receives which are amenable to piling are compatible with each other, or (2) 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 the owner or operator places in piles, so that mixing of incompatible waste does not inadvertently occur. The analysis shall include a visual comparison of color and texture.

Comment: As required by Section R315-265-13, the waste analysis plan shall include analyses needed to comply with Sections R315-265-256 and 265-257. As required by Section R315-265-73, the owner or operator shall place the results of this analysis in the operating record of the facility.

R315-265-253. Waste Piles-- 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, for example, 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.

Comment: If collected leachate or run-off is discharged through a point source to waters of the United States, it is subject to the requirements of section 402 of the Clean Water Act, as amended.

R315-265-254. Waste Piles-- 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 Subsection R315-264-251(c), unless exempted under Subsections R315-264-251(d), (e), or (f); and shall comply with the procedures of Subsection R315-265-221(b). "Construction commences" is as defined in Section R315-260-10 under "existing facility".

R315-265-255. Waste Piles-- Action Leakage Rates.

(a) The owner or operator of waste pile units subject to Section R315-265-254 shall submit a proposed action leakage rate to the Director when submitting the notice required under Section R315-265-254. Within 60 days of receipt of the notification, the Director will: Establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section R315-265-255; or extend the review period for up to 30 days. If no action is taken by the 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 Director shall approve an action leakage rate for waste pile units subject to Section R315-265-254. 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 1 foot. The action leakage rate shall include an adequate safety margin to allow for uncertainties in the design, for example, 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, for example, 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 Section R315-265-260, to an average daily flow rate, gallons per acre per day, for each sump. Unless the Director approves a different calculation, the average daily flow rate for each sump shall be calculated weekly during the active life and closure period.

R315-265-256. Waste Piles-- Special Requirements for Ignitable or Reactive Waste.

(a) Ignitable or reactive waste shall not be placed in a pile unless the waste and pile satisfy all applicable requirements of Rule R315-268, and:

(1) Addition of the waste to an existing pile (i) results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under Sections R315-261-21 or R315-261-23, and (ii) complies with Subsection R315-265-17(b); or

(2) 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.

R315-265-257. Waste Piles-- Special Requirements for Incompatible Wastes.

(a) Incompatible wastes, or incompatible wastes and materials, see 40 CFR 265 appendix V, which is adopted and incorporated by reference, for examples, shall not be placed in the same pile, unless Subsection R315-265-17(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.

Comment: The purpose of this is to prevent fires, explosions, gaseous emissions, 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 Subsection R315-265-17(b).

R315-265-258. Waste Piles-- 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 Subsection R315-261-3(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 Subsection R315-265-258(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, see 40 CFR 265.310.

R315-265-259. Waste Piles-- Response Actions.

(a) The owner or operator of waste pile units subject to Section R315-265-254 shall develop and keep on-site until closure of the facility a response action plan. 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 Subsection R315-265-259(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 Director in writing of the exceedance within seven days of the determination;

(2) Submit a preliminary written assessment to the 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 Director the results of the analyses specified in Subsections R315-265-259(b)(3), (4), and (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 Director a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the either the leak or remediation or both determinations in Subsections R315-265-259(b)(3), (4), and (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.

R315-265-260. Waste Piles-- Monitoring and Inspection.

An owner or operator required to have a leak detection system under Section R315-265-254 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.

KEY: hazardous waste, TSD facilities, interim status
Date of Enactment or Last Substantive Amendment: [~~August 31, 2017~~]2019
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Waste Management and Radiation Control, Waste Management
R315-266
Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43977
FILED: 08/09/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In November of 2016, the Environmental Protection Agency (EPA) published final revisions to the Hazardous Waste Export-Import rules in the Federal Register (81 FR 85696). Then in December of 2017, the EPA published additional final revisions to rules regarding Confidentiality Determinations for Hazardous Waste Export and Import Documents in the Federal Register (82 FR 60894). Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The purpose of these changes is to adopt the appropriate revisions into Rule R315-266.

SUMMARY OF THE RULE OR CHANGE: References in Subsections R315-266-70(b)(2) and (3) to 40 CFR 265 were changed to reference the appropriate sections of Rule R315-265. References in Subsections R315-266-70(b)(2) and (3) to the import and export rules found in Rule R315-262 were updated in accordance with the revised import and export rules. Section R315-266-80 was revised in accordance with the revised import and export rules. References in Subsections R315-266-80(b) to 40 CFR 265 were changed to reference the appropriate sections of Rule R315-265.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-104 and Section 19-6-105 and Section 19-6-107

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Because the state of Utah is not an importer or exporter of hazardous waste it is not anticipated that these revisions will have any impact on the state budget. Implementation of these rule changes by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the state budget because the export and import provisions of the rules are administered at the federal level by the EPA.
♦ LOCAL GOVERNMENTS: There are no local governments that are importers or exporters of hazardous waste and local governments will not be implementing these rule changes so it is not anticipated that there will be any cost or savings to local governments.
♦ SMALL BUSINESSES: Currently, there are no small businesses in Utah that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any small business that exports or imports hazardous waste should already be following the rules. Any costs or savings to small businesses are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any small businesses that are in addition to those created by following the EPA's rules.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Currently, there are not persons other than small businesses, businesses, or local governments that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any persons other than small businesses, businesses, or local governments that export or import hazardous waste should already be following the rules. Any costs to persons other than small businesses, businesses, or local governments are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any such persons that are in addition to those created by following the EPA's rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will not be any additional compliance costs for affected persons due to the adoption of these rule changes because the state of Utah is simply adopting these rules as required by EPA to maintain the equivalency of our program to that of EPA. These rule changes being adopted are administered at the federal government level by the EPA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. Because these rule changes are being administered by the federal government, it is not anticipated that their adoption by the state of Utah will have any fiscal impact beyond the impact created by the federal adoption of these rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
WASTE MANAGEMENT AND RADIATION CONTROL, WASTE MANAGEMENT
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2019

AUTHORIZED BY: Scott Baird, Interim Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
There is one company (NAICS 562211) in Utah that operates three facilities and is a non-small business. All three facilities have submitted notification that they are importers of hazardous waste. Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the Federal program. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018. At the time that these rules became effective these three facilities were required to comply with the rules as amended. In the document entitled Regulatory Impact Analysis Hazardous Waste Export-Import Revisions Final Rule dated August 2016 the EPA estimates the regulatory impact of the rule revisions. The document concludes that there are fiscal impacts to businesses involved in the export and import of hazardous waste. These impacts are mainly associated with the administrative part of the rule and include but are not limited to: obtaining a CDX registration, submitting notices, submitting annual reports, creating movement documents, confirming recovery and disposal and obtaining an EPA ID number. The state of Utah is adopting these rule revisions in order to maintain equivalency with the Federal program. It is not anticipated that adoption of these rule revisions will result in any additional regulatory impact.

The interim head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-266. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.
R315-266-70. Recyclable Materials Utilized for Precious Metal Recovery -- Applicability and Requirements.

(a) The regulations of Section R315-266-70 apply to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under Section R315-266-70 are subject to the following requirements:

(1) Notification requirements under section 3010 of RCRA;

(2) Sections R315-262-20 through 262-27, for generators[~~;~~]~~.~~ Sections R315-263-20 and 263-21, for transporters; and [~~40 CFR 265.71 and 72, which are adopted by reference~~]Sections R315-265-71 and 265-72, for persons who store; and

(3) For precious metals exported to or imported from [~~designated OECD member~~]other countries for recovery, Sections R315-262-80 through [~~89~~]262-84 and [~~40 CFR 265.12(a)(2), which is~~

~~adopted by reference. For precious metals exported to or imported from non-OECD countries for recovery, Sections R315-262-50 through 58 and 60~~]Section R315-265-12.

(c) Persons who store recycled materials that are regulated under Section R315-266-70 shall keep the following records to document that they are not accumulating these materials speculatively, as defined in Subsection R315-261-1(c);

(1) Records showing the volume of these materials stored at the beginning of the calendar year;

(2) The amount of these materials generated or received during the calendar year; and

(3) The amount of materials remaining at the end of the calendar year.

(d) Recyclable materials that are regulated under Section R315-266-70 that are accumulated speculatively, as defined in Subsection R315-261-1(c), are subject to all applicable provisions of Rules R315-262 through 265, 270, and 124.

R315-266-80. Spent Lead-Acid Batteries Being Reclaimed -- Applicability and Requirements.

(a) Are spent lead-acid batteries exempt from hazardous waste management requirements? If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use Subsections R315-266-80(a)(1) through (7) to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the "Universal Waste" rule in Rule R315-273.

(1) If your batteries will be reclaimed through regeneration, such as by electrolyte replacement, then you are exempt from Rules R315-262, except for Section R315-262-11; 263; 264; 265; 266; 268; 270; and 124, and the notification requirements at section 3010 of RCRA and you are subject to Rule R315-261 and Section R315-262-11.

(2) If your batteries will be reclaimed other than through regeneration and if you generate, collect, and/or transport these batteries then you are exempt from Rule R315-262, except for Section R315-262-11; 263; 264; 265; 266; 270; and 124, and the notification requirements at section 3010 of RCRA and you are subject to Rule R315-261 and Section R315-262-11, and applicable provisions under Rule R315-268.

(3) If your batteries will be reclaimed other than through regeneration and if you store these batteries but you aren't the reclaimer then you are exempt from Rule R315-262, except for Section R315-262-11; 263; 264; 265; 266; 270; and 124, and the notification requirements at section 3010 of RCRA and you are subject to Rule R315-261 and Section R315-262-11, and applicable provisions under Rule R315-268.

(4) If your batteries will be reclaimed other than through regeneration and if you store these batteries before you reclaim them then you shall comply with Subsection R315-266-80(b) and as appropriate other regulatory provisions described in Subsection R315-266-80(b) and you are subject to Rule R315-261 and Section R315-262-11, and applicable provisions under Rule R315-268.

(5) If your batteries will be reclaimed other than through regeneration and if you don't store these batteries before you reclaim them then you are exempt from Rule R315-262, except for Section R315-262-11; 263; 264; 265; 266; 270; and 124, and the notification requirements at section 3010 of RCRA and you are subject to Rule R315-261 and Section R315-262-11, and applicable provisions under Rule R315-268.

(6) If your batteries will be reclaimed through regeneration or any other means and if you export these batteries for reclamation in a foreign country then you are exempt from Rules R315-262, [~~(~~]except for Sections R315-262-11, R315-262-18, and R315-262-80 through R315-262[~~6~~]-84[~~)~~], R315-263, R315-264, R315-265, R315-266, R315-268, R315-270, R315-124, and the notification requirements at section 3010 of RCRA and you are subject to Rule R315-261, Sections R315-262-11 and R315-262-18, and Sections R315-262-80 through R315-262-84.

(7) If your batteries will be reclaimed through regeneration or any other means and if you transport these batteries in the U.S. to export them for reclamation in a foreign country then you are exempt from Rules R315-263, 264, 265, 266, 268, 270, 124, and the notification requirements at section 3010 of RCRA and you shall comply with applicable requirements in Sections R315-262-80 through R315-262-84[~~, if shipping to one of the OECD countries specified in Subsection R315-262-58(a)(1), or shall comply with the following:~~

~~(i) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgment of Consent;~~

~~(ii) you shall ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment; and~~

~~(iii) you shall ensure that the shipment is delivered to the facility designated by the person initiating the shipment~~].

(8) If your batteries will be reclaimed other than through regeneration and if you import these batteries from foreign country and store these batteries but you aren't the reclaimer then you are exempt from Rules R315-262, except for Sections R315-262-11, 262-18 and 262-80 through 262-84, Rules R315-263, R315-264, R315-265, R315-266, R315-270, R315-124, and the notification requirements at section 3010 of RCRA and you are subject to Rule R315-261, Sections R315-262-11, 262-18, and 262-80 through 262-84, and applicable provisions under Rule R315-268.

(9) If your batteries will be reclaimed other than through regeneration and if you import these batteries from foreign country and store these batteries before you reclaim them then you shall comply with Subsection R315-266-80(b) and as appropriate other regulatory provisions described in Subsection R315-266-80(b) and you are subject to Rule R315-261, Sections R315-262-11, 262-18, and 262-80 through 262-84, and applicable provisions under Rule R315-268.

(10) If your batteries will be reclaimed other than through regeneration and if you import these batteries from foreign country and don't store these batteries before you reclaim them then you are exempt from Rules R315-262, except for Sections 262-11, 262-18 and 262-80 through 262-84, Rules R315-263, R315-264, R315-265, R315-266, R315-270, and R315-124, and the notification requirements at section 3010 of RCRA and you are subject to Rule R315-261, Sections R315-262-11, 262-18, and 262-80 through 262-84, and applicable provisions under Rule R315-268.

(b) If I store spent lead-acid batteries before I reclaim them but not through regeneration, which requirements apply? The requirements of Subsection R315-266-80(b) apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your permit status.

(1) For Interim Status Facilities, you shall comply with:

(i) Notification requirements under section 3010 of RCRA.

(ii) All applicable provisions in [~~40 CFR 265.1 through 265.4, which are adopted by reference in Section R315-265-1~~]Sections R315-265-1 through 265-4.

(iii) All applicable provisions in [~~40 CFR 265.10 through 265.19, which are adopted by reference in Section R315-265-1~~]Sections R315-265-10 through 265-19, except Section R315-265[~~-~~]-13, waste analysis.

(iv) All applicable provisions in [~~40 CFR 265.30 through 265.56, which are adopted by reference in Section R315-265-1~~]Sections R315-265-30 through 265-56.

(v) All applicable provisions in [~~40 CFR 265.70 through 77, which are adopted by reference~~]Sections R315-265-70 through 265-77, except Sections R315-265[~~-~~]-71 and 265[~~-~~]-72, dealing with the use of the manifest and manifest discrepancies.

(vi) All applicable provisions in [~~40 CFR 265.90 through 265.260, which are adopted by reference in Section R315-265-1~~]Sections R315-265-90 through 265-260.

(vii) All applicable provisions in Rules R315-270 and 124.

(2) For Permitted Facilities:

(i) Notification requirements under section 3010 of RCRA.

(ii) All applicable provisions in Sections R315-264-1 through 4.

(iii) All applicable provisions in Sections R315-264-10 through 19, but not Section R315-264-13, waste analysis.

(iv) All applicable provisions in Sections R315-264-30 through 56.

(v) All applicable provisions in Sections R315-264-70 through 77, but not Sections R315-264-71 or 72, dealing with the use of the manifest and manifest discrepancies.

(vi) All applicable provisions in Sections R315-264-90 through 259.

(vii) All applicable provisions in Rules R315-270 and 124.

KEY: hazardous waste
Date of Enactment or Last Substantive Amendment: [~~August 31, 2017~~]2019
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Environmental Quality, Waste Management and Radiation Control, Waste Management

R315-273

Standards for Universal Waste Management

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43978
FILED: 08/09/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In November of 2016, the Environmental Protection Agency (EPA) published final revisions to the Hazardous Waste Export-Import rules in the Federal Register (81 FR 85696). Then in December of 2017, the EPA published additional final revisions to rules regarding Confidentiality Determinations for Hazardous Waste Export and Import Documents in the Federal Register (82 FR 60894). Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the federal program. The purpose of these changes is to adopt the appropriate revisions into Rule R315-273.

SUMMARY OF THE RULE OR CHANGE: Sections R315-273-20, R315-273-39, R315-273-40, R315-273-56, R315-273-62 and R315-273-70 were revised in accordance with the revised import and export rules.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-104 and Section 19-6-105 and Section 19-6-106

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Because the state of Utah is not an importer or exporter of hazardous waste it is not anticipated that these revisions will have any impact on the state budget. Implementation of these rule changes by the Division of Waste Management and Radiation Control will not result in an increase or decrease to the state budget because the export and import provisions of the rules are administered at the federal level by the EPA.

♦ LOCAL GOVERNMENTS: There are no local governments that are importers or exporters of hazardous waste and local governments will not be implementing these rule changes so it is not anticipated that there will be any cost or savings to local governments.

♦ SMALL BUSINESSES: Currently, there are no small businesses in Utah that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any small business that exports or imports hazardous waste should already be following the rules. Any costs or savings to small businesses are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any small businesses that are in addition to those created by following the EPA's rules.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Currently, there are not persons other than small businesses,

businesses, or local governments that have submitted a notification that they are an exporter or importer of hazardous waste. As stated previously, export and import rules are administered by the EPA. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018, and any persons other than small businesses, businesses, or local governments that export or import hazardous waste should already be following the rules. Any costs to persons other than small businesses, businesses, or local governments are a result of following the EPA's rules. Therefore, it is not anticipated that adoption of these rule changes by the state of Utah will result in any costs or savings to any such persons that are in addition to those created by following the EPA's rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will not be any additional compliance costs for affected persons due to the adoption of these rule changes because the state of Utah is simply adopting these rules as required by EPA to maintain the equivalency of our program to that of EPA. The rule changes being adopted are administered at the federal government level by the EPA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. Because these rule changes are being administered by the federal government it is not anticipated that their adoption by the state of Utah will have any fiscal impact beyond the impact created by the federal adoption of these rule changes.

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

ENVIRONMENTAL QUALITY
WASTE MANAGEMENT AND RADIATION CONTROL, WASTE MANAGEMENT
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2019

AUTHORIZED BY: Scott Baird, Interim Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There is one company (NAICS 562211) in Utah that operates three facilities and is a large business. All three facilities have submitted notification that they are importers of hazardous waste. Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy. However, authorized state programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the Federal program. The revisions to the federal rules became effective nationally in December of 2016 and June of 2018. At the time that these rules became effective these three facilities were required to comply with the rules as amended. In the document entitled Regulatory Impact Analysis Hazardous Waste Export-

Import Revisions Final Rule dated August 2016 the EPA estimates the regulatory impact of the rule revisions. The document concludes that there are fiscal impacts to businesses involved in the export and import of hazardous waste. These impacts are mainly associated with the administrative part of the rule and include but are not limited to: obtaining a CDX registration, submitting notices, submitting annual reports, creating movement documents, confirming recovery and disposal and obtaining an EPA ID number. The State of Utah is adopting these rule revisions in order to maintain equivalency with the Federal program. It is not anticipated that adoption of these rule revisions will result in any additional regulatory impact.

The interim head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-273. Standards for Universal Waste Management.
R315-273-20. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Exports.

A small quantity handler of universal waste who sends universal waste to a foreign destination [~~other than to those OECD countries specified in Subsection R315-262-58(a)(1), in which case the handler~~]is subject to the requirements of Sections R315-262-80 through [~~89~~]262-84, shall:

(a) Comply with the requirements applicable to a primary exporter in Section R315-262-53, Subsections R315-262-56(a)(1) through (4), (6), and (b) and Section R315-262-57;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in Sections R315-262-50 through 58; and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

R315-273-39. Standards for Universal Waste Management, Standards For Large Quantity Handlers Of Universal Waste -- Tracking Universal Waste Shipments.

(a) Receipt of shipments. A large quantity handler of universal waste shall 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, movement document or other shipping document. The record for each shipment of universal waste received shall 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;

(3) The date of receipt of the shipment of universal waste.

(b) Shipments off-site. A large quantity handler of universal waste shall 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 movement document or other shipping document. The record for each shipment of universal waste sent shall 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;

(3) The date the shipment of universal waste left the facility.

(c) Record retention.

(1) A large quantity handler of universal waste shall retain the records described in Subsection R315-273-39(a) for at least three years from the date of receipt of a shipment of universal waste.

(2) A large quantity handler of universal waste shall retain the records described in Subsection R315-273-39(b) for at least three years from the date a shipment of universal waste left the facility.

R315-273-40. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Exports.

A large quantity handler of universal waste who sends universal waste to a foreign destination [~~other than to those OECD countries specified in Subsection R315-262-58(a)(1), in which case the handler~~]is subject to the requirements of Sections R315-262-80 through [~~89~~]262-84, shall:

(a) Comply with the requirements applicable to a primary exporter in Section R315-262-53, Subsections R315-262-56(a)(1) through (4), (6), and (b) and Section R315-262-57;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in Sections R315-262-50 through 58; and

(c) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

R315-273-56. Standards for Universal Waste Management, Standards for Universal Waste Transporters -- Exports.

A universal waste transporter transporting a shipment of universal waste to a foreign destination [~~other than to those OECD countries specified in Subsection R315-262-58(a)(1), in which case the transporter~~]is subject to the requirements of Sections R315-262-80 through [~~89~~]262-84, may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter shall ensure that:

(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(b) The shipment is delivered to the facility designated by the person initiating the shipment.

R315-273-62. Standards for Universal Waste Management, Standards for Destination Facilities -- Tracking Universal Waste Shipments.

(a) The owner or operator of a destination facility shall 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, movement document or other shipping document. The record for each shipment of universal waste received shall include the following information:

(1) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

(2) The quantity of each type of universal waste received;

(3) The date of receipt of the shipment of universal waste.

(b) The owner or operator of a destination facility shall retain the records described in Subsection R315-273-62(a) for at least three years from the date of receipt of a shipment of universal waste.

R315-273-70. Standards for Universal Waste Management -- Imports.

Persons managing universal waste that is imported from a foreign country into the United States are subject to the requirements of Sections R315-262-80 through 262-84 and the applicable requirements of Rule R315-273, immediately after the waste enters the United States, as indicated in Subsection R315-273-70(a) through (c):

(a) A universal waste transporter is subject to the universal waste transporter requirements of Sections R315-273-50 through 56.

(b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of Sections R315-273-10 through 20 or 30 through 40, as applicable.

(c) An owner or operator of a destination facility is subject to the destination facility requirements of Sections R315-273-60 through 62.

(d) Persons managing universal waste that is imported from an OECD country as specified in Subsection R315-262-58(a)(1) are subject to Subsections R315-273-70(a) through (c), in addition to the requirements of Sections R315-262-80 through [~~89~~]262-84.

KEY: hazardous waste, universal waste
Date of Enactment or Last Substantive Amendment: [~~January 14,~~] 2019
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

Governor, Economic Development
R357-24
Utah Works Program Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43992
FILED: 08/15/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule filing is to remove the requirement that a skills training program must be at least two weeks.

SUMMARY OF THE RULE OR CHANGE: Subsection R357-24-105(6) is removed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63N-12-505

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget. This rule filing is merely removing an unnecessary requirement.
♦ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.
♦ SMALL BUSINESSES: There is no aggregate anticipated cost or savings to small businesses because this proposed amendment does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because participation in the program is optional.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule filing is to clarify the standards for participation in the program and this rule filing is removing an unnecessary burden for participation in the program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
GOVERNOR
ECONOMIC DEVELOPMENT
THIRD FLOOR
60 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Dane Ishihara by phone at 801-538-8865, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Val Hale, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0

Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
There is no regulatory impact creating financial cost to non-small businesses. This proposed rule change is to clarify the standards for participation in the Utah Works Program (Program). There are no general regulations being promulgated by this rule because the Program is voluntary and does not require non-participants to do anything. There is no impact to businesses or persons general because this rule only applies to those who chose to participate in this Program in order to receive a grant.

The head of the Governor's Office of Economic Development, Val Hale, has reviewed and approved this fiscal analysis.

R357. Governor, Economic Development.
R357-24. Utah Works Program.
R357-24-101. Title.

This rule is known as the "Utah Works Program Rule."

R357-24-102. Purpose and Goals.

(1) The Talent Ready Utah Center's Utah Works Program promotes partnerships between companies and post-secondary institutions to fill high demand positions and/or provide skills training. This program teams industry, post-secondary institutions, and state agencies to address specific workforce gaps identified by companies.

(2) The goal of UWP is to accelerate hiring and skills training that will lead to economic growth.

R357-24-103. Definitions.

The following terms are defined as follows:

(1) "Applicant" means a collaboration between one or more companies and one or more post-secondary institutions for a particular hiring program.

(2) "Awardee(s)" means an applicant that has been awarded a UWP grant.

(3) "Collaboration" means the strategic coordination between a company and post-secondary institution to address a skilled labor gap.

(4) "Company" means a corporation, limited liability company, partnership, association, or other business entity and may include a federal military installation when such entity otherwise meets UWP eligibility requirements and does not include an individual, sole proprietorship, or educational institution.

(5) "Company representative" means a representative from a company that is designated to support the efforts of the collaboration.

(6) "High demand position" means a position in which there are hard to fill jobs with a lack of skilled labor employees or a large number of skilled labor positions needed in a short amount of time.

(7) "Pre-hire program" means an applicant's plan to vet potential hires prior to the skills training. The pre-hire program will typically consist of a training lasting from two days to two weeks.

(8) "Post-secondary institution" means an entity under the Utah System of Higher Education or the Utah System of Technical Colleges.

(9) "Skilled labor" means jobs that require skills training and a level of skill.

(10) "Skilled labor gap" means the disparity between a company's existing or future skill need.

(11) "Skills training program" means a training plan developed and agreed upon between the post-secondary institution and a company.

(12) "TRU" means the Talent Ready Utah Center.

(13) "UWP" means the Utah Works Program.

(14) "UWP grant" means the competitive grants awarded and administered under this Rule.

R357-24-104. Authority.

This rule is adopted by the office under the authority of subsection 63N-12-505(3).

R357-24-105. Eligibility Criteria.

(1) Proposal must be jointly developed by a company and a post-secondary institution.

(2) Applicants must submit proposals as outlined in section 106 below, and otherwise specified in TRU.

(3) A company representative must certify that:

(a) the company has a skilled labor gap;

(b) the proposed post-secondary institution partnership will meet that gap need;

(c) the company has significant one time or ongoing hiring demands; and

(d) the company commits to provide a cost-share contribution as outlined in subsection (5) below.

(4) The company must have a substantial presence in Utah.

(a) A substantial presence, for purposes of UWP requires the following:

(i) the company must be properly registered with the Utah Division of Corporations as an active, for-profit business entity, in good standing; and

(ii) the company must be properly licensed in the appropriate city or county.

(b) Additionally, TRU shall, according to its judgment and discretion, determine whether a company has a substantial presence for purposes of a UWP grant by weighing the following factors:

(i) total workforce and percentage of company's workforce in Utah;

(ii) amount of business taxes paid to the State of Utah;

(iii) relative size of the company;

(iv) whether the company's principal place of business is Utah;

(v) likelihood that the company will maintain a significant presence in the state of Utah;

(vi) a commitment of capital expenditure and/or new job creation in the state; and

(vii) the degree to which the company's activities and operations positively impact Utah's economy.

(5) The company must fulfill the following cost-sharing requirements:

(a) provide a company representative to support the collaboration;

(b) provide an "in-kind" contribution, approved by TRU, which may include:

(i) company representative's time spent on the collaboration;

(ii) materials and equipment;

(iii) work/research space;

(iv) travel and other company expenses budgeted for the collaboration; or

(v) other contributions approved by TRU.

(c) make available for audit all reported cost-share activities.

[~~(6) The skills training must be met with a minimum of two weeks of training.~~]

([~~7~~]6) Applicants may coordinate with the Department of Workforce Services when building pre-hire program objectives.

R357-24-106. Proposal and Submission Process.

(1) TRU will accept proposals for UWP grants on an ongoing basis subject to available funds.

(2) Applicants shall submit proposals in a form and manner specified by TRU.

(3) The proposal must include the following:

(a) a description of the applicant's eligibility as outlined in section 105 above;

(b) a detailed description of pre-hire program, if applicable, and skills training program;

(c) description of skilled labor positions;

(d) projected number of individuals who will start the program, finish the program and be successfully hired;

(e) potential economic impact on the Utah economy;

(f) an executed collaboration agreement between the company and post-secondary institution; and

(g) outlined budget for total program cost, including;

(i) a description of any funds already secured for activities related to the program;

(ii) breakdown of costs to complete the scope of work;

(iii) an itemized budget detailing planned use of grant funds, including how the funding will be allocated, tracked, and reported;

(iv) awardee must use grant funds for expenses specific to the program and may include:

(A) instructors;

(B) marketing;

(C) equipment;

(D) tuition reimbursements;

(E) curriculum and program development;

(F) program management; and

(G) US security clearances as outlined in subsection 108(4)(b).

(4) All completed proposals will be reviewed and awardees selected via the criteria and method outlined in this Rule.

R357-24-107. Method for Selecting Awardees.

(1) TRU will evaluate grant proposals and recommend grant amounts.

(2) TRU will, according to its discretion and judgment, review the applicant's proposal by considering the following factors:

(a) statewide or regional importance of the industry to Utah's economy;

(b) relative size of the sector, its stability, and growth potential;

(c) characteristics of the state's workforce including education and training;

(d) the current availability of other sources of funding;

(e) the potential for the industry to develop new jobs and business opportunities in the state;

(f) likelihood that skilled labor in this sector will result in the creation of a company in Utah or growth of existing Utah company;

(g) number of positions to be trained and filled;

(h) impact on the local economy; and

(i) any other factor TRU deems relevant, considering the mission of UWP and the purpose of the UWP grant.

(3) The criteria will be designed to assess each proposal and may include:

(a) completeness of proposal;

(b) thorough pre-hire program and skills training program;

(c) reasonableness of proposal;

(d) reasonableness of the proposed timeline;

(e) reasonableness of the proposed budget (e.g., size and allocation of budget is appropriate for the work proposed and matching funds available);

(f) availability of UWP grant funds;

(g) potential for economic impact, as measured by:

(i) skilled labor gap mitigation;

(ii) meeting target head count;

(iii) potential revenue due to expansion of current business or development of new businesses;

(iv) projected time to fill job needs;

(v) market need or industry impact;

(h) any other factor of the applicant's ability to produce measurable and timely benefits to the state; and

(i) any factor relating to eligibility requirements outlined in section 105.

(4) UWP grants must be used to mitigate gaps and meet company hiring demands. The program proposals referenced in section 106 must identify specific pre-hire program and skills training.

(5) In the event of a favorable recommendation by TRU the proposal will be reviewed by the talent ready Utah board using the same criteria.

(6) An applicant will become an awardee only upon approval by TRU and the talent ready Utah board.

R357-24-108. Grant Amount, Award, and Required Contract.

(1) TRU will have the discretion to limit the maximum amount of funding that may be awarded for each UWP grant based on available funds, scope of the collaboration, and quality of proposal.

(2) TRU reserves the right to award funding for any proposal in full or in part, to request additional information, or to reject any or all proposals based on the eligibility and evaluation criteria set forth in these Rules, Utah law, and according to the judgment and discretion of TRU. TRU also reserves the right to certify any agreements between post-secondary institution and company on IP terms and confidentiality.

(3) Upon award of a UWP grant, and prior to disbursement of any funds, awardee must enter into a contract with GOED governing the use of UWP grant funding.

(4) Unless addressed in the terms and conditions of the contract between awardee and GOED the following provisions shall apply:

(a) UWP grant funding may not be used to provide a primary benefit to any state other than Utah;

(b) Subject to TRU approval, TRU may, via supplemental contract, allocate grant funds directly to an awardee company to pay for the cost of US security clearances for UWP grant program hires where a US security clearance is required as a condition of the position; and

(c) for all other eligibility requirements, awardees must maintain eligibility status for UWP program until the collaboration is complete, scope of work requirements have been met, final disbursement of funding has been made, and first year reporting has been completed.

(5) Any misrepresentation to TRU, violations of subsection (4) above, or this Rule may result in forfeiture of UWP grant funding and require repayment of all or a portion of the funding received as part of UWP grant and/or disqualification from continued funding.

(6) TRU reserves the right to audit the use of any UWP grant funding.

R357-24-109. Contract Modifications.

(1) Awardee may request a modification to the terms of a UWP contract.

(2) TRU may deny a modification request for any reason.

(3) TRU shall have discretion to agree to reasonable, nonsubstantive changes.

(a) Non-substantive changes may include the following:

(i) changes to timelines within the scope of work;

(ii) corrections to clerical errors in the proposal materials; and

(iii) technical changes to conditions that do not alter the budget, company's eligibility status, or violate any state or federal law.

(4) Substantive changes must be approved by TRU in consultation with the talent ready Utah board.

(5) All approved changes shall be made in writing and through an amendment modifying the terms of the grant contract.

(6) Awardees refusal or failure to sign contract within 90 days of receipt of contract constitutes a rejection of the UWP grant and a waiver of any rights and benefits.

R357-24-110. Funding Distribution.

(1) TRU shall reimburse the awardee for no more than the total amount specified in the contract.

(2) Payment will only be made for those costs authorized and approved by TRU after providing sufficient documentation in accordance with the terms and conditions provided in the contract.

(3) After execution of the contract between GOED and awardee:

(a) awardee may receive up to fifty percent of the total grant amount, subject to TRU approval;

(b) remaining funds to be disbursed on a reimbursement basis, as outlined in scope of work and after company provides sufficient evidence of initial expenditures.

(4) Failure to successfully complete the scope of work requirements may result in a recapture of all or part of the grant funding and will be grounds to terminate the contract and any future funding.

R357-24-111. Reporting and Cooperation Requirements.

(1) The awardee shall report to TRU and provide documentation evidencing the following metrics for inclusion in the annual report described in section 63N-1-301:

(a) the number of participants in the program;

(b) the number of participants who have completed training offered by the program;

(c) the number of participants who have been hired by a business participating in the program; and

(d) any additional data needed as required and outlined in the terms of the contract.

(2) Awardee shall submit to any audit, by TRU or a third-party, to verify reported data.

KEY: economic development, Talent Ready Utah, Utah Works Program

Date of Enactment or Last Substantive Amendment: [~~July 8,~~] 2019

Authorizing, and Implemented or Interpreted Law: 63N-12-505

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-200
Non-Traditional Medicaid Health Plan Services

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43955
FILED: 08/06/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these changes are to update policy for mental health services, which no longer limits coverage for Non-Traditional Medicaid (NTM) members.

SUMMARY OF THE RULE OR CHANGE: These amendments remove provisions that limit the amount of days and visits allowed NTM members for inpatient and outpatient mental health services. They also specify covered and non-covered services, remove duplicative language from other rules, and make other clarifications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is an annual increase of about $19,600 to the general fund as a result of these changes.
♦ LOCAL GOVERNMENTS: Local mental health authorities will see an annual cost increase of about $1,219,800 with the removal of limits to mental health inpatient and outpatient services.
♦ SMALL BUSINESSES: Small businesses will see a share of revenue up to $1,239,400 with the removal of limits to mental health inpatient and outpatient services.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Medicaid providers will see a share of revenue up to $1,239,400 with the removal of limits to mental health inpatient and outpatient services. Likewise, Medicaid members will see out-of-pocket savings based on that amount.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid member because these changes can only result in increased revenue and out-of-pocket savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will see an increase in revenue with the removal of limits to mental health services.

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 Office 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 or mail at PO BOX 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$19,600	$0	$0
Local Government	$1,219,800	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$1,239,400**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$309,850	$0	$0
Non-Small Businesses	$309,850	$0	$0
Other Persons	$619,700	$0	$0

Total Fiscal Benefits:	**$1,239,400**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
About 144 non-small business providers of inpatient and outpatient mental health services will see a share of revenue that totals $1,239,400, with the removal of limitations.

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-200. Non-Traditional Medicaid Health Plan Services.
R414-200-2. Definitions.

The definitions in Rule R414-1 apply to this rule.

[~~(1) "Emergency" means the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:~~

~~(a) placing the enrollee's health in serious jeopardy;~~

~~(b) serious impairment to bodily functions;~~

~~(c) serious dysfunction of any bodily organ or part; or~~

~~(d) death.~~

~~(2) "Enrollee" means an eligible individual including Section 1931 Temporary Assistance for Needy Families Adults, the Section 1931 related medically needy and those eligible for Transitional Medicaid.~~]

R414-200-3. Services Available.

(1) To meet the requirements of 42 CFR 431.107, the Department contracts with each provider who furnishes services under the NTHP.

(a) By signing a provider agreement with the Department, the provider agrees to follow the terms incorporated into the provider agreements, including policies and procedures, provider manuals, Medicaid Information Bulletins, and provider letters.

(b) By signing an application for Medicaid coverage, the applicant agrees that the Department's obligation to reimburse for services is governed by contract between the Department and the provider.

(2) Medical or hospital services for which providers are reimbursed under the Non-Traditional Medicaid (NTM) Health Plan are limited by federal guidelines as set forth under Title XIX of the federal Social Security Act and Title 42 of the Code of Federal Regulations (CFR).

(3) The following services, as more fully described and limited in provider contracts, [~~and~~]provider manuals, and administrative rules,[:] are available to [~~Non-Traditional Medicaid~~]NTM Health Plan [~~enrollees~~]members:

(a) inpatient hospital services, provided by bed occupancy for 24 hours or more in an approved acute care general hospital under the care of a physician if the admission meets the established criteria for severity of illness and intensity of service;

(b) outpatient hospital services which are medically necessary diagnostic, therapeutic, preventive, or palliative care provided for less than 24 hours in outpatient departments located in or physically connected to an acute care general hospital;

(c) emergency services in dedicated hospital emergency departments;

(d) physician services provided directly by licensed physicians or osteopaths, or by licensed certified nurse practitioners, licensed certified nurse midwives, or physician assistants under appropriate supervision of the physician or osteopath[~~.~~];

(e) services associated with surgery or administration of anesthesia provided by physicians or licensed certified nurse anesthetists;

(f) vision care services by licensed ophthalmologists or licensed optometrists, within their scope of practice[~~;~~], limited to one annual eye examination or refraction and no eyeglasses[~~.~~];

(g) laboratory and radiology services provided by licensed and certified providers;

(h) dialysis to treat end-stage renal failure provided at a Medicare-certified dialysis facility;

(i) home health services defined as intermittent nursing care or skilled nursing care provided by a Medicare-certified home health agency;

(j) hospice services provided by a Medicare-certified hospice to terminally ill [~~enrollees~~]members (six month or less life expectancy) who elect palliative versus aggressive care;

(k) abortion and sterilization services to the extent permitted by federal and state law and meeting the documentation requirement of 42 CFR 440, Subparts E and F;

(l) [~~certain~~]organ transplants[~~;~~], limited to kidney, liver, cornea, bone marrow, stem cell, heart, and lung transplants;

(m) services provided in freestanding emergency centers, surgical centers and birthing centers;

(n) transportation services, limited to ambulance (ground and air) service for medical emergencies. NTM does not cover non-emergency transportation (including bus passes);

(o) preventive services, immunizations and health education activities and materials to promote wellness, prevent disease, and manage illness;

(p) family planning services provided by or authorized by a physician, certified nurse midwife, or nurse practitioner to the extent permitted by federal and state law, but not to include infertility drugs, in-vitro fertilization, and genetic counseling;

(q) pharmacy services provided by a licensed pharmacy;

(r) inpatient mental health services[~~, limited to 30 days per enrollee per calendar year~~];

(s) outpatient mental health services[~~, limited to 30 visits per enrollee per calendar year~~];

(t) outpatient substance abuse services;

(u) hearing evaluations or assessments for hearing aids. NTM, however, will only cover hearing aids for congenital hearing loss;

[~~(u) dental services are not covered;~~]

(v) dental services as allowed in the Utah Medicaid State Plan, ATTACHMENT 3.1-A, Attachment #10;

([~~v~~]w) interpretive services if they are provided by entities under contract with the Department of Health to provide medical

translation services for people with limited English proficiency and interpretive services for the deaf;

([~~w~~]x) physical therapy services provided by a licensed physical therapist if authorized by a physician, limited to [~~ten~~]16 aggregated physical or occupational therapy visits per calendar year; and

([~~x~~]y) occupational therapy services provided for fine motor development, limited to [~~ten~~]16 aggregated physical or occupational therapy visits per year.

(4) NTM does not cover the following:

(a) chiropractic services;

(b) speech-language pathology services;

(c) long-term care; and

(d) private duty nursing.

[~~(4) Emergency services are:~~

~~(a) limited to attention provided within 24 hours of the onset of symptoms or within 24 hours of diagnosis;~~

~~(b) for a condition that requires acute care and is not chronic;~~

~~(c) reimbursed only until the condition is stabilized sufficient that the patient can leave the hospital emergency department; and~~

~~(d) not related to an organ transplant procedure.~~

~~(5) The vision care benefit is limited to $30 per year.~~]

KEY: Medicaid, non-traditional, cost sharing
Date of Enactment or Last Substantive Amendment: [~~September 27, 2017~~]2019
Notice of Continuation: May 5, 2017
Authorizing, and Implemented or Interpreted Law: 26-18

Health, Family Health and Preparedness, Emergency Medical Services
R426-1
General Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43956
FILED: 08/06/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update definitions of terms used in the Title R426 administrative rules series.

SUMMARY OF THE RULE OR CHANGE: This amendment removes the definition for "CCEU", amends the definitions for "certify" and "levels of service."

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26 Chapter 8a

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These proposed rule amendments are not expected to have any fiscal impact on state government revenues or expenditures because it is for the changing of terms as applied to the Title R426 administrative rule series. State expenditures and staff time are not affected.
♦ LOCAL GOVERNMENTS: These proposed rule amendments are not expected to have any fiscal impact on local governments' revenues or expenditures because it is for the changing of terms as applied to the Title R426 administrative rule series.
♦ SMALL BUSINESSES: These proposed rule amendments are not expected to have any fiscal impact on small businesses' revenues or expenditures because it is for the changing of terms as applied to the Title R426 administrative rule series.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule amendments do not create a fiscal impact for non-small businesses licensed as ambulance providers in Utah. These rule amendments simply update terms as used in the Title R426 administrative rule series. They clarify the use of terms including "certification", "endorsement", and "levels of service." They also eliminate a formerly used term of "CCEU".

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed rule amendments are not expected to have any fiscal impact for persons, such as patients or hospitals, who normally pay for EMS services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed amendments remove the term CCEU and clarify use of the terms "certification," "endorsement", and "levels of service." The change has been approved by the EMS Rules Task Force and the EMS Committee. There will be no fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
FAMILY HEALTH AND PREPAREDNESS,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov or mail at PO BOX 142004, Salt Lake City, UT 84114-2004

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

These rule amendments do not create a fiscal impact for non-small businesses licensed as ambulance providers in Utah. These rule amendments simply update terms as used in the Title R426 administrative rule series. They clarify the use of terms including "certification", "endorsement", and "levels of service." It also eliminates a formerly used term of "CCEU".

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-1. General Definitions.

R426-1-100. Authority and Purpose.

This rule establishes uniform definitions for all R426 rules. It also provides administration standards applicable to all R426 rules.

R426-1-200. General Definitions.

The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule, in addition:

(1) "Advanced Emergency Medical Technician" or "AEMT" means an individual who has completed an AEMT training program, approved by the Department, who is licensed by the Department as qualified to render services enumerated in this rule.

(2) "Affiliated Provider" means a licensed EMS individual's secondary employer or employers.

(3) "Air Ambulance" means a specially equipped and permitted aircraft, especially a helicopter or fixed wing airplane, for transporting patients.

(4) "Air Ambulance Personnel" mean the pilot and patient care personnel who are involved in an air medical transport.

(5) "Air Ambulance Service" means any publicly or privately owned organization that is licensed or applies for licensure under R426-3 and provides transportation and care of patients by air ambulance.

(6) "Air Ambulance Service Medical Director" means a physician knowledgeable of potential medical complications which may arise because of air medical transport, and is responsible for overseeing and assuring that the appropriate air ambulance, medical personnel, and equipment are provided for patients transported by the air ambulance service.

(7) "Categorization" means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under R426-5-7.

(8) "Certify," "Certification," and "Certified" mean the official Department recognition that an individual has completed a specific level of training and has the minimum skills required to provide emergency medical care at the level for which [~~he is certified~~]they may be licensed.

(9) "Competitive Grant" means a grant awarded through the Emergency Medical Services Grants Program on a competitive basis for a share of available funds.

[~~(10) "Complaint, Compliance, and Enforcement Unit or CCEU" means the investigative unit of the Department.~~]

[~~(11)~~](10) "Continuing Medical Education" means a Department-approved training relating specifically to the appropriate level of certification designed to maintain or enhance an individual's emergency medical skills.

[~~(12)~~](11) "County or Multi-County EMS Council or Committee" means a group of persons recognized as the legitimate entity within the county to formulate policy regarding the provision of EMS.

[~~(13)~~](12) "Course Coordinator" means an individual who has completed a Department course coordinator course and is [~~certified~~]endorsed by the Department as capable to conduct Department-authorized EMS courses.

[~~(14)~~](13) "Department" means the Utah Department of Health.

[~~(15)~~](14) "Emergency Medical Dispatcher" or "EMD" means an individual who has completed a Department approved EMD training program, and is licensed by the Department as qualified to render services enumerated in this rule.

[~~(16)~~](15) "Emergency Medical Service Dispatch Center" means a call center designated by the Department for the routine acceptance of calls for emergency assistance, staffed by trained operators who utilize a selective medical dispatch system to dispatch licensed designated quick response units or licensed ambulance and paramedic services.

[~~(17)~~](16) "Emergency Medical Responder" or "EMR" means an individual who has completed a Department approved EMR training program, and is licensed by the Department as qualified to render services enumerated in this rule.

[~~(18)~~](17) "Emergency Medical Technician" or "EMT" means an individual who has completed a Department approved EMT training program and is licensed by the Department as qualified to render services enumerated in this rule.

[~~(19)~~](18) "Emergency Medical Technician Intermediate Advanced" means an individual who has completed a Department approved EMT- IA training program and is licensed by the Department as qualified to render services enumerated in this rule.

[~~(20)~~](19) "Emergency vehicle operator" means an individual on the roster of an EMS provider who may, in the normal course of the individual's duties, drive an ambulance or an emergency medical response vehicle.

[~~(21)~~](20) "EMS" means Emergency Medical Services.

[~~(22)~~](21) "Emergency Medical Incident" means any instance in which an Emergency Medical Services Provider is requested to provide or potentially provide emergency medical services.

[~~(23)~~](22) "EMS Instructor" means an individual who has completed a Department EMS instructor course and is [~~certified~~]endorsed by the Department as capable to teach EMS personnel.

[~~(24)~~](23) "EMS stand-by event" means the on-site licensed ambulance, paramedic service, or designated quick response unit at a scheduled event or activity provided by the local 911 exclusive license provider or their designee.

(24) "Endorsement" means a Department recognized set of skills or specific authority extended to an individual's EMS license.

(25) "Exclusive License" means the sole right to perform the licensed act in a defined geographic service area, and that prohibits the Department of Health from performing the licensed act, and from granting the right to anyone else.

(26) "Grants Review Subcommittee" means a subcommittee appointed by the EMS Committee to review, evaluate, prioritize and make grant funding recommendations to the EMS Committee.

(27) "Ground Ambulance" means a vehicle which is properly equipped, maintained, permitted and used to transport a patient to a patient destination such as a patient receiving facility or resource hospital.

(28) "Inclusive Trauma System" means the coordinated component of the State emergency medical services (EMS) system composed of all general acute hospitals licensed under Title 26, Chapter 21, trauma centers, and pre-hospital providers which have established communication linkages and triage protocols to provide for the effective management, transport and care of all injured patients from initial injury to complete rehabilitation.

(29) "Inter-facility Transfer" means an ambulance transfer of a patient, who does not have an emergency medical condition as defined in UCA 26-8a-102(6)(a), and the ambulance transfer of the patient is arranged by a transferring physician for the particular patient, from a hospital, nursing facility, patient receiving facility, mental health facility, or other licensed medical facility.

(30) "Individual" means a human being.

(31) "Level of Care" means the capabilities and commitment to the care of the trauma patient available within a specified facility.

(32) "Level of License" means the official Department recognized step in the licensure process in which an individual has attained as an EMS provider. It also means the licensed or designated level of an ambulance provider or Quick Response Unit.

(33) "Licensed EMS Individual" means a person licensed by the Bureau of Emergency Medical Services and Preparedness to perform an EMS function.

(34) "Meritorious Complaint" means a complaint against a licensed ambulance provider, designated agency, or licensed provider(s) that is made by a patient, a member of the immediate family of a patient, or health care provider, that the Department determines is substantially supported by the facts or a licensed ambulance provider, designated agency, or licensed provider(s):

(a) has repeatedly failed to provide service at the level or in the exclusive geographic service area required licensee;

(b) has repeatedly failed to follow operational standards established by the EMS Committee;

(c) has committed an act in the performance of a professional duty that endangered the public or constituted gross negligence; or

(d) has otherwise repeatedly engaged in conduct that is adverse to the public health, safety, morals or welfare, or would adversely affect the public trust in the emergency medical service system.

(35) "Matching Funds" means that portion of funds, in cash, contributed by the grantee to total project expenditures.

(36) "On-line Medical Control" which refers to physician medical direction of pre-hospital personnel during a medical emergency; and

(37) "Off-line Medical Control" which refers to physician oversight of local EMS services and personnel to assure their medical accountability.

(38) "Medical Director" means a physician certified by the Department to provide off-line medical control.

(39) "Mid-level Provider" means a licensed nurse practitioner or a licensed physician assistant.

(40) "Net Income" means the sum of net service revenue, plus other regulated operating revenue and subsidies of any type, less operating expenses, interest expense, and income.

(41) "Paramedic" means an individual who has completed a Department approved Paramedic training program and is licensed by the Department as qualified to render services enumerated in this rule.

(42) "Paramedic Ground Ambulance" means the provision of advanced life support patient care and transport by licensed paramedic personnel in a licensed ambulance.

(43) "Paramedic Rescue Service" means the provision of advanced life support patient care by licensed paramedic personnel without the ability to transport patients.

(44) "Paramedic Unit" means a vehicle which is properly equipped, maintained and used to transport licensed paramedics to the scene of emergencies to perform paramedic services without the ability to transport patients to a designated hospital or designated patient receiving facility.

(45) "Paramedic Tactical Service" means the retrieval and field treatment of injured peace officers or victims of traumatic confrontations by licensed paramedics who are trained in combat medical response.

(46) "Paramedic Tactical Unit" means a vehicle which is properly equipped, maintained, and used to transport licensed paramedics to the scene of traumatic confrontations to provide paramedic tactical services.

(47) "Patient Care Report" means a record of the response by each responding Emergency Medical Services Provider unit to each patient during an EMS Incident.

(48) "Patient Receiving Facility" means a Department designated medical clinic or designated resource hospital that is approved to receive patients transported by a licensed ambulance provider.

(49) "Per Capita grants" mean block grants determined by prorating available funds on a per capita basis as delineated in 26-8a-207, as part of the Emergency Medical Services Grants Program.

(50) "Permit" means the document issued by the Department that authorizes a vehicle to be used in providing emergency medical services.

(51) "Person" means an individual, firm, partnership, association, corporation, company, or group of individuals acting together for a common purpose, agency, or organization of any kind public or private.

(52) "Physician" means a medical doctor licensed to practice medicine in Utah.

(53) "Pilot" means an individual licensed to operate an air ambulance.

(54) "Pre-hospital Care" means medical care given to an ill or injured patient by a designated or licensed EMS provider outside of a hospital setting.

(55) "Primary Affiliated Provider" or "PAP" means a licensed EMS individual's primary or main employer or provider.

(56) "Primary emergency medical services" means an organization that is the only licensed or designated service in a geographical area.

(57) "Provider" means a Department licensed or designated entity that provides emergency medical services.

(58) "Provisional License" means temporary terms and conditions placed on a licensed EMS individual's license until completion of an investigation or a final adjudication or conclusion of the pending matter.

(59) "Quick Response Unit" or "QRU" means an entity that provides emergency medical services to supplement local licensed ambulance providers or provide unique services.

(60) "Quick Response Vehicle" or "QRV" means a vehicle which is properly equipped, maintained, permitted and used to perform assistive services at a scene. A QRV may transport or deliver a patient to a licensed ambulance provider access point. The QRV may include an automobile, an all-terrain vehicle or a watercraft.

(61) "Resource Hospital" means a facility designated by the EMS Committee to provide on-line medical control for the provision of pre-hospital emergency care.

(62) "Restricted License" means a licensed EMS individual may not function in their EMS capacity for an interim period of time.

(63) "Scene" means the location of initial contact with the patient.

(64) "Selective Medical Dispatch System" means a Department-approved reference system used by a designated local dispatch agency to dispatch aid to medical emergencies which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions; and

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration.

(65) "Specialized Life Support Air Ambulance Service" means a level of care which requires equipment or specialty patient care by one or more medical personnel in addition to the regularly scheduled air medical team.

(66) "Training Officer" means an individual who has completed a department Training Officer Course and is [~~certified~~]endorsed by the Department to be responsible for an EMS provider organization's continuing medical education, license renewal records, and testing.

KEY: emergency medical services
Date of Enactment or Last Substantive Amendment: [~~January 11,~~]2019
Notice of Continuation: October 9, 2018
Authorizing, and Implemented or Interpreted Law: 26-8a

Health, Family Health and Preparedness, Emergency Medical Services
R426-5
Emergency Medical Services Training, Certification, and Licensing Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43979
FILED: 08/09/2019

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these amendments is to update reporting, terminology, recognize specialty skills, and add positions to the EMS Rules Task Force.

SUMMARY OF THE RULE OR CHANGE: These changes remove tuberculosis test reporting to the Department of Health (Department), change terminology from "certification" to "endorsement", and allow specialty skills to be endorsed.

They also remove references to the "CCEU" and adds positions to the EMS Rules Task Force.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26 Chapter 8a

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These proposed rule amendments are not expected to have any fiscal impact on state government revenues or expenditures because they are for the changing of terms, and documentation for licensed individuals providers. State expenditures and staff time are not affected.
♦ LOCAL GOVERNMENTS: These proposed rule amendments are not expected to have any fiscal impact on local governments' revenues or expenditures because they are for the changing of terms, and documentation for licensed individuals providers.
♦ SMALL BUSINESSES: These proposed rule amendments are not expected to have any fiscal impact on small businesses' revenues or expenditures because they are for the changing of terms, and documentation for licensed individuals providers.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule amendments do not create a fiscal impact for persons other than small businesses, businesses, or local government entities licensed as ambulance providers in Utah. These rule amendments will eliminate the requirement for individuals to report tuberculosis testing to the Department, change the terminology from "certification" to "endorsement" for licensing process clarity, and allow the Department to officially recognize specialty care skills as an endorsement for individuals. They also delete references to the CCEU, and add positions for the EMS Rules Task Force.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed rule amendments are not expected to have any fiscal impact for affected persons, who normally use emergency medical services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
FAMILY HEALTH AND PREPAREDNESS,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov or mail at PO BOX 142004, Salt Lake City, UT 84114-2004

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$0**	**$0**	**$0**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
These rule amendments do not create a fiscal impact for non-small businesses licensed as ambulance providers in Utah. These rule amendments will eliminate the requirement for individuals to report tuberculosis testing to the Department, change the terminology from

"certification" to "endorsement" for licensing process clarity, and allow the Department to officially recognize specialty care skills as an endorsement for individuals. They also delete references to CCEU, and add positions for the EMS Rules Task Force.

I approve publication of this proposed amendment to rule R426-5 Emergency Medical Services Training and Certification Standards.
Joseph Miner, MD

R426. Health, Family Health and Preparedness, Emergency Medical Services.
R426-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards.
R426-5-100. Authority and Purpose.

(1) This rule is established under to provide uniform minimum standards to be met by those providing emergency medical services in the State of Utah; and for the training, certification, and licensing of individuals who provide emergency medical service and for those providing instructions and training to pre-hospital emergency medical care providers.

R426-5-200. Scope of Practice.

(1) The Department may license an individual as an EMR, EMT, AEMT, EMT-IA Paramedic, or EMD who meets the requirements in this rule.

(2) The Committee adopts as the standard for EMR, EMT, AEMT, EMT-IA, or Paramedic training and competency in the state, the United States Department of Transportation's National Emergency Medical Services Education Standards.

(3) An EMR, EMT, AEMT, or Paramedic may perform the skills as described in the EMS National Education Standards, to their level of licensure, as adopted in this section.

R426-5-300. EMS Individual Licensure for EMR, EMT, AEMT, EMT-IA, and Paramedic.

(1) The Department may license an EMR, EMT, EMT-IA, AEMT, or Paramedic for a two-year period.

(2) An individual who wishes to become licensed as a EMR, EMT, AEMT, EMT-IA, or Paramedic shall:

(a) successfully complete a Department-approved EMR, EMT, AEMT, EMT-IA, or Paramedic course as described in this rule;

(b) be able to perform the functions listed in the National EMS Education Standards adopted in this rule as verified by personal attestation and successful accomplishment by certified EMS Instructors during the course;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for an EMR, EMT, AEMT, EMT-IA, or Paramedic certification;

(d) submit the applicable fees and a completed application, including social security number, to the Department;

(e) submit to and pass a background investigation, including an FBI background investigation;

(f) retain documentation of having completed a Department approved CPR course within the prior two years that is consistent with the most current American Heart Association Guidelines for the level of Healthcare Cardiopulmonary Resuscitation (CPR) and Emergency Cardiac Care (ECC) Basic Life Support (BLS); and

(g) retain TB test results.

(3) Age requirements:

(a) EMR may certify at 16 years of age or older; and

(b) EMT, AEMT, EMT-IA and Paramedic may certify at 18 years of age or older.

(4) Within two years after the official course end date the applicant shall successfully complete the Department's approved National Registry of Emergency Medical Technician's written and practical EMR, EMT, AEMT, EMT-IA, or Paramedic examinations, or reexaminations, if necessary.

(5) Licensed personnel shall retain and submit upon request by the Department any documentation required for licensure.

(6) An individual who wishes to enroll in an AEMT, EMT-IA, or Paramedic course shall have as a minimum a Utah EMT license. This license or other equivalent state license or certification approved by the Department shall remain current until new license level is obtained.

(7) The Department may extend time limits for an individual who has unusual circumstances or hardships.

R426-5-310. Emergency Medical Dispatcher (EMD) Individual Licensure.

(1) The Department may license an EMD for a two-year period.

(2) An individual who wishes to become licensed as an EMD shall:

(a) successfully complete and become certified in a Department approved EMD protocol system by the system vendor no later than July 1, 2020;

(b) submit to and pass a criminal background investigation and screening clearance;

(c) retain documentation of having completed a Department approved CPR course within the prior two years. CPR training shall be kept current during licensure.

(3) An EMD may be licensed at 18 years of age or older.

R426-5-400. Licensure at a Lower Level.

(1) An individual who has taken a Paramedic course, but has not been recommended for licensure, may request to become licensed at the AEMT levels if:

(a) the paramedic course coordinator submits to the Department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the AEMT level as required by this rule; and

(b) the individual successfully completes all other application and testing requirements for an AEMT.

R426-5-500. License Challenges.

(1) The Department may license an individual as an EMT or AEMT, in consecutive order; individuals with military medical training, a registered nurse licensed in Utah, a nurse practitioner licensed in Utah, a physician assistant licensed in Utah, or a physician licensed in Utah who:

(a) is able to demonstrate knowledge, proficiency and competency to perform all the functions listed in the National EMS Education Standards as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director;

(b) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT or AEMT respectively;

(c) maintain and submit documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for adult and Pediatric Healthcare Professional CPR and ECC BLS; and

(d) is 18 years of age or older.

(2) To become licensed, the applicant shall:

[~~(a) submit three letters of recommendation from health care providers attesting to the applicant's patient care skills and abilities;~~

~~(b) submit a favorable recommendation from a currently certified course coordinator attesting to competency of knowledge and skills contained within the National EMS Education Standards;~~]

[~~(c)~~](a) submit the applicable fees and a completed application, including social security number, signature, and, proof of current Utah license as a Registered Nurse, a Physician Assistant, or a Medical Doctor, or military transcripts for training;

[~~(d)~~](b) successfully complete the Department approved written and practical EMT or AEMT examinations, or reexaminations, if necessary; and

[~~(e)~~](c) submit to and pass a background screening clearance as per R426-5-[~~3100; and~~]3200.

[~~(f) retain a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to submitting the application.~~]

R426-5-600. License Renewal Requirements for EMR, EMT, AEMT, EMT-IA, and Paramedic.

(1) The Department may renew an individual license for a two-year period or for a shorter period as modified by the Department to standardize renewal cycles.

(2) An individual seeking recertification shall:

(a) submit the applicable fees and a completed application, including social security number to the Department;

(b) submit to and pass a background screening clearance as per R426-5-[~~3100~~]3200;

(c) retain documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Professional CPR and ECC BLS. CPR shall be kept current during licensure; and

[~~(d) retain TB test results as per R426-5-800; and~~]

[~~(e)~~](d) provide documentation of completion of Department-approved CME requirements.

(3) The EMR, EMT, AEMT, EMT-IA and Paramedic shall complete the required CME hours, as outlined in the Department's Renewal Protocol for EMS Personnel Manual. The hours shall be completed throughout the prior two years.

(4) The EMR, EMT, AEMT, EMT-IA, or Paramedic shall complete and provide documentation upon request of demonstrating the psychomotor skills listed in the current National EMS Education Standards at their level of licensure.

(5) An EMR, EMT, AEMT, EMT-IA, or Paramedic who is affiliated with a licensed or designated EMS provider shall have the licensed or designated EMS provider's training officer submit a letter verifying the completion of the renewal requirements. An EMR, EMT, AEMT, EMT-IA, or Paramedic who is not affiliated with a licensed or designated EMS provider shall provide upon the request of the Department verification of all renewal requirements directly to the Department.

(6) An AEMT, EMT-IA or Paramedic shall obtain verification from a certified off-line medical director recommending the individual for renewal verifying the individual has demonstrated proficiency in the psychomotor skills listed in the current National EMS Education Standards at their license level.

(7) Individuals are responsible to complete and submit all required renewal material to the Department at one time, no later than 30 days and no earlier than six months prior to the individual's current license expiration date. Renewal material submitted less than 30 days may result in a license expiration. The Department processes renewal material in the order received.

(8) A Department approved entity who provides CME may compile and submit renewal materials on behalf of an EMR, EMT, AEMT, EMT-IA, or Paramedic; however, the individual EMR, EMT, AEMT, EMT-IA, or Paramedic is responsible for a timely and complete submission.

(9) The Department may not lengthen an individual's license period to more than the two-years, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when the license expired.

R426-5-700. License Renewal Requirements for EMD.

(1) The Department may renew an individual license for a two-year period or for a shorter period as modified by the Department to standardize renewal cycles.

(2) An individual seeking renewal shall:

(a) submit the applicable fees and a completed application, including social security number to the Department;

(b) submit to and pass a background screening clearance as per R426-5-3100;

(c) retain documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Professional CPR and ECC BLS. CPR shall be kept current during licensure;

(d) a minimum of a two-hour course in critical incident stress management (CISM);

(e) successfully complete certification in a Department approved EMD protocol system; and

(3) An EMD applying for renewal shall have the communications center supervisor or Department [~~certified~~]endorsed training officer of the designated medical dispatch center submit a letter verifying the completion of renewal requirements.

(4) Individuals are responsible to complete and submit all required renewal material to the Department at one time, no later than 30 days and no earlier than one year prior to the individual's current license expiration date. Renewal material submitted less than 30 days may result in license expiration. The Department processes renewal material in the order received.

(5) The Department may shorten an individual's license period.

(6) The Department may not lengthen an individual's license period to more than two years unless the individual is a member of the National Guard or reserve component of the armed forces and was on active duty when their license expired.

~~**[R426-5-800. TB Test Requirements for EMR, EMT, AEMT, EMT-IA, and Paramedic Licensure and Renewals.**~~

~~(1) Individuals applying for a license or the renewal of a license for EMR, EMT, AEMT, EMT-IA, or Paramedic shall be able to provide upon request a statement from a physician or other health care provider, confirming the applicant's negative results of a Tuberculin Skin Test or equivalent (TB test) examination conducted within the prior three years, or complete the following requirements:~~

~~(a) if the test is positive, and there is no documented history of prior Latent TB Infection (LTBI) treatment, the applicant shall see his primary care physician for a chest x-ray (CXR) in accordance with current Center for Disease Control and Prevention (CDC) guidelines and further evaluation; and~~

~~(b) Results of CXR and medical history shall be submitted to the Department.~~

~~(2) If the CXR is negative, the applicant's medical history will be reviewed by the State EMS Medical Director. For individuals at high risk for developing active TB, treatment will be strongly recommended.~~

~~(3) If the CXR is positive, the applicant is considered to be suspect Active TB. Should the diagnosis be confirmed:~~

~~(a) Completion of treatment or release by an appropriate physician will be required prior to certification; and~~

~~(b) each such case will be reviewed by the State EMS Medical Director.~~

~~(4) If an applicant who is required to get treatment refuses the treatment, the Department may deny certification.~~

~~(5) A TB test should not be performed on a person who has a documented history of either a prior positive TB test or prior treatment for tuberculosis. The applicant shall instead have a CXR in accordance with current CDC guidelines and provide documentation of negative CXR results to the department.~~

~~(6) If the applicant has had prior treatment for active TB or LTBI, the applicant shall provide documentation of this treatment prior to certification. Documentation of this treatment will be maintained by the employer or individual if not employed.~~

~~(7) Each such case will be reviewed by the State EMS Medical Director.~~]

R426-5-[~~900~~]800. Reciprocity for EMR, EMT, AEMT, and Paramedic.

(1) The Department may license an individual as an EMR, EMT, AEMT, or Paramedic who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for licensure in Utah based on out-of-state training and experience shall:

(a) Submit the applicable fees and a completed application, including social security number to the Department and complete all of the following within two years of submitting the application;

(b) submit to and pass a background screening clearance as per R426-5-[~~3100~~]3200;

(c) retain documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Healthcare Professional CPR and ECC and BLS. A Paramedic candidate shall also retain documentation of successful completion of ACLS or equivalent. All AMET, EMT-IA, and Paramedic licensed personnel shall retain documentation of PEPP, PALS, or equivalent courses within the prior two years;

[~~(d) retain TB test results as per R426-5-800;~~]

[~~(e)~~](d) successfully complete the National Registry of Emergency Medical Technician's written and practical EMR, EMT, AEMT, or Paramedic examinations, or reexaminations, if necessary; and

[~~(f)~~](e) submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs.

R426-5-[~~1000~~]900. Lapsed Licenses.

(1) An individual whose EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD license has expired for less than one year may, within one year after expiration, complete all renewal requirements, pay a late licensure fee. Individuals applying for EMR, EMT, AEMT, or Paramedic licensure also may be required to successfully pass the Department's approved written examination to become licensed. The individual's new expiration date will be two years from the previous expiration date.

(2) An individual whose license for EMR, EMT, AEMT, EMT-IA, or Paramedic has expired for more than one year shall:

(a) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in patient care skills at the licensure level;

(b) successfully complete the applicable Department's approved written examination;

(c) complete all renewal requirements; and

(d) the individual's new expiration date will be two years from the completion of all renewal materials.

(3) An individual whose certification has lapsed, is not authorized to provide care as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD until the individual completes the renewal process.

R426-5-[~~1100~~]1000. Emergency Medical Care During Clinical Training.

A student enrolled in a Department-approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise requires licensure to perform.

R426-5-[~~1200~~]1100. Instructor Requirements.

(1) The Department may [~~certify~~]endorse an individual as an EMS Instructor an individual who:

(a) meets the initial [~~certification~~]licensure requirements in R426-5-[~~1300~~]1200; and

(b) is currently in Utah as an EMR, EMT, AEMT,EMT-IA, or Paramedic.

(2) The Department adopts the United States Department of Transportation's "EMS Instructor Training Program as the standard for EMS Instructor training and competency in the state, which is adopted and incorporated by reference.

(3) An EMS instructor may only teach up to the license level to which the instructor is licensed.

(4) An EMS instructor shall comply with the teaching standards and procedures in the EMS Instructor Manual.

(5) An EMS instructor shall maintain the EMS license for the level the instructor is [~~certified~~]endorsed to teach. If an individual's EMS license lapses, the instructor [~~certification~~]endorsement is invalid until EMS license is renewed.

(6) The Department may waive a particular instructor [~~certification~~]endorsement requirement if the applicant can demonstrate the applicant's training and experience requirements are equivalent or greater to what are required in Utah.

R426-5-[~~1300~~]1200. Instructor [~~Certification~~]Endorsement.

(1) The Department may [~~certify~~]endorse a license an individual who is an EMR, EMT, AEMT, EMT-IA, or Paramedic as an EMS Instructor for a two-year period.

(2) An individual who wishes to become [~~certified~~]endorsed as an EMS Instructor shall:

(a) [~~S~~]submit an application and pay all applicable fees;

(b) submit three letters of recommendation regarding EMS skills and teaching abilities;

(c) submit documentation of 15 hours of teaching experience;

(d) successfully complete all required examinations; and

(e) successfully complete the Department-sponsored initial EMS instructor training course, or equivalent.

(3) An individual who wishes to become [~~certified~~]endorsed as an EMS Instructor to teach EMR, EMT, AEMT, or Paramedic courses shall provide documentation of 30 hours of patient care within the prior year.

(4) The Department may waive portions of the initial EMS instructor training courses for previously completed Department-approved instructor programs.

(5) An individual shall submit every two years a completed and signed "instructor contract" to the Department agreeing to abide by the standards and procedures in the current Instructor Manual.

R426-5-[~~1400~~]1300. Instructor [~~Recertification~~] Endorsement Renewal.

(1) An EMS instructor who wishes to [~~recertify~~]renew an endorsement as an instructor shall:

(a) maintain current EMS licensure;

(b) attend the required Department-approved instructor seminar at least once in the two year [~~recertification~~]endorsement renewal cycle; and

(c) submit an application and pay all applicable fees.

R426-5-[~~1500~~]1400. Instructor Lapsed [~~Certification~~] Endorsement.

(1) An EMS instructor whose instructor [~~certification~~]endorsement has expired for less than two years may again become [~~certified~~]endorsed by completing the [~~recertification~~]endorsement requirements.

(2) An EMS instructor whose instructor [~~certification~~]endorsement has expired for more than two years shall complete all initial instructor [~~certification~~]endorsement requirements and reapply as if there were no prior [~~certification~~]endorsement, however the Department may waive portions of the initial EMS instructor training courses if the individual is able to demonstrate competency to the Department.

R426-5-[~~1600~~]1500. Training Officer [~~Certification~~]Endorsement.

(1) The Department may [~~certify~~]endorse a licensed of an individual who is an [~~certified~~]endorsed EMS instructor as a training officer for a two-year period.

(2) An individual who wishes to become [~~certified~~]endorsed as an EMS Training officer shall:

(a) Be currently [~~certified~~]endorsed as an EMS instructor;

(b) successfully complete the Department's course for new training officers;

(c) submit an application and pay all applicable fees; and

(d) submit biennially a completed and signed "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the then current Training Officer Manual.

(3) A training officer shall maintain EMS instructor [~~certification~~]endorsement to retain training officer [~~certification~~]endorsement.

(4) An EMS training officer shall abide by the terms of the Training Officer Contract, and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective Training Officer Contract.

R426-5-[~~1700~~]1600. Training Officer [~~Recertification~~] Endorsement Renewal.

(1) A training officer who wishes to [~~recertify~~]renew an endorsement as a training officer shall:

(a) Attend a training officer seminar at least once in the two year [~~recertification~~]endorsement renewal cycle;

(b) maintain current EMS instructor and EMS license;

(c) submit an application and pay all applicable fees;

(d) successfully complete any Department-examination requirements; and

(e) submit a completed and signed new "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the current training officer manual.

R426-5-[~~1800~~]1700. Training Officer Lapsed [~~Certification~~] Endorsement.

(1) An individual whose training officer [~~certification~~]endorsement has expired for less than two years may again become [~~certified~~]endorsed by completing the [~~recertification~~]endorsement renewal requirements. The individual's new expiration date will be two years from the old expiration date.

(2) An individual whose training officer [~~certification~~]endorsement has expired for more than two year shall complete all initial training officer [~~certification~~]endorsement requirements and reapply as if there were no prior [~~certification~~]endorsement.

R426-5-[~~1900~~]1800. Course Coordinator [~~Certification~~] Endorsement.

(1) The Department may [~~certify~~]endorse an individual as an EMS course coordinator for a two-year period.

(2) An individual who wishes to [~~certify~~]become endorsed as a course coordinator shall:

(a) Be [~~certified~~]endorsed as an EMS instructor;

(b) be a co-coordinator of record for one Department-approved course with a [~~certified~~]endorsed course coordinator;

(c) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;

(d) complete [~~certification~~]endorsement requirements within one year of completion of the Department's course for new course coordinators;

(e) submit an application and pay all applicable fees;

(f) complete the Department's course for new course coordinators;

(g) sign and submit the "Course Coordinator Contract" to the Department agreeing to abide to the standards and procedures in the then current Course Coordinator Manual; and

(h) maintain EMS instructor [~~certification~~]endorsement.

(3) A Course Coordinator may only coordinate courses up to the licensure level to which the course coordinator is licensed.

(4) A course coordinator shall abide by the terms of the "Course Coordinator Contract" and comply with the standards and procedures in the Course Coordinator Manual as incorporated into the "Course Coordinator Contract."

(5) A Course Coordinator shall maintain an EMS Instructor [~~certification~~]endorsement and the EMS license for the level that the course coordinator is [~~certified~~]endorsed to coordinate. If an individual's EMS license lapses, the Course Coordinator [~~certification~~]endorsement is invalid until EMS license is renewed.

R426-5-[~~2000~~]1900. Course Coordinator [~~Recertification~~] Endorsement Renewal.

(1) A course coordinator who wishes to [~~recertify~~]renew an endorsement as a course coordinator shall:

(a) Maintain current EMS instructor and EMR, EMT, AEMT, EMT-IA, or Paramedic license;

(b) coordinate or co-coordinate at least one Department-approved course every two years;

(c) attend a course coordinator seminar at least once in the two year [~~recertification~~]endorsement renewal cycle;

(d) submit an application and pay all applicable fees; and

(e) sign and submit a Course Coordinator Contract to the Department agreeing to abide by the policies and procedures in the then current Course Coordinator Manual.

R426-5-[~~2100~~]2000. Course Coordinator Lapsed [~~Certification~~] Endorsement.

(1) An individual whose course coordinator [~~certification~~]endorsement has expired for less than two year may again become [~~certified~~]endorsed by completing the [~~recertification~~]renewal requirements. The individual's new expiration date will be two years from the [~~recertification~~]renewal date.

(2) An individual whose course coordinator [~~certification~~]endorsement has expired for more than two year shall complete all initial course coordinator [~~certification~~]endorsement requirements and reapply as if there were no prior [~~certification~~]endorsement. The Department may waive portions of the initial course coordinator requirements such as the co-coordinator requirements if the candidate has coordinated or co-coordinated a course within the past three years.

R426-5-2100. Critical Care Paramedic Endorsement.

(1) The Department may endorse an individual as a critical care paramedic for up to a four-year period.

(2) An individual who wishes to become endorsed as a critical care paramedic shall:

(a) Be a licensed paramedic in the State of Utah;

(b) be certified by the International Board of Specialty Certification as a:

(i) Certified Critical Care Paramedic (CCP-C) or

(ii) Certified Flight Paramedic (FP-C)

(c) submit an application for critical care paramedic certification and pay all applicable fees;

(d) submit proof of certification from the International Board of Specialty Certification; and

(e) maintain paramedic license

(3) Education cannot be used in lieu of a valid and current IBSC Critical Care or Flight Paramedic Certification to maintain the critical care endorsement.

R426-5-2200. Critical Care Paramedic Endorsement Renewal.

(1) A Critical Care Paramedic who wishes to renew shall:

(a) Maintain a paramedic license;

(b) submit an application for critical care paramedic;

(c) pay all applicable fees; and

(d) submit proof of certification from the International Board of Specialty Certification.

R426-5-[~~2200~~]2300. Course Approvals.

(1) A course coordinator offering EMS training to individuals who wish to become licensed as an EMR, EMT, AEMT, EMT-IA, or Paramedic shall obtain Department approval prior to initiating an EMS training course. The Department shall approve a course if:

(a) The applicant submits the course application and fees no earlier than 90 days and no later than 30 days prior to commencing the course;

(b) the applicant has sufficient equipment available for the training or if the equipment is available for rental from the Department;

(c) the Department finds the course meets all the Department rules and contracts governing training;

(d) the course coordinators and instructors hold current respective course coordinator and EMS instructor [~~certifications~~]endorsements; and

(e) the Department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

R426-5-[~~2300~~]2400. Paramedic Training Institutions Standards Compliance.

(1) A person shall be authorized by the Department to provide training leading to the licensure of a Paramedic.

(2) To become authorized and maintain authorization to provide Paramedic training, a person shall:

(a) Enter into the Department's standard Paramedic training contract; and

(b) adhere to the terms of the contract, including the requirement to provide training in compliance with the Course Coordinator Manual and the Utah Paramedic Training Program Accreditation Standards Manual.

R426-5-[~~2400~~]2500. Off-line Medical Director Requirements.

(1) The Department may certify an off-line medical director for a four-year period.

(2) An off-line medical director shall be:

(a) a physician actively engaged in the provision of emergency medical care or meets this requirement at the discretion of the State EMS Medical Director;

(b) familiar with the Utah EMS Systems Act, Title 26, Chapter 8a, and applicable state rules; and

(c) familiar with medical equipment and medications required.

R426-5-[~~2500~~]2600. Off-line Medical Director Certification.

(1) An individual who wishes to certify as an off-line medical director shall:

(a) have completed an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the Department's medical director training course within twelve months of becoming a medical director;

(b) submit an application and;

(c) pay all applicable fees.

(2) An individual who wishes to recertify as an off-line medical director shall:

(a) attend the medical directors annual workshop at least once every four years;

(b) submit an application; and

(c) pay all applicable fees.

R426-5-[~~2600~~]2700. Epinephrine Auto-Injector Use.

(1) Any qualified entities or qualified adults as defined in 26-41-102 in accordance with 26-41-107 shall receive training approved by the Department. The training shall include:

(a) recognition of life threatening symptoms of anaphylaxis;

(b) appropriate administration of an epinephrine auto-injector;

(c) proper storage of an epinephrine auto-injector;

(d) disposal of an epinephrine auto-injector; and

(e) an initial and annual refresher course.

(2) The annual refresher course requirement may be waived if:

(a) the qualified entities or qualified adults are currently licensed at the EMR or higher level by the State of Utah, or

(b) the approved trainings are the Red Cross and American Heart Association epinephrine auto-injector modules.

(3) Training in the school setting shall be based on approved Department trainings found on http://www.choosehealth.utah.gov/prek-12/school-nurses.php and provided in accordance with 26-41-104.

(4) All epinephrine auto injectors shall be stored and disposed of following the manufacturer's specifications.

R426-5-[~~2700~~]2800. Law Enforcement Blood Draws Authorized Individual Qualifications.

(1) Individuals who are not authorized to draw blood pursuant to Utah Code Title 41-6a-523(1)(b), or individuals who are not licensed by the Department such as AEMTs, EMT-IAs, or Paramedics shall meet one of the following requirements as a prerequisite for authorization to withdraw blood for the purpose of determining its alcohol or drug content when requested to do so by a peace officer:

(a) training in blood withdrawal procedures obtained as a defined part of a successfully completed college or university course taken for credit, or

(b) training in blood withdrawal procedures obtained as a defined part of a successfully completed training course which prepares individuals to function in routine clinical or emergency medical situations, or

(c) training of no less than three weeks duration in blood withdrawal procedures under the guidance of a licensed physician.

R426-5-[~~2800~~]2900. Permits for Blood Draws.

(1) The Department may issue permits to withdraw blood for the purpose of determining the alcohol or drug content therein, when requested by a peace officer, to qualified applicants, as determined by the Department. Individuals described in R426-5-[~~2700~~]2800 are exempt from permit requirements.

(2) Application to obtain a permit shall be made to the BEMSP on forms provided by the Department.

(3) When the permit holder is requested to withdraw blood for the above stated purpose at a location other than the facility indicated above, they shall possess a valid permit card.

(4) Permits shall be valid for a three year period. The date the permit expires shall appear on the permit.

(5) Application to renew permits shall be made to the Department within three months prior to the expiration date to ensure that it will not lapse. Such application shall be made on forms provided by the Department. The permit holder shall either [~~certify~~]verify that he has been engaged in performing blood withdrawal procedures during the current permit period or submit [~~a certificate~~]verification signed by a physician attesting to [~~his~~]their competence to perform blood withdrawal procedures.

(6) Permit holders shall notify the Department within 15 days of a change in name or mailing address.

R426-5-[~~2900~~]3000. Cause for Blood Draw Permit Termination or Revocation.

(1) Permits shall be subject to termination or revocation under any one of the following:

(a) the permit holder has made any misrepresentation of a material fact in his application, or any other communication to the Department or its representatives, which misrepresentation was material to the eligibility of the permit holder;

(b) the permit holder is not qualified to hold a permit;

(c) the permit holder after having received a permit has been convicted of a felony or of a misdemeanor which misdemeanor involves moral turpitude; or

(d) the permit holder does not comply with the possession requirements.

R426-5-[~~3000~~]3100. Published List of [~~Authorized~~]Individuals Permitted to Draw Blood.

(1) The Department will make available to the public a list of individuals [~~authorized~~]permitted to withdraw blood for determination of its alcohol or drug content.

(2) The Department may publish amended lists when deemed necessary.

R426-5-[~~3100~~]3200. Background Screening Clearance for EMS [~~Certification~~]Licensure.

(1) The Department shall conduct a background screening on each individual who seeks [~~to certify~~]licensure or [~~recertify~~]renewal as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD. The Department shall approve EMS [~~certification or recertification~~]licensure upon successful completion of a background screening. Background clearance indicates the individual does not pose an unacceptable risk to public health and safety.

(2) The individual seeking licensure or renewal shall submit the completed applications, including fees, prior to submission of finger prints.

[~~(2)~~](3) The Department may review relevant information obtained from the following sources:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6- 209;

(c) federal criminal background databases available to the state;

(d) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(e) child abuse or neglect findings described in Section 78A-6-323;

(f) the Department of Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1; and

(g) licensing and certification records of individuals licensed or certified by the Division of Occupational and Professional Licensing under Title 58, Occupations and Professions.

[~~(3)~~](4) If the Department determines an individual is not eligible for [~~certification or recertification~~]licensure based upon the criminal background screening and the individual disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the individual may challenge the information as provided in Utah Code Annotated Sections 77-18a.

[~~(4)~~](5) If the Department determines an individual is not eligible for [~~certification or recertification~~]licensure based upon the non-criminal background screening and the individual disagrees with the information provided, the individual may challenge the information through the appropriate agency.

[~~(5) The individual seeking certification or recertification shall submit the completed application, including fees, prior to submission of finger prints.~~]

(6) Exclusion from [~~certification or recertification~~]licensure.

(a) Criminal Convictions or Pending Charges:

(i) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses within the past 15 years, they shall not be approved for [~~certification or recertification~~]licensure:

(A) any felony or class A under Title 76, Chapter 5 Offenses Against the Person, Utah Criminal Code;

(B) any felony or class A under Title 76, Chapter 9, Offenses Against Public Order and Decency, Utah Criminal Code excluding sections 103 and 108;

(C) any felony or class A or B under the following Utah Criminal Codes:

(I) 76-9-301.8, Bestiality;

(II) 76-9-702.1, Sexual Battery; and

(III) 76-9-702.5, Lewdness Involving Child.

(ii) If an individual has been convicted or has pleaded no contest for the following offenses, 15 years have passed since the last conviction and the offense cannot be expunged they shall be considered for [~~certification or recertification~~]licensure:

(A) any felony or class A under Title 76, Chapter 5 Offenses Against the Person, Utah Criminal Code;

(B) any felony or class A under Title 76, Chapter 9, Offenses Against Public Order and Decency, Utah Criminal Code excluding sections 103 and 108;

(C) any felony or class A or B under the following Utah Criminal Codes:

(I) 76-9-301.8, Bestiality;

(II) 76-9-702.1, Sexual Battery; and

(III) 76-9-702.5, Lewdness Involving Child.

(iii) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses, they shall be considered for [~~certification or recertification~~]licensure:

(A) any felony or class A under Utah Criminal Code not listed in R426-5-[~~3100~~]3200(6)(a)(i).

(B) any class B or C under Title 76, Chapter 5 Offenses Against the Person, Utah Criminal Code;

(C) any felony, class A under Title 76, Chapter 6, Offenses Against Property, Utah Criminal Code;

(D) any felony or class A under Title 76, Chapter 6a, Pyramid Schemes, Utah Criminal Code;

(E) any felony or class A under Title 76, Chapter 8, Offenses Against the Administration of Government, Utah Criminal Code;

(F) any felony, class A under Title 76, Chapter 10, Offenses Against Public Health, Welfare, Safety and Morals, Utah Criminal Code;

(G) any felony, class A, B or C under the following Utah Criminal Codes:

(I) 76-10-1201 to 1229.5, Pornographic and Harmful Materials and Performances; and

(II) 76-10-1301 to 1314, Prostitution;

(III) any felony or class A under Utah Criminal Code 76-10-2301, Contributing to the Delinquency of a Minor;

(H) any felony or class A or B under Utah Motor Vehicles Traffic Code 41-6a-502, 502.5, and 517.

(I) any felony or class A or B under Utah Occupations and Professions Utah Controlled Substances Act 58-37.

(J) any felony or class A or B under Alcoholic Beverage Control Act 32B-4-409.

(K) any criminal conviction or pattern of convictions that may represent an unacceptable risk to public health and safety.

(iv) An individual seeking [~~certification~~]licensure who has been convicted or has pleaded no contest, is subject to a plea in abeyance, a diversion agreement, a warrant for arrest, arrested or charged for any of the identified offenses in R426-5-[~~3100~~]3200(6)(a)(iii), shall be considered for [~~certification~~]licensure.

(v) A [~~certified~~]licensed EMS individual who is subject to a warrant of arrest, arrested or charged for any of the identified offenses in R426-5-[~~3100~~]3200(6)(a)(iii), and after an investigation and Peer Review Board process as established in R426-5-[~~3300~~]3400, the Department may issue [~~recertification~~]license, or suspend or revoke a [~~certification~~]license, or place a [~~certification~~]license on probation.

(vi) A [~~certified~~]licensed EMS individual who is subject to a warrant of arrest, arrested or charged for any of the identified offenses in R426-5-[~~3100~~]3200(6)(a)(i), shall immediately have the individuals EMS [~~certification~~]license placed on restriction pending the outcome of a [~~CCEU~~]Department investigation as per the process established in R426-5-3300.

(b) Juvenile Records.

(i) As required by Utah Code Subsection 26-8a-310(5)(b), juvenile court records shall be reviewed if an individual is:

(A) under the age of 28; or

(B) over the age of 28 and has convictions or pending charges identified in R426-5-[~~3100~~]3200(6)(a).

(ii) Adjudications by a juvenile court may exclude the individual from [~~certification or recertification~~]licensure if the adjudications refer to an act that, if committed by an adult, would be a felony or a misdemeanor any of the identified offenses in R426-5-[~~2700~~]3200(6)(a).

(c) Non-Criminal Records.

(i) The Department may deny [~~certification or recertification~~]licensure based on a supported finding from:

(A) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(B) child abuse or neglect findings described in Section 78A-6-323;

(C) the Department of Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(ii) The Department may deny [~~certification or recertification~~]licensure based on a finding from licensing records of individuals licensed by the Division of Occupational and Professional Licensing under Title 58, Occupations and Professions.

(d) Review of Relevant Information.

(i) Results of background screening review, as listed above in R426-5-[~~3100~~]3200(6)(a)(ii)-(iii), (b) or (c) may be reviewed to determine under what circumstance, if any, the individual may be granted [~~certification or recertification~~]licensure. The following factors may be considered:

(A) types and number;

(B) passage of time;

(C) surrounding circumstances;

(D) intervening circumstances; and

(E) steps taken to correct or improve.

(ii) The Department shall rely on relevant information identified in R426-5-[~~3100~~]3200(2) as conclusive evidence and may deny [~~certification or recertification~~]licensure based on that information.

(e) Appeal of Department [~~certification~~]licensure decision.

(i) A [~~certified~~]licensed EMS individual may appeal a Department [~~certification~~]licensure decision as listed in R426-5-[~~3100~~]3200(6)(d)(i)to the [~~CCEU~~]Department as per the process established in R426-5-[~~3300~~]3400.

(7) A [~~certified~~]licensed EMS individual who has been arrested, charged, or convicted shall notify the Department [~~CCEU~~] and all employers or affiliated entities who utilize the EMS individual's [~~certification~~]license within 7 business days. The [~~certified~~]licensed EMS individual shall also notify the Department of all entities they work for or are affiliated with.

(8) All licensed or designated EMS providers who are notified or become aware of a [~~certified~~]licensed EMS individual arrest, charge or conviction shall notify the Department [~~CCEU~~] within 7 business days.

R426-5-[~~3200~~]3300. Review and Investigation [~~by the Complaint, Compliance and Enforcement Unit (CCEU)~~]of Complaints and Referrals.

(1) The [~~CCEU~~]Department shall review all complaints filed against an EMS provider and a [~~certified~~]licensed EMS individual.

[~~(a) Complaints shall be in writing and submitted on an approved CCEU complaint form.~~

~~(b) Every complaint shall have the complainants contact information and be signed by the complainant.~~]

(2) Designated or licensed provider complaints will be investigated by the [~~CCEU~~]Department.

(a) The [~~CCEU~~]Department may conduct interviews with the provider.

(b) The [~~CCEU~~]Department will allow the provider an opportunity to respond to the allegations and to provide supporting witnesses and documentation.

(c) Based on the investigation, the [~~CCEU~~]Department will make a recommendation[~~s~~] to the Department's Bureau Director.

(d) If the [~~CCEU~~]Department's recommendation is that the provider is to be placed on probation or suspension, the [~~CCEU shall recommend~~]Department's recommendation should include terms and conditions.

(e) The Department may take action against a designated or licensed provider's license or designation based on the investigative findings.

(f) The Department shall notify the provider in writing of the Department's decision within 30 days of completion of the investigation.

(3) [~~Certified~~]Licensed EMS individual complaints will be investigated either by the [~~CCEU~~]Department or by the Primary Affiliated Provider (PAP).

(a) [~~The CCEU shall investigate the following complaints against a certified EMS individual.~~]The Department shall investigate and may take action if the Department determines any of the following applies to a licensed EMS individual;

[~~(i) If the CCEU determines that:~~]

[~~(A)~~](i) the [~~certified~~]licensed EMS individual demonstrates a threat to him or herself or to a coworker,

[~~(B)~~](ii) the [~~certified~~]licensed EMS individual demonstrates a threat to the public health,

[~~(C)~~](iii) the [~~certified~~]licensed EMS individual demonstrates a threat to the safety or welfare of the public,

[~~(D)~~](iv) the [~~certified~~]licensed EMS individual potentially violated [~~R426-5-2800(4)~~]R426-5-3200(4), or

[~~(E)~~](v) the [~~CCEU~~]Department determines the risk cannot be reasonably mitigated.

[~~(ii)~~](vi) The Department may place the [~~certified~~]licensed EMS individual on a restricted [~~certification~~]license while an[~~d~~] investigation is pending until terms are reached for a provisional [~~certification~~]license using the process outlined in R426-5-[~~3200~~]3300(5)(e).

[~~(iii)~~](vii) The [~~CCEU~~]Department may conduct interviews with all parties necessary. The [~~CCEU~~]Department will gather information and evidence, which may include requiring the [~~certified~~]licensed EMS individual to submit to a drug or alcohol screening or any other appropriate evaluation.

[~~(iv)~~](viii) The [~~certified~~]licensed EMS individual shall have an opportunity to respond to the allegations and to provide supporting witnesses and documentation.

[~~(v)~~](ix) Once the [~~CCEU~~]Department has completed its investigation it shall submit the report with all findings and recommendations to the Peer Review Board per R426-5-[~~3300~~]3400(4) [~~and the Bureau Director~~]for review.

[~~(vi) While waiting for the Peer Review Board process, the Department shall notify the certified EMS individual in writing of the CCEU's recommendation within 30 days of the completion of the investigation.~~]

(b) The [~~Primary Affiliated Provider~~]PAP shall investigate a complaint against the [~~certified~~]licensed EMS individual who the [~~CCEU~~]Department refers to the PAP.

(i) The PAP investigation shall:

(A) be investigated by the licensed or designated EMS provider's EMS [~~certified medical~~]endorsed training officer or designee;

(B) be completed and findings submitted to the [~~CCEU~~]Department within 30 calendar days from receipt of complaint from the [~~CCEU~~]Department;

(ii) If the [~~CCEU~~]Department determines that the PAP actions are insufficient, the [~~CCEU~~]Department may initiate an investigation of the [~~certified~~]licensed EMS individual which follows the [~~CCEU~~]Department and the Peer Review Board process.

(4) The Department shall investigate an [~~certified~~]EMS individual's [~~certification~~]license or a provider's license or designation for any of the following:

(a) refusal to submit to a drug test requested by the EMS provider or the Department;

(b) failure to report by an individual or any affiliated provider pursuant to R426-5-[~~3100~~]3200(7)and(8);

(c) non-prescribed use of or addiction to narcotics or drugs;

(d) use of alcoholic beverages or being under the influence of alcoholic beverages at any level while on call or on duty as an EMS personnel or while driving any EMS vehicle;

(e) being under the influence of a prescribed or non-prescribed medication or drug(legal or illegal) while on call or on duty as a [~~certified~~]licensed EMS individual who affects the person's ability to operate or function safely.

(f) failure to comply with the training, licensing, or relicensing requirements for the license[~~ or certification~~];

(g) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator. Action taken by the Department on this item shall only be against the individual's ability to perform this particular function and would not affect their base [~~certification~~]EMS license;

(h) fraud or deceit in applying for or obtaining a [~~certification~~]license;

(i) fraud, deceit, lack of professional competency, patient abuse, or theft in the performance of the duties as a [~~certified~~]licensed EMS individual;

(j) false or misleading information or failure to disclose criminal background information during an investigation or an EMS Personnel Peer Review Board proceeding;

(k) unauthorized use or removal of narcotics, medications, supplies or equipment from a provider, emergency vehicle or health care facility;

(l) performing procedures or skills beyond the level of [~~certification~~]an individual's EMS licensure or provider's licensure;

(m) violation of laws pertaining to medical practice, drugs, or controlled substances;

(n) mental incompetence as determined by a court of competent jurisdiction;

(o) demonstrated inability and failure to perform adequate patient care;

(p) inability to provide emergency medical services with reasonable skill and safety because of illness, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated;

(q) misrepresentation of an individual's level of [~~certification~~]licensure;

(r) failure of a [~~certified~~]licensed EMS individual to display a clearly identifiable level of [~~medical certification~~]EMS licensure during an EMS response;

(s) unsafe, unnecessary or improper operation of an emergency vehicle that would likely cause concern or create a danger to the general public; or

(t) improper or unnecessary use of emergency equipment.

(5) Background screening referrals may be submitted to the [~~CCEU~~]Department for review and investigation.

(a) The [~~CCEU~~]Department shall review any case referred under R426-5-[~~3100~~]3200.

(b) The [~~CCEU~~]Department may require the [~~certified~~]licensed EMS individual to provide the proper criminal background documentation.

(c) The [~~certified~~]licensed EMS individual shall notify the [~~CCEU~~]Department of all entities they work for or are affiliated with or that they may become affiliated with in connection to their EMS [~~certification~~]licensure.

(d) Failure to comply with any [~~CCEU~~]Department requirements may result in disciplinary action against the [~~certified~~]licensed EMS individual's [~~certification~~]licensure.

(e) The [~~CCEU~~]Department may negotiate with the [~~certified~~]licensed EMS individual and their [~~primary affiliated provider~~]PAP to determine terms and conditions of the EMS individual's provisional [~~certification~~]licensure.

(i) When the Department determines a [~~certified~~]licensed EMS individual's [~~certification~~]license will be restricted, the [~~CCEU~~]Department shall notify both the [~~certified~~]licensed EMS individual and all licensed or designated providers they are affiliated with.

(ii) [~~Within 2 business days of receiving the complaint or referral, the CCEU~~]The Department will attempt to contact and begin negotiations with the [~~primary affiliated provider~~]PAP and the [~~certified~~]licensed EMS individual. All parties will attempt to

determine reasonable terms and conditions to the [~~certified~~]licensed EMS individual's [~~certification~~]license [~~that would mitigate the concerns alleged in the complaint or referral~~].

(iii) If terms and conditions are agreed upon between the parties, the [~~certified~~]licensed EMS individual and all affiliated licensed or designated providers shall be notified immediately. This notification will include [~~that the certified~~]information that the licensed EMS individual is under a provisional [~~certification~~]license with terms and conditions until the resolution of any criminal charge or the completion of an investigation.

(iv) If the [~~certified~~]licensed EMS individual is not employed or affiliated with a licensed or designated provider or if terms and conditions are not agreed upon, the [~~CCEU~~]Department may [~~will~~]take action necessary to protect the public's best interest.

(v) The [~~CCEU~~]Department, the [~~certified~~]licensed EMS individual and the [~~provider~~]PAP, if applicable shall sign the terms of the provisional [~~certification and~~]licensure agreement. [~~Non-licensed~~]Any other affiliated licensed or designated EMS providers shall be notified of the provisional [~~certification~~]license and its terms and conditions.

(vi) Once the provisional [~~certification~~]license has been signed, all known EMS providers who the [~~certified~~]licensed EMS individual is affiliated with will be notified immediately by the [~~CCEU~~]Department.

(vii) If any affiliated licensed or designated EMS providers or the [~~certified~~]licensed EMS individual fail to abide by the terms and conditions of a provisional [~~certification~~]license, [~~both~~]they may be subject to sanctions by the Department.

(f) The Department shall submit recommended background clearance actions for licensed EMS individuals to the Peer Review Board under R426-5-3400.

(6) Appeal process;

(a) If a licensed or designated EMS provider chooses to appeal an action by the Department, they may appeal to the EMS Committee or pursue a remedy under the Utah Administrative Procedures Act, Title [~~63G-4-201~~]63G, Chapter 4, Administrative Procedures Act.

(i) If the Department action is appealed to the EMS Committee, then the recommendation shall be given to the Department Executive Director for a final decision.

(b) If a [~~certified~~]licensed EMS individual chooses to appeal an action by the Department, they may appeal to the Executive Director, or pursue a remedy under the Utah Administrative Procedures Act, [~~63G-4-201~~]Title 63G, Chapter 4, Administrative Procedures Act.

R426-5-[~~3300~~]3400. EMS Personnel Peer Review Board.

The EMS Personnel Peer Review Board is created under section 26-8a-105(4).

(1) Membership of the EMS Personnel Peer Review Board. The EMS Personnel Peer Review Board shall be composed of the following 15 members appointed by the Executive Director of the Department of Health:

(a) One EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the first or second class;

(b) One EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the third through sixth class;

(c) One educational representative from an accredited EMS training program;

(d) One physician certified and practicing as an EMS Medical Director;

(e) One [~~certified~~]licensed EMD;

(f) Two representatives from professional employee groups, one fire based, and one non-fire based;

(g) Two [~~certified~~]endorsed [~~quality assurance/medical~~]EMS training officers;

(h) Two non-supervisory [~~certified~~]licensed EMT's;

(i) Two non-supervisory [~~certified~~]licensed AEMT's;

(j) Two non-supervisory [~~certified~~]licensed Paramedics;

(2) EMS Personnel Peer Review Board member terms of office:

(a) Except as provided in subsection (2)(b) members shall be appointed for a six year term beginning no later than October 1, 2015.

(b) The Department shall adjust the length of terms to ensure the terms of members of the board are staggered so approximately one third of the board is appointed every two years.

(c) No member shall serve consecutive full terms.

(d) When a vacancy occurs in the membership of the board for any reason, the Executive Director of the Department shall appoint the replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.

(e) The EMS Personnel Peer Review Board shall organize and select one of its members as Chair and one of its members as Vice Chair to serve no more than two years in each position.

(f) If a board member becomes ineligible for the EMS Personnel Peer Review Board membership position through promotion, an increase in level of [~~certification~~]licensure or transfer out of the employment position which qualified them for the appointment, they shall be replaced at the next two year interval.

(g) An equitable mix of urban and rural members is preferred.

(3) EMS Personnel Peer Review Board Meetings.

(a) Regular meetings of the Peer Review Board shall be scheduled quarterly.

(i) Regular meetings shall be noticed and posted to employers and posted in accordance with the Utah Open and Public Meetings Act, Section 52-4-202.

(ii) Failure to attend three or more consecutive meetings by any member may be grounds for removal of that member and replacement in accordance with subsection (2)(d).

(iii) A member may not receive compensation or benefits from the Department for the member's service. The member may receive per diem and travel expensed in accordance with Department rules and policies.

(4) Once a complaint or background screening finding against a [~~certified~~]licensed EMS individual is investigated, the [~~CCEU~~]Department shall refer the case and provide a report with all findings and recommendations to the EMS Personnel Peer Review Board.

(5) If the EMS Personnel Peer Review Board chooses to recommend any action that deviates from the [~~CCEU~~]Department

recommendation, the [~~b~~]Board shall provide written justification for that recommendation.

(6) The EMS Personnel Peer Review Board may make recommendations to the Department's Bureau Director, of:

(a) no Department action, or

(b) a letter of notice, or

(c) probation of the [~~certified~~]licensed EMS individual's [~~certification~~]license with specific terms and conditions for a period of time, or

(d) suspension of the [~~certified~~]licensed EMS individual's [~~certification~~]license for a defined period of time, or

(e) permanent revocation of the [~~certified~~]licensed EMS individual's [~~certification~~]license, or

(d) a combination of any of these actions.

(7) If the Department's Bureau Director modifies the recommended action of the EMS Personnel Peer Review Board, the Department's Bureau Director shall attach a written letter of dissent noting the reasoning for the decision. The Department's Bureau Director shall then notify the EMS Personnel Peer Review Board of the dissent and action taken.

(8) The [~~certified~~]licensed EMS individual shall be notified by the Department of any action taken within 15 days of the decision by mail.

(9) An action to restrict, place on probation, suspend, or revoke the [~~certified~~]licensed EMS individual's [~~certification~~]license shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

R426-5-[~~3400~~]3500. EMS Rules Task Force.

The EMS Rules Task Force is created under Title 26, Chapter 8a, EMS Act[~~section 26-8a-105(3)~~].

(1) [~~Membership of the EMS Rules Task Force.~~]The EMS Rules Task Force shall be composed of the following members appointed by the Executive Director of the Department of Health:

(a) a representative from the Utah Fire Chiefs' Association;

(b) a representative from the Utah Rural EMS Directors' Association;

(c) a EMS medical director;

(d) a privately owned EMS representative;

(e) a rural EMS medical dispatch representative;

(f) a paramedic licensed provider representative;

(g) an urban EMS medical dispatch representative;

(h) an Emergency Nurses Association representative;

(i) a course coordinator from an accredited EMS training program;

(j) an endorsed EMS training officer;

(k) a representative from the State EMS Committee;

(l) a designated trauma center representative;

(m) a designated patient receiving facility representative;

(n) a designated nonemergency secured behavioral patient transport representative.

(2) EMS Rules Task Force member terms of office:

(a) Except as provided in subsection (2)(b) members shall be appointed for a three year term.

(b) The Department shall adjust the length of terms to ensure the terms of members of the EMS Rules Task Force are staggered so approximately one third of the EMS Rules Task Force is appointed every two years.

(c) Members may serve two consecutive full terms.

(d) When a vacancy occurs in the membership for any reason, the Department shall solicit applications for replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.

(e) The EMS Rules Task Force may organize and select one of its members as Chair and one of its members as Vice Chair to serve no more than two years in each position.

(f) If a EMS Rules Task Force member becomes ineligible for the EMS Rules Task Force membership position through promotion, an increase in level of [~~certification~~]license or transfer out of the employment position which qualified them for the appointment, they shall be replaced at the next two year interval.

(g) An equitable mix of urban and rural members is preferred.

(3) EMS Rules Task Force Meetings.

(a) Regular meetings of the EMS Rules Task Force shall be scheduled as determined by the membership and the Department.

KEY: emergency medical services
Date of Enactment or Last Substantive Amendment: [~~November 7, 2018~~]2019
Notice of Continuation: December 6, 2016
Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-8a-302

Health, Family Health and Preparedness, Licensing
R432-45
Nurse Aide Training and Competency Evaluation Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43964
FILED: 08/07/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these amendments is to modify the rules regulating the nurse aide training and competency evaluation program to allow the Direct Access Clearance System (DACS) to be used for background screening of instructors for the program, and to amend testing requirements. The Health Facility Committee reviewed and approved these rule amendments on 05/15/2019.

SUMMARY OF THE RULE OR CHANGE: These amendments add language for instructors in the Nurse Aide Training and Competency Evaluation Program (NATCEP) to be entered into the Direct Access Clearance System (DACS) to initiate a background clearance. These amendments also allow for CNAs with expired certificates in good standing to have three attempts to re-test. Due to multiple clinical sites,

these amendments also remove the requirement for a two-hour orientation for CNAs at the clinical site.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26 Chapter 21

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: State government licensing of health care facilities and agencies was thoroughly reviewed. These proposed rule amendments would not likely impact licensing deficiencies.
♦ LOCAL GOVERNMENTS: Local government city business licensing requirements were considered. These proposed rule amendments should not impact local governments' revenues or expenditures.
♦ SMALL BUSINESSES: After conducting a thorough analysis, it was determined that these rule amendments should not impact costs for small business health care facilities or agencies. There are approximately 35 NATCEPs in Utah. No financial impact will result for the training programs, as the individual instructors will incur the cost of their own background screening.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: After conducting a thorough analysis, it was determined that these rule amendments will affect individual instructors for the NATCEP. There were 58 instructors engaged in the past 12 months. Each instructor will incur an additional background screening monitoring fee of $18 to utilize the Direct Access Clearance System and a storage fee of $5. The total impact per person is $23. The total impact for all persons affected is $1,334.

COMPLIANCE COSTS FOR AFFECTED PERSONS: After conducting a thorough analysis, it was determined that these proposed rule amendments will result in a fiscal impact to NATCEP instructors. Each instructor will incur an additional background screening monitoring fee of $18 to utilize the Direct Access Clearance System and a storage fee of $5. The total impact per person is $23. The total impact for all persons affected is $1,334.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses other than an additional $23 fee for each instruction for background screenings and storage.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
FAMILY HEALTH AND PREPAREDNESS,
LICENSING
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kristi Grimes by phone at 801-273-2821, or by Internet E-mail at kristigrimes@utah.gov or mail at PO BOX 142003, Salt Lake City, UT 84114-2003

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$1,334	$1,334	$1,334
Total Fiscal Costs:	**$1,334**	**$1,334**	**$1,334**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses
These rule amendments will only affect individual instructors for the Nurse Aide Training and Competency Evaluation Program (NATCEP). Since there were already rules in place for background screening of instructors, there will be no regulatory impact to non-small businesses.

R432. Health, Family Health and Preparedness, Licensing.
R432-45. Nurse Aide Training and Competency Evaluation Program.
R432-45-3. Program Access Requirements.

(1) A nurse aide is required to complete a NATCEP and become certified within 120 days of the first date of employment.

(2) An individual who was certified as a nurse aide on or before July 1, 1989, meets the OBRA requirement upon completion of the approved in-service training on mental retardation and mental illness.

(3) If specific requirements are met in the following cases, the UNAR office may grant a waiver to:

(a) a nursing student who has completed the first semester of nursing school within the past two years with a passing grade[~~and to a current nursing student~~]. An official transcript of a nursing fundamentals class must accompany the Application for Certification Testing. If the candidate does not pass either the skills or written portion of the CNA examination after three attempts, the candidate must complete a NATCEP;

(b) a[~~n expired licensed~~] nurse with an expired license who can show proof of previous licensure in any state and who was in good standing with that state's professional board. UNAR shall grant the candidate 3[~~one~~] attempts to pass both the skills and written portion of the examination. If the candidate does not pass either portion, the candidate must complete a NATCEP[~~.~~];

(c) a[~~n expired Utah~~] CNA with an expired certificate from Utah who is in good standing with UNAR. UNAR shall grant the candidate 3[~~one~~] attempts to pass both the skills and written portion of the examination within two[~~one~~] years of the certification expiration date. If the candidate does not pass either portion, the candidate must retrain; or

(d) any out-of-state CNA who is certified and in good standing with another state's survey agency. UNAR grants reciprocity upon the CNA providing proof of certification in that other state.

(4) An out-of-state [~~expired~~]CNA with an expired certificate must complete a NATCEP in the state of Utah.

R432-45-5. Nurse Aide Training Requirements Under UNAR.

(1) UNAR shall administer a NATCEP through a contract with the Department of Health.

(2) An agency that conducts a NATCEP must be UNAR-approved.

(3) Applicants for approval of a NATCEP and all new NATCEP instructors must successfully complete a background clearance[~~be fingerprinted and have their records checked in state and national bureaus~~].[~~Before receiving NATCEP approval, a~~]

(a) A NATCEP must submit required information to UNAR to initiate a background clearance for each applicant and instructor. [~~send a background check and fingerprinting to UNAR to be placed in the file of the proposed new training program.~~]

(b) UNAR shall ensure:

(i) required information is entered into the Direct Access Clearance System to initiate a clearance for each applicant and instructor;

(ii) each applicant and instructor signs a criminal background screening authorization form which must be available for review by the department;

(iii) each applicant and instructor submits fingerprints; and

(iv) the Direct Access Clearance System reflects the current status of the applicant and instructor.

(c) If the Department determines an applicant or instructor are not eligible, based on information obtained through the Direct Access Clearance System, the Department shall send a Notice of Agency Action to UNAR and the individual explaining the action and the individual's right of appeal as defined in R432-30.

(4) In accordance with this section, UNAR shall review and render a determination of approval or disapproval of any NATCEP when a Medicare or Medicaid participating nursing facility requests the determination. UNAR at its option, may also agree to review and render approval or disapproval of any private NATCEP.

(5) UNAR must, within 90 days of the date of an application, either advise the requestor of UNAR's determination, or must seek additional information from the requesting entity with respect to the program for which it is seeking approval.

(6) UNAR shall approve a NATCEP that meets the criteria specified in OBRA, the Centers for Medicare and Medicaid Service's guidelines, guidelines designated by the Department of Health, and all UNAR requirements.

(a) UNAR shall admit a student who is at least 16 years old on or before the first day the student begins class; and

(b) shall include an orientation to the training program.

(7) The nurse aide training program must meet certain content requirements to be UNAR-approved.

(a) NATCEP must consist of at least 100 hours of supervised and documented training by a licensed nurse.

(b) The curriculum of the training program must include the following subjects:

(i) communication and interpersonal skills;

(ii) infection control;

(iii) safety and emergency procedures;

(iv) promoting resident independence;

(v) respecting resident rights; and

(vi) basic nursing skills.

(c) The trainee must complete at least 24 hours of supervised practical training in a long-term care facility, and complete all skill curriculum and skill competencies before training in any facility. The skills training must ensure that each nurse aide demonstrates competencies in the following areas:

(i) Basic nursing skills:

(A) taking and recording vital signs;

(B) measuring and recording height;

(C) caring for residents' environment; and

(D) recognizing abnormal signs and symptoms of common diseases and conditions.

(ii) Personal care skills:

(A) bathing that includes mouth care;

(B) grooming;

(C) dressing;

(D) using the toilet;
(E) assisting with eating and hydration;
(F) proper feeding techniques; and
(G) skin care.
(iii) Basic restorative services:
(A) use of assistive devices in ambulation, eating, and dressing;
(B) maintenance of range of motion;
(C) proper turning and positioning in bed and chair;
(D) bowel and bladder training;
(E) care and use of prosthetic and orthotic devices; and
(F) transfer techniques.
(iv) Mental Health and Social Service Skills:
(A) modifying one's behavior in response to the resident's behavior;
(B) identifying developmental tasks associated with the aging process;
(C) training the resident in self-care according to the resident's ability;
(D) behavior management by reinforcing appropriate resident behavior and reducing or eliminating inappropriate behavior;
(E) allowing the resident to make personal choices, providing and reinforcing other behavior consistent with the resident's dignity; and
(F) using the resident's family as a source of emotional support.
(v) Resident's rights:
(a) providing privacy and maintaining confidentiality;
(b) promoting the resident's right to make personal choices to accommodate the resident's needs;
(c) giving assistance in solving grievances;
(d) providing needed assistance in getting to and participating in resident and family groups and other activities;
(e) maintaining care and security of resident's personal possessions;
(f) providing care that keeps a resident free from abuse, mistreatment, or neglect, and reporting any instances of poor care to appropriate facility staff; and
(g) maintaining the resident's environment and care through appropriate nurse aide behavior to minimize the need for physical and chemical restraints.
(8) Qualification of Instructors:
(a) a NATCEP must have a program coordinator who is a registered nurse with a current and active Utah license to practice;
(b) who is in good standing with DOPL;
(c) with two years of nursing experience, at least one of which is the provision of long-term care facility services or caring for the elderly or chronically ill of any age; and
(d) must have at least three hours of documented consulting time per month with the respective program.
(9) Nursing facility-based programs:
(a) the program coordinator in a nursing facility-based program may be the director of nursing for the facility as long as the facility remains in full compliance with OBRA requirements;
(b) the primary instructor must be a licensed nurse with a current and active Utah license to practice and must be in good standing with DOPL; and
(c) must have two years of nursing experience, at least one of which is the provision of long-term care facility services or caring for the elderly or chronically ill of any age.
(10) Before approval of a NATCEP, the program coordinator and primary instructor must successfully complete a UNAR-approved "Train-the-Trainer" program or demonstrate competence to teach a CNA candidate who is at least 16 years old. All high school instructors must be certified to teach in the classroom by completing a "Train the Trainer" program or be certified to teach as defined by the Utah State Office of Education before providing instruction in the classroom.
(11) Students who provide services to residents must be under the direct supervision of a licensed nurse who is a UNAR-approved clinical instructor and whose clinical time is separate from her facility employment.
(12) Qualified personnel from the health professions may supplement the program coordinator and primary instructor. The program coordinator or primary instructor must be present during all provided supplemental training.
(13) Qualified personnel include registered nurses, licensed practical or vocational nurses, pharmacists, dietitians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech or language therapists, and any other qualified personnel.
(14) UNAR requires qualified personnel to have at least one year of current experience in the care of the elderly or chronically ill of any age, or to have equivalent experience. Qualified personnel must also meet current licensure requirements, whether they are registered or certified in their field.
(15) A NATCEP must have a student-to-instructor ratio of 12:1 for clinical instruction and shall not exceed a 30:1 ratio for theory instruction. UNAR requires an instructor assistant when the program has more than 20 students.
(16) A NATCEP must provide a classroom with the following:
(a) adequate space and furniture for the number of students;
(b) adequate lighting and ventilation;
(c) comfortable temperature;
(d) appropriate audio-visual equipment;
(e) skills lab equipment to simulate a resident's unit;
(f) clean and safe environment; and
(g) appropriate textbooks and reference materials.
(17) Initial post-approval and ongoing reviews:
(a) After the initial approval of a NATCEP, UNAR grants a one-year probationary period;
(b) During the probationary period, UNAR may withdraw program approval if there is a violation of OBRA, state, federal, or UNAR requirements;
(c) After the probationary period, UNAR shall complete an on-site review and then complete subsequent on-site reviews at least every two years;
(d) The CNA training program shall submit a self-evaluation to UNAR during the interim year that UNAR does not complete an on-site review;
(e) In the event that UNAR does not complete an on-site review within two years, the CNA training program is responsible to send a self-evaluation to UNAR for the applicable two-year period;

(f) If UNAR does not make an on-site visit within two years and the CNA training program sends in a self-evaluation, UNAR must make an on-site visit within one year of the self-evaluation.

(18) The training and evaluation program review must include:

(a) skills training experience;

(b) maintenance of qualified faculty members for both classroom and skills portions of the nurse aide training program;

(c) maintenance of the security of the competency evaluation examinations;

(d) a record of complaints received about the program;

(e) a record that each nursing facility has provided certified nurse aides with at least 12 hours of staff development training each year with the compensation for the training;

(f) curriculum content that meets state and federal requirements; and

(g) classroom facilities and required equipment that meet state, federal, and UNAR requirements.

[~~(19) In addition to the nurse aide training that UNAR requires, each program shall provide a two-hour orientation of the clinical site for that student before beginning the clinical rotation. The orientation hours are not included in the required 24 hours of clinical training. This orientation phase must include an explanation of:~~

~~(a) facility organizational structure;~~

~~(b) facility policies and procedures;~~

~~(c) facility philosophy of care;~~

~~(d) resident population; and~~

~~(e) employee rules.~~]

KEY: health care facilities
Date of Enactment or Last Substantive Amendment: [~~August 25, 2014~~|2019]
Notice of Continuation: April 5, 2019
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-1

Human Services, Substance Abuse and Mental Health

R523-20

Community Firearms Violence and Suicide Prevention Standards

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 43980
FILED: 08/12/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes procedures for distribution of goods and services specified in Subsection 62A-15-103(3).

SUMMARY OF THE RULE OR CHANGE: This rule provides the descriptions of the development and distribution of suicide prevention pamphlets, establishes a process for purchasing and distributing gun safety locks, and outlines a process for distributing gun safe coupons.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-15-103(3)(d)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division of Substance Abuse and Mental Health (Division) was allocated ongoing $10,000 by the 2019 Legislature to produce suicide prevention pamphlets, and purchase gun safety locks for distribution, and $500,000 in onetime funds to provide coupons to counseled weapons card holders for the purchase of a gun lock. All funding will be used for those purposes, and these goods and services will be discontinued once funding has been depleted.
♦ LOCAL GOVERNMENTS: Local Mental Health Authorities that participate in these programs will not be charged for the pamphlets or gun locks.
♦ SMALL BUSINESSES: Small businesses that participate in these programs will not be charged for the pamphlets or gun locks that are distributed by them.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Other persons may participate in receiving free suicide prevention pamphlets and gun locks, but this benefit is inestimable because it is unknown how many pamphlets and locks one person might receive, and the total coast for those items is not known at this time. One time funds of $500,000 are available for coupons to reimburse the cost of purchasing gun safes. These coupons are only available to Utah residents with a current concealed firearm permit, and Utah residents applying for concealed firearm permit. The amount of reimbursable money available per person through this coupon program will be 50 percent of the purchase price of a gun safe not to exceed a total of $100 per coupon. This benefit is inestimable because of the reimbursement formula, and the varying costs of gun safes that may be purchased. Small businesses should receive a benefit from this rule as well. The Division has determined that Sporting Goods Stores, NAICS 54111, of which there are 331 in the state at this time, are the most likely retailers to sell hand gun safes, and this rule provides an incentive to concealed firearm permit holders to potentially purchase a safe from one of these stores. This benefit is inestimable because of the varying types and costs of gun safes that may be purchased, and the possibility that concealed permit owners may choose to purchase their safes at one of the 15 non-small business sporting goods retailers in the state, and the 3 other general merchandise non-small businesses, NAICS 452319, in the state, that have been determined to possibly provide gun safes for purchase. Also, there is a possibility that a number of safes will be purchased on the internet.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance cost to local governments, businesses, or other persons in this new rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will result in a positive fiscal impact to businesses.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov
♦ Thomas Dunford by phone at 801-538-4181, by FAX at 801-538-4696, or by Internet E-mail at tdunford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2019

AUTHORIZED BY: Doug Thomas, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$510,000	$10,000	$10,000
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$510,000**	**$10,000**	**$10,000**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$0**	**$0**	**$0**

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 15 sporting goods stores, NAICS 451110 and 3 Other General Merchandise Stores, NAICS 452319 operating in Utah that were determined to be affected by this rule. These businesses may experience a fiscal benefit associated with a possible increase in the purchase of small handgun safes that is encouraged and incentivized in this rule. The full impact to these non-small businesses cannot be estimated because of the varying types and costs of gun safes that may be purchased, and the possibility that concealed permit firearm owners may choose to purchase their safes at one of the 331 small business sporting goods retailers that have been determined to possibly provide gun safes for purchase. Also, there is a possibility that a number of safes will be purchased on the internet.

The Director of the Department of Human Service, Ann Williamson, has reviewed and approved this fiscal analysis.

R523. Human Services, Substance Abuse and Mental Health.
R523-20. Community Firearms Violence and Suicide Prevention Standards.
R523-20-1. Authority.

(1) This rule establishes procedures and standards for administration of suicide prevention education grant funds as granted by Subsection 62A-15-103(3)(d).

R523-20-2. Purpose.

(1) This rule establishes procedures for distribution of goods and services specified in Section 62A-15-103 (3).

R523-20-3. Development and Distribution of Suicide Prevention Pamphlets.

(1) The Division of Substance Abuse and Mental Health (DSAMH) will coordinate with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to produce, periodically review and update, and to distribute firearm safety brochures and packets.

(2) Brochures shall be made available through the Utah Suicide Prevention Coalition and groups outlined in Section 62A-15-103(3)(b), and by request from other interested parties.

R523-20-4. Purchase and Distribution of Gun Locks.

(1) DSAMH shall use standard procurement processes to enter into a contract for ongoing purchase of cable style gun locks for distribution.

R523-20-5. Gun Safe Coupon Distribution.

(1) DSAMH shall coordinate with the Department of Public Safety (DPS) to administer a redeemable coupon program for Utah residents with a current concealed firearm permit, and Utah residents applying for concealed firearm permit.

(2) DSAMH shall establish a registration process for the coupons.

(a) DPS shall alert concealed firearm permit holders by post on the Bureau of Criminal Investigations webpage;

(b) coupons shall be dispensed on a first come first serve basis;

(c) individuals receiving coupons will be required to submit concealed firearm permit number and receipt for safe purchase for reimbursement of funds as outlined in application process, and

(d) only 1 coupon shall be available per permit number holder.

(3) This program operates on on-time funding, therefore, coupons shall be available until all funds are expended.

KEY: firearm safety and suicide prevention program, gun locks, gun safe coupons, firearm safety and suicide prevention pamphlets
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 62A-15-103(3)(d), 62A-15-1101(7)(b)(ii)

End of the Notices of 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 help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **Proposed Rule**; continue the rule as it is by filing a **Five-Year Notice of Review and Statement of Continuation (Review)**; or amend the rule by filing a **Proposed Rule** and by filing a **Review**. By filing a **Review**, the agency indicates that the rule is still necessary.

A **Review** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at https://rules.utah.gov/. The rule text may also be inspected at the agency or the Office of Administrative Rules. **Reviews** are effective upon filing.

Reviews are governed by Section 63G-3-305.

Education, Administration
R277-471
School Construction Oversight, Inspections, Training and Reporting

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43957
FILED: 08/06/2019

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 Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Utah State Board of Education (Board), Sections 53E-3-706 and 53E-3-707 which direct the Superintendent to enforce requirements and provisions about public school building and alteration, verify inspections of school buildings, and provide information annually to local education agencies (LEA) about the construction and inspection of public school buildings, and Subsection 53E-3-401(3) which permits the Board to adopt rules in accordance with its responsibilities and permits the Board to interrupt disbursements of state aid to any school district or charter school which fails to comply with rules adopted by the Board.

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 were 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 continues to be necessary because it provides specific provisions for the oversight of permanent or temporary public school construction/renovation inspections and to identify LEA board responsibilities and accountability to the Board. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 08/06/2019

Education, Administration
R277-504
Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 43958
FILED: 08/06/2019

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 the Utah Constitution Article X, Section 3, which vests the general control and supervision of the public schools in the State Board of Education (Board) and by Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the licensing of educators, and Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no written comments 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 continues to be necessary because it specifies the requirements for Early Childhood (K-3), Elementary (K-6), Elementary (1-8), Secondary (6-12), Special Education (K-12), and Preschool Special Education (Birth-Age 5) licensing. This rule also specifies the standards which the Board expects a teacher preparation institution to meet in specific areas for the institution to receive Board approval of the program. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 08/06/2019

Education, Administration
R277-607
Truancy Prevention

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 43959
FILED: 08/06/2019

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 the Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Utah State Board of Education (Board), Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with its responsibilities, and Section 53G-6-206 which directs educational entities and parents working on behalf of children to make efforts to resolve school attendance problems of school-age minors who are or should be enrolled in local education agencies (LEAs).

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 were no written comments.

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 necessary because this rule directs LEAs to establish procedures for informing parents about compulsory education laws, encouraging and monitoring school attendance consistent with the law, and providing firm consequences for noncompliance. This rule encourages meaningful incentives for parental responsibility and directs LEAs to establish ongoing truancy prevention procedures in schools, especially for students in grades 1-8. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 08/06/2019

Education, Administration
R277-706
Public Education Regional Service Centers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 43960
FILED: 08/06/2019

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 the Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Utah State Board of Education (Board), Subsection 53G-4-410(6) which directs the Board to make rules regarding eligible regional services center, and Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no written comments 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 continues to be necessary because it provides definitions and procedures for school districts to form interlocal agreements, and to provide for distribution of legislative funds to eligible regional service centers by the Board. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 08/06/2019

Human Services, Child and Family Services
R512-310
Reasonable and Prudent Parent Standard

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 43981
FILED: 08/12/2019

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-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including applying a reasonable and prudent parent standard for children in out-of-home care.

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: Continuation of this rule is necessary in order for the Division of Child and Family Services to continue to establish standards for normalcy for a child who is in the custody of Child and Family Services, including a reasonable and prudent parent standard and normalizing activities for children.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
CHILD AND FAMILY SERVICES

195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 08/12/2019

Natural Resources, Wildlife Resources
R657-54
Taking Wild Turkey

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 43951
FILED: 08/05/2019

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: Under Sections 23-14-18, 23-14-19, and 23-17-9, the Wildlife Board is authorized and required to regulate and prescribe the means for the taking of wild turkey.

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 supporting or opposing Rule R657-54 were received since August 2014, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-54 provides the requirements, standards, and application procedures for the taking of wild turkey. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success for the wild turkey populations and wildlife programs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Director

EFFECTIVE: 08/05/2019

Natural Resources, Wildlife Resources
R657-68
Trial Hunting Authorization

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 43952
FILED: 08/05/2019

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: Under Sections 23-14-18, 23-14-19, and 23-17-9, the Wildlife Board is authorized and required to regulate and prescribe the means for the trial hunting program.

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 supporting or opposing Rule R657-68 were received since August 2014, when the rule was created.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-68 implements the trial hunting authorization program established in Section 23-19-14.6 to expand public participation in hunting sports by allowing a person to temporarily obtain specified hunting licenses and permits, and participate in hunting activities on a trial basis without first satisfying regular hunter education requirements. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Director

EFFECTIVE: 08/05/2019

Public Service Commission, Administration
R746-401
Reporting of Construction, Purchase, Acquisition, Sale, Transfer or Disposition of Assets

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 43966
FILED: 08/07/2019

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 54-4-1 requires supervision and regulation of utility companies within the Public Service Commission's (PSC) jurisdiction. The PSC is also directed to supervise all of the business of every such public utility in this state and to do all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction. Section 54-4-7 requires the PSC to determine the just, reasonable, safe, proper, adequate, or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced, or employed, and shall fix the same by its order, rule, or regulation.

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 in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary to allow the PSC to carry out its statutory mandate under the above cited statutes. This rule provides guidelines for utilities for the reporting of construction, sale, transfer, or disposition of utility assets. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Melissa Paschal by phone at 801-530-6769, or by Internet E-mail at mpaschal@utah.gov
♦ Michael Hammer by phone at 801-530-6729, or by Internet E-mail at michaelhammer@utah.gov

AUTHORIZED BY: Michael Hammer, Administrative Law Judge

EFFECTIVE: 08/07/2019

Public Service Commission, Administration
R746-700
Complete Filings for General Rate Case and Major Plant Addition Applications

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 43965
FILED: 08/07/2019

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 54-7-12 describes the various informational requirements that need to be met for a general rate case application to be considered a complete filing. Section 54-7-13.4 describes the requirements for an alternative cost recovery for a major plant addition application to be considered a complete filing. Sections 54-7-12 and 54-7-13.4 direct the Public Service Commission (PSC) to promulgate rules outlining the informational requirements for general rate case or alternative cost recovery for a major plant addition applications to be considered a complete filing.

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 in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The PSC developed this rule in consultation with participants from prior PSC proceedings to follow and incorporate the participants' practices relating to the information developed and exchanged among themselves and with the PSC in these types of proceedings. Applications of this nature continue to be filed with the PSC. Thus, this rule describing the complete filing requirements needs to be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Melissa Paschal by phone at 801-530-6769, or by Internet E-mail at mpaschal@utah.gov
♦ Michael Hammer by phone at 801-530-6729, or by Internet E-mail at michaelhammer@utah.gov

AUTHORIZED BY: Michael Hammer, Administrative Law Judge

EFFECTIVE: 08/07/2019

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 administrative 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 make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **Changes in Proposed Rules** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the 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.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

Notices of Effective Date are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Administrative Services
Debt Collection
No. 43801 (AMD): R21-1. Transfer of Collection Responsibility of State Agencies
Published: 07/01/2019
Effective: 08/07/2019

No. 43802 (AMD): R21-2. Office of State Debt Collection Administrative Procedures
Published: 07/01/2019
Effective: 08/07/2019

No. 43803 (AMD): R21-3. Debt Collection Through Administrative Offset
Published: 07/01/2019
Effective: 08/07/2019

Agriculture and Food
Regulatory Services
No. 43777 (AMD): R70-310. Grade A Pasteurized Milk
Published: 07/01/2019
Effective: 08/13/2019

Commerce
Occupational and Professional Licensing
No. 43779 (AMD): R156-50. Private Probation Provider Licensing Act Rule
Published: 07/01/2019
Effective: 08/08/2019

Environmental Quality
Air Quality
No. 43587 (AMD): R307-110-28. Regional Haze
Published: 04/01/2019
Effective: 08/15/2019

No. 43587 (CPR): R307-110-28. Regional Haze
Published: 07/15/2019
Effective: 08/15/2019

Waste Management and Radiation Control, Radiation
No. 43810 (AMD): R313-19-34. Terms and Conditions of Licenses
Published: 07/01/2019
Effective: 08/09/2019

No. 43809 (AMD): R313-22-75. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices Which Contain Radioactive Material
Published: 07/01/2019
Effective: 08/09/2019

No. 43812 (AMD): R313-32. Medical Use of Radioactive Material
Published: 07/01/2019
Effective: 08/09/2019

Governor
Economic Development
No. 43814 (AMD): R357-15. Enterprise Zone Tax Credit
Published: 07/01/2019
Effective: 08/12/2019

Money Management Council
Administration
No. 43815 (NEW): R628-22. Conditions and Procedures for the use of Negotiable Brokered Certificates of Deposit
Published: 07/01/2019
Effective: 08/07/2019

Public Service Commission
Administration
No. 43811 (NEW): R746-460. Rules Governing Customer Information and Marketing for Large-Scale Electric and Gas Utilities
Published: 07/01/2019
Effective: 08/07/2019

School and Institutional Trust Lands
Administration
No. 43792 (AMD): R850-70. Sales of Forest Products From Trust Lands Administration Lands
Published: 07/01/2019
Effective: 08/07/2019

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, 2019 through August 15, 2019. 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).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **Rules Index** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (https://rules.utah.gov/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)
CPR = Change in Proposed Rule
EMR = 120-Day (Emergency) Rule
EXD = Expired Rule
EXP = Expedited Rule
EXT = Five-Year Review Extension
GEX = Governor's Extension
LNR = Legislative Nonreauthorization
NEW = New Rule (Proposed Rule)
NSC = Nonsubstantive Rule Change
R&R = Repeal and Reenact (Proposed Rule)
REP = Repeal (Proposed Rule)
5YR = Five-Year Notice of Review and Statement of Continuation

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
Administration					
R13-2	Management of Records and Access to Records	43744	5YR	05/29/2019	2019-12/135
Child Welfare Parental Defense (Office of)					
R19-1	Parental Defense Counsel Training	43705	REP	07/08/2019	2019-11/4
Debt Collection					
R21-1	Transfer of Collection Responsibility of State Agencies	43801	AMD	08/07/2019	2019-13/6
R21-2	Office of State Debt Collection Administrative Procedures	43802	AMD	08/07/2019	2019-13/8
R21-3	Debt Collection Through Administrative Offset	43803	AMD	08/07/2019	2019-13/12
Facilities Construction and Management					
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities	43524	NSC	03/01/2019	Not Printed
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities	43569	5YR	03/06/2019	2019-7/59
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43642	5YR	04/11/2019	2019-9/79
R23-29	Delegation of Project Management	43525	NSC	03/01/2019	Not Printed
R23-29	Delegation of Project Management	43567	5YR	03/06/2019	2019-7/60
R23-33	Rules for the Prioritization and Scoring of Capital Improvements by the Utah State Building Board	43568	5YR	03/06/2019	2019-7/60
Finance					
R25-7	Travel-Related Reimbursements for State Employees	43656	AMD	07/01/2019	2019-9/4
R25-10	State Entities' Posting of Financial Information to the Utah Public Finance Website	43404	AMD	01/23/2019	2018-24/6
R25-11	Utah Transparency Advisory Board, Procedures for Electronic Meetings	43471	5YR	01/07/2019	2019-3/43
Purchasing and General Services					
R33-1	Utah Procurement Rules, General Procurement Provisions	43859	5YR	07/08/2019	2019-15/33
R33-2	Rules of Procedure for Procurement Policy Board	43854	5YR	07/08/2019	2019-15/33

R33-3	Procurement Organization	43855	5YR	07/08/2019	2019-15/34
R33-4	Supplemental Procurement Procedures	43856	5YR	07/08/2019	2019-15/34
R33-5	Other Standard Procurement Processes	43857	5YR	07/08/2019	2019-15/35
R33-6	Bidding	43858	5YR	07/08/2019	2019-15/35
R33-7	Request for Proposals	43860	5YR	07/08/2019	2019-15/36
R33-8	Exceptions to Standard Procurement Process	43861	5YR	07/08/2019	2019-15/36
R33-9	Cancellations, Rejections, and Debarment	43862	5YR	07/08/2019	2019-15/37
R33-10	Preferences	43864	5YR	07/08/2019	2019-15/37
R33-11	Form of Bonds	43863	5YR	07/08/2019	2019-15/38
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	43865	5YR	07/08/2019	2019-15/38
R33-13	General Construction Provisions	43866	5YR	07/08/2019	2019-15/39
R33-14	Procurement of Design-Build Transportation Project Contracts	43867	5YR	07/08/2019	2019-15/39
R33-15	Procurement of Design Professional Services	43868	5YR	07/08/2019	2019-15/40
R33-16	Protests	43869	5YR	07/08/2019	2019-15/40
R33-17	Procurement Appeals Panel	43870	5YR	07/08/2019	2019-15/41
R33-18	Appeals to Court and Court Proceedings	43871	5YR	07/08/2019	2019-15/41
R33-19	General Provisions Related to Protest or Appeal	43872	5YR	07/08/2019	2019-15/42
R33-20	Records	43873	5YR	07/08/2019	2019-15/42
R33-21	Interaction Between Procurement Units	43875	5YR	07/08/2019	2019-15/43
R33-22	Reserved	43874	5YR	07/08/2019	2019-15/43
R33-23	Reserved	43876	5YR	07/08/2019	2019-15/44
R33-24	Unlawful Conduct and Ethical Standards	43877	5YR	07/08/2019	2019-15/44
R33-25	Executive Branch Insurance Procurement	43879	5YR	07/08/2019	2019-15/45
R33-26	State Surplus Property	43878	5YR	07/08/2019	2019-15/45
Records Committee					
R35-1	State Records Committee Appeal Hearing Procedures	43760	5YR	06/03/2019	2019-13/111
R35-1a	State Records Committee Definitions	43761	5YR	06/03/2019	2019-13/111
R35-2	Declining Appeal Hearings	43762	5YR	06/03/2019	2019-13/112
R35-4	Compliance with State Records Committee Decisions and Orders	43763	5YR	06/03/2019	2019-13/112
R35-4-1	Authority and Purpose	43766	NSC	06/12/2019	Not Printed
R35-5	Subpoenas Issued by the Records Committee	43764	5YR	06/03/2019	2019-13/113
R35-6	Expedited Hearing	43765	5YR	06/03/2019	2019-13/113
Risk Management					
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	43235	AMD	01/18/2019	2018-21/2
AGRICULTURE AND FOOD					
Animal Industry					
R58-18	Elk Farming	43754	AMD	07/22/2019	2019-12/6
R58-18	Elk Farming	43909	NSC	08/01/2019	Not Printed
R58-20	Domesticated Elk Hunting Parks	43469	5YR	01/07/2019	2019-3/43
R58-20	Domesticated Elk Hunting Parks	43752	AMD	07/22/2019	2019-12/13
R58-20	Domesticated Elk Hunting Parks	43910	NSC	08/01/2019	Not Printed
Conservation Commission					
R64-1	Agriculture Resource Development Loans (ARDL)	43907	5YR	07/23/2019	2019-16/103
R64-3	Utah Environmental Stewardship Certification Program (UESCP), a.k.a Agriculture Certification of Environmental Stewardship (ACES)	43685	5YR	04/30/2019	2019-10/115
Horse Racing Commission (Utah)					
R52-7	Horse Racing	43753	AMD	07/22/2019	2019-12/4
Marketing and Development					
R65-1	Utah Apple Marketing Order	43546	NSC	03/13/2019	Not Printed
R65-5	Utah Red Tart and Sour Cherry Marketing Order	43547	NSC	03/13/2019	Not Printed

R65-8	Management of the Junior Livestock Show Appropriation	43545	NSC	03/13/2019	Not Printed
R65-11	Utah Sheep Marketing Order	43548	NSC	03/13/2019	Not Printed
R65-12	Utah Small Grains and Oilseeds Marketing Order	43549	NSC	03/13/2019	Not Printed
R65-12	Utah Small Grains and Oilseeds Marketing Order	43641	5YR	04/11/2019	2019-9/79
Plant Industry					
R68-1	Utah Bee Inspection Act Governing Inspection of Bees	43908	NSC	08/01/2019	Not Printed
R68-25	Industrial Hemp Research Pilot Program for Processors	43571	NSC	03/21/2019	Not Printed
R68-27	Cannabis Cultivation	43686	EMR	05/03/2019	2019-10/107
R68-28	Cannabis Processing	43758	NEW	07/22/2019	2019-12/16
Regulatory Services					
R70-310	Grade A Pasteurized Milk	43775	5YR	06/07/2019	2019-13/114
R70-310	Grade A Pasteurized Milk	43777	AMD	08/13/2019	2019-13/16
CAPITOL PRESERVATION BOARD (STATE)					
Administration					
R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43662	5YR	04/17/2019	2019-10/115
R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43517	AMD	06/13/2019	2019-5/6
COMMERCE					
Consumer Protection					
R152-34a	Utah Postsecondary School State Authorization Act Rule	43612	5YR	04/01/2019	2019-8/101
Occupational and Professional Licensing					
R156-15A	State Construction Code Administration and Adoption of Approved State Construction Code Rule	43522	AMD	04/08/2019	2019-5/8
R156-20a (Changed to R156-20b)	Environmental Health Scientist Act Rule	43466	NSC	01/11/2019	Not Printed
R156-28	Veterinary Practice Act Rule	43189	AMD	03/25/2019	2018-19/7
R156-28	Veterinary Practice Act Rule	43189	CPR	03/25/2019	2019-4/40
R156-31c	Nurse Licensure Compact Rule	43822	5YR	06/17/2019	2019-14/77
R156-50	Private Probation Provider Licensing Act Rule	43779	AMD	08/08/2019	2019-13/18
R156-55a	Utah Construction Trades Licensing Act Rule	43747	AMD	07/22/2019	2019-12/23
R156-55e	Elevator Mechanics Licensing Rule	43542	AMD	04/22/2019	2019-6/4
R156-60	Mental Health Professional Practice Act Rule	43543	5YR	02/26/2019	2019-6/41
R156-60a	Social Worker Licensing Act Rule	43799	5YR	06/13/2019	2019-13/114
R156-60b	Marriage and Family Therapist Licensing Act Rule	43800	5YR	06/13/2019	2019-13/115
R156-63a	Security Personnel Licensing Act Contract Security Rule	43318	AMD	05/13/2019	2018-22/89
R156-63a	Security Personnel Licensing Act Contract Security Rule	43318	CPR	05/13/2019	2019-7/48
R156-63a	Security Personnel Licensing Act Contract Security Rule	43577	NSC	05/14/2019	Not Printed
R156-63b	Security Personnel Licensing Act Armored Car Rule	43319	AMD	05/13/2019	2018-22/96
R156-63b	Security Personnel Licensing Act Armored Car Rule	43319	CPR	05/13/2019	2019-7/53
R156-63b	Security Personnel Licensing Act Armored Car Rule	43578	NSC	05/14/2019	Not Printed
R156-78	Vocational Rehabilitation Counselors Licensing Act Rule	43890	5YR	07/15/2019	2019-15/46
R156-79	Hunting Guides and Outfitters Licensing Act Rule	43880	5YR	07/08/2019	2019-15/46
R156-80a	Medical Language Interpreter Act Rule	43465	5YR	01/02/2019	2019-2/19

Real Estate					
R162-2f	Real Estate Licensing and Practices Rules	43407	AMD	01/23/2019	2018-24/8
R162-2f	Real Estate Licensing and Practices Rules	43643	AMD	06/19/2019	2019-9/10
CORRECTIONS					
Administration					
R251-105	Applicant Qualifications for Employment with Department of Corrections	43218	AMD	02/11/2019	2018-20/12
R251-111	Government Records Access and Management	43596	5YR	03/19/2019	2019-8/102
EDUCATION					
Administration					
R277-100	Definitions for Utah State Board of Education (Board) Rules	43479	AMD	03/13/2019	2019-3/2
R277-102	Adjudicative Proceedings	43609	REP	05/23/2019	2019-8/4
R277-105	Recognizing Constitutional Freedoms in the Schools	43610	REP	05/23/2019	2019-8/6
R277-115	LEA Supervision and Monitoring Requirements of Third Party Providers and Contracts	43619	NEW	05/23/2019	2019-8/10
R277-117	Utah State Board of Education Protected Documents	43511	REP	04/08/2019	2019-5/19
R277-119	Discretionary Funds	43618	REP	05/23/2019	2019-8/12
R277-122	Board of Education Procurement	43441	AMD	02/07/2019	2019-1/17
R277-301	Educator Licensing	43654	AMD	07/02/2019	2019-9/15
R277-303	Educator Preparation Programs	43657	AMD	07/02/2019	2019-9/20
R277-304	Teacher Preparation Programs	43624	NEW	05/23/2019	2019-8/13
R277-308	New Educator Induction and Mentoring	43442	NEW	02/07/2019	2019-1/22
R277-400	School Facility Emergency and Safety	43507	5YR	02/08/2019	2019-5/95
R277-400	School Facility Emergency and Safety	43512	AMD	04/08/2019	2019-5/21
R277-404	Requirements for Assessments of Student Achievement	43450	AMD	02/22/2019	2019-2/6
R277-406	Early Literacy Program and Benchmark Reading Assessment	43649	AMD	07/02/2019	2019-9/23
R277-407	School Fees	43532	AMD	04/08/2019	2019-5/25
R277-417	Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation	43658	AMD	07/02/2019	2019-9/26
R277-419	Pupil Accounting	43475	NSC	01/15/2019	Not Printed
R277-437	Student Enrollment Options	43397	AMD	01/09/2019	2018-23/6
R277-462	Comprehensive Counseling and Guidance Program	43739	5YR	05/23/2019	2019-12/135
R277-462	Comprehensive Counseling and Guidance Program	43728	R&R	07/31/2019	2019-12/39
R277-463	Class Size Average and Pupil-Teacher Ratio Reporting	43636	5YR	04/08/2019	2019-9/80
R277-463	Class Size Average and Pupil-Teacher Ratio Reporting	43652	AMD	07/02/2019	2019-9/29
R277-470	Charter Schools - General Provisions	43374	REP	01/09/2019	2018-23/9
R277-471	School Construction Oversight, Inspections, Training and Reporting	43957	5YR	08/06/2019	Not Printed
R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	43637	5YR	04/08/2019	2019-9/81
R277-480	Charter School Revolving Account	43712	5YR	05/13/2019	2019-11/41
R277-480	Charter School Revolving Account	43647	AMD	07/02/2019	2019-9/31
R277-481	Charter School Oversight, Monitoring and Appeals	43399	REP	01/09/2019	2018-23/12
R277-482	Charter School Timelines and Approval Processes	43392	REP	01/09/2019	2018-23/15
R277-483	LEA Reporting and Accounting Requirements	43515	NEW	04/08/2019	2019-5/36
R277-486	Professional Staff Cost Program	43508	5YR	02/08/2019	2019-5/95
R277-486	Professional Staff Cost Program	43516	AMD	04/08/2019	2019-5/39
R277-487	Public School Data Confidentiality and Disclosure	43476	AMD	03/13/2019	2019-3/4

R277-493	Kindergarten Supplemental Enrichment Program	43638	5YR	04/08/2019	2019-9/81
R277-493	Kindergarten Supplemental Enrichment Program	43683	AMD	07/02/2019	2019-10/9
R277-494-4	Charter or Online School Student Participation in Co-Curricular Activities	43506	NSC	02/20/2019	Not Printed
R277-495	Required Policies for Electronic Devices in Public Schools	43531	AMD	04/08/2019	2019-5/42
R277-502	Educator Licensing and Data Retention	43664	NSC	05/14/2019	Not Printed
R277-502-4	License Levels, Procedures, and Periods of Validity	43600	NSC	04/01/2019	Not Printed
R277-503	Licensing Routes	43733	AMD	07/31/2019	2019-12/45
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	43958	5YR	08/06/2019	Not Printed
R277-509	Licensure of Student Teachers and Interns	43373	AMD	01/09/2019	2018-23/19
R277-511	Academic Pathway to Teaching (APT) Level 1 License	43648	AMD	07/02/2019	2019-9/34
R277-524	Paraprofessional/Paraeducator Programs, Assignments, and Qualifications	43583	5YR	03/14/2019	2019-7/61
R277-528	Use of Public Education Job Enhancement Program (PEJEP) Funds	43509	5YR	02/08/2019	2019-5/96
R277-550	Charter Schools – Definitions	43400	NEW	01/09/2019	2018-23/21
R277-551	Charter Schools - General Provisions	43393	NEW	01/09/2019	2018-23/24
R277-551	Charter Schools - General Provisions	43478	AMD	03/13/2019	2019-3/10
R277-552	Charter School Timelines and Approval Processes	43394	NEW	01/09/2019	2018-23/26
R277-552	Charter School Timelines and Approval Processes	43623	AMD	05/23/2019	2019-8/19
R277-553	Charter School Oversight, Monitoring and Appeals	43401	NEW	01/09/2019	2018-23/31
R277-554	State Charter School Board Grants and Mentoring Program	43395	NEW	01/09/2019	2018-23/34
R277-555	Corrective Action Against Charter School Authorizers	43396	NEW	01/09/2019	2018-23/38
R277-600	Student Transportation Standards and Procedures	43375	AMD	01/09/2019	2018-23/38
R277-601	Standards for Utah School Buses and Operations	43611	5YR	03/29/2019	2019-8/102
R277-604	Private School, Home School, and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests	43732	AMD	07/31/2019	2019-12/50
R277-607	Truancy Prevention	43959	5YR	08/06/2019	Not Printed
R277-622	School-based Mental Health Qualified Grant Program	43729	NEW	07/31/2019	2019-12/53
R277-700	The Elementary and Secondary School General Core	43621	AMD	05/23/2019	2019-8/23
R277-704	Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports	43519	AMD	04/08/2019	2019-5/46
R277-706	Public Education Regional Service Centers	43960	5YR	08/06/2019	Not Printed
R277-707	Enhancement for Accelerated Students Program	43651	AMD	07/02/2019	2019-9/37
R277-710	Intergenerational Poverty Interventions in Public Schools	43824	5YR	06/21/2019	2019-14/77
R277-714	Dissemination of Information About Juvenile Offenders	43703	REP	07/31/2019	2019-11/13
R277-716	Alternative Language Services for Utah Students	43731	AMD	07/31/2019	2019-12/56
R277-720	Reimbursement Program for Early Graduation from Competency-Based Education	43622	NEW	05/23/2019	2019-8/30
R277-724	Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program	43579	5YR	03/13/2019	2019-7/61
R277-726	Statewide Online Education Program	43620	AMD	05/23/2019	2019-8/32
R277-910	Underage Drinking Prevention Program	43448	NEW	02/07/2019	2019-1/24
R277-912	Law Enforcement Related Incident Reporting	43439	NEW	02/07/2019	2019-1/26

R277-922	Digital Teaching and Learning Grant Program	43398	AMD	01/09/2019	2018-23/45
R277-922	Digital Teaching and Learning Grant Program	43713	NSC	05/24/2019	Not Printed
R277-926	Certification of Residential Treatment Center Special Education Program	43655	NEW	07/02/2019	2019-9/40

ENVIRONMENTAL QUALITY

Air Quality

R307-101-2	Definitions	43372	AMD	02/07/2019	2018-23/49
R307-110-10	Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter	43212	AMD	03/05/2019	2018-19/31
R307-110-10	Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter	43212	CPR	03/05/2019	2019-3/40
R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits	42976	AMD	01/03/2019	2018-13/35
R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits	42976	CPR	01/03/2019	2018-21/134
R307-110-28	Regional Haze	43587	AMD	08/15/2019	2019-7/4
R307-110-28	Regional Haze	43587	CPR	08/15/2019	2019-14/73
R307-150-3	Applicability	43588	AMD	06/25/2019	2019-7/5
R307-401-10	Source Category Exemptions	43589	AMD	06/06/2019	2019-7/6
R307-511	Oil and Gas Industry: Associated Gas Flaring	43211	NEW	03/05/2019	2018-19/32
R307-511	Oil and Gas Industry: Associated Gas Flaring	43211	CPR	03/05/2019	2019-3/41

Drinking Water

R309-100-9	Variances	43378	AMD	01/15/2019	2018-23/57
R309-105-4	General	43379	AMD	01/15/2019	2018-23/58
R309-110-4	Definitions	43380	AMD	01/15/2019	2018-23/60
R309-200	Monitoring and Water Quality: Drinking Water Standards	43381	AMD	01/15/2019	2018-23/73
R309-210-8	Disinfection Byproducts - Stage 1 Requirements	43382	AMD	01/15/2019	2018-23/80
R309-211	Monitoring and Water Quality: Distribution System -- Total Coliform Requirements	43383	AMD	01/15/2019	2018-23/85
R309-215-10	Residual Disinfectant	43384	AMD	01/15/2019	2018-23/91
R309-215-16	Groundwater Rule	43385	AMD	01/15/2019	2018-23/93
R309-220-4	General Public Notification Requirements	43386	AMD	01/15/2019	2018-23/99
R309-225-4	General Requirements	43387	AMD	01/15/2019	2018-23/101

Waste Management and Radiation Control, Radiation

R313-19-34	Terms and Conditions of Licenses	43810	AMD	08/09/2019	2019-13/62
R313-22-75	Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices Which Contain Radioactive Material	43809	AMD	08/09/2019	2019-13/65
R313-28-31	General and Administrative Requirements	43253	AMD	01/14/2019	2018-21/52
R313-28-31	General and Administrative Requirements	43530	AMD	04/15/2019	2019-5/50
R313-32	Medical Use of Radioactive Material	43812	AMD	08/09/2019	2019-13/74

Waste Management and Radiation Control, Waste Management

R315-15-14	DIYer Reimbursement	43529	AMD	04/15/2019	2019-5/54
R315-15-16	Grants	43768	NSC	06/12/2019	Not Printed
R315-260	Hazardous Waste Management System	43526	AMD	04/15/2019	2019-5/56
R315-261	General Requirements — Identification and Listing of Hazardous Waste	43527	AMD	04/15/2019	2019-5/67
R315-262	Hazardous Waste Generator Requirements	43528	AMD	04/15/2019	2019-5/83
R315-273	Standards for Universal Waste Management	43252	AMD	01/14/2019	2018-21/55

Water Quality

R317-1-1	Definitions	43585	AMD	07/01/2019	2019-7/8
R317-2	Standards of Quality for Waters of the State	43586	AMD	07/01/2019	2019-7/11
R317-2-14	Numeric Criteria	43848	NSC	07/01/2019	Not Printed
R317-401	Graywater Systems	43633	5YR	04/08/2019	2019-9/82

GOVERNOR

Economic Development					
R357-7	Utah Capital Investment Board	43488	EXT	01/24/2019	2019-4/47
R357-7	Utah Capital Investment Board	43734	5YR	05/22/2019	2019-12/136
R357-8	Allocation of Private Activity Bond Volume Cap	43755	REP	07/26/2019	2019-12/63
R357-15	Enterprise Zone Tax Credit	43814	AMD	08/12/2019	2019-13/80
R357-15-2	Definitions	43946	NSC	08/13/2019	Not Printed
R357-24	Utah Works Program Rule	43720	NEW	07/08/2019	2019-11/15
Energy Development (Office of)					
R362-4	High Cost Infrastructure Development Tax Credit Act	43223	AMD	02/05/2019	2018-20/18
R362-5	Commercial Property Assessed Clean Energy (C-PACE) Administrative Rules	43419	NEW	01/23/2019	2018-24/15

HEALTH

Administration					
R380-25	Submission of Data Through an Electronic Data Interchange	43774	5YR	06/07/2019	2019-13/116
R380-70	Standards for Electronic Exchange of Clinical Health Information	43487	5YR	01/24/2019	2019-4/43
Center for Health Data, Health Care Statistics					
R428-1	Health Data Plan and Incorporated Documents	43544	AMD	05/01/2019	2019-6/12
Center for Health Data, Vital Records and Statistics					
R436-19	Abortion Reporting	43462	NEW	05/08/2019	2019-2/10
Disease Control and Prevention, Environmental Services					
R392-110	Food Service Sanitation in Residential Care Facilities	43660	R&R	07/16/2019	2019-10/12
R392-303	Public Geothermal Pools and Bathing Places	43502	5YR	02/05/2019	2019-5/96
Disease Control and Prevention, Epidemiology					
R386-900	Special Measures for the Operation of Syringe Exchange Programs	43468	AMD	05/15/2019	2019-3/16
Disease Control and Prevention, Health Promotion					
R384-100	Cancer Reporting Rule	43540	5YR	02/25/2019	2019-6/41
R384-200	Cancer Control Program	43539	5YR	02/25/2019	2019-6/42
R384-201	School-Based Vision Screening for Students in Public Schools	43757	AMD	08/01/2019	2019-12/66
R384-203	Prescription Drug Database Access	43537	5YR	02/25/2019	2019-6/42
R384-203	Prescription Drug Database Access	43562	AMD	07/23/2019	2019-7/25
Disease Control and Prevention, Medical Examiner					
R448-10	Unattended Death and Reporting Requirements	43631	5YR	04/05/2019	2019-9/83
R448-20	Access to Medical Examiner Reports	43632	5YR	04/05/2019	2019-9/84
Family Health and Preparedness, Child Care Licensing					
R430-8	Exemptions From Child Care Licensing	43661	5YR	04/17/2019	2019-10/116
Family Health and Preparedness, Children with Special Health Care Needs					
R398-5	Birth Defects Reporting	43472	AMD	03/11/2019	2019-3/18
R398-5	Birth Defects and Critical Congenital Heart Disease Reporting	43886	5YR	07/12/2019	2019-15/47
R398-10	Autism Spectrum Disorders and Intellectual Disability Reporting	43538	5YR	02/25/2019	2019-6/43
Family Health and Preparedness, Emergency Medical Services					
R426-1	General Definitions	43177	AMD	01/11/2019	2018-18/15

R426-2	Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews	43178	AMD	01/11/2019	2018-18/19
R426-2-400	Emergency Medical Service Dispatch Center Minimum Designation Requirements	43260	NSC	01/11/2019	Not Printed
R426-8	Emergency Medical Services Ground Ambulance Rates and Charges	43608	AMD	07/01/2019	2019-8/39
R426-9	Trauma and EMS System Facility Designations	43321	AMD	01/18/2019	2018-22/114
Family Health and Preparedness, Licensing					
R432-7	Specialty Hospital - Psychiatric Hospital Construction	43553	5YR	02/27/2019	2019-6/43
R432-8	Specialty Hospital – Chemical Dependency/Substance Abuse Construction	43559	5YR	02/28/2019	2019-6/44
R432-9	Specialty Hospital – Rehabilitation Construction Rule	43560	5YR	02/28/2019	2019-6/44
R432-10	Specialty Hospital – Long-Term Acute Care Construction Rule	43563	5YR	03/04/2019	2019-7/62
R432-11	Orthopedic Hospital Construction	43564	5YR	03/04/2019	2019-7/62
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	43565	5YR	03/04/2019	2019-7/63
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	43598	5YR	03/21/2019	2019-8/103
R432-14	Birthing Center Construction Rule	43599	5YR	03/21/2019	2019-8/103
R432-30	Adjudicative Procedure	43597	5YR	03/21/2019	2019-8/104
R432-32	Licensing Exemption for Non-Profit Volunteer End-of-Life Care	43614	5YR	04/01/2019	2019-8/104
R432-45	Nurse Aide Training and Competency Evaluation Program	43630	5YR	04/05/2019	2019-9/83
R432-270	Assisted Living Facilities	43533	5YR	02/20/2019	2019-6/45
Family Health and Preparedness, Maternal and Child Health					
R433-200	Family Planning Access Act	43402	NEW	03/06/2019	2018-24/18
Family Health and Preparedness, Primary Care and Rural Health					
R434-40	Utah Health Care Workforce Financial Assistance Program Rules	43709	5YR	05/08/2019	2019-11/41
Health Care Financing, Coverage and Reimbursement Policy					
R414-7A	Medicaid Certification of New Nursing Facilities	43635	NSC	04/24/2019	Not Printed
R414-7A	Medicaid Certification of New Nursing Facilities	43740	5YR	05/24/2019	2019-12/137
R414-14A	Hospice Care	43634	5YR	04/08/2019	2019-9/82
R414-31	Inpatient Psychiatric Services for Individuals Under Age 21	43751	5YR	05/31/2019	2019-12/137
R414-36	Rehabilitative Mental Health and Substance Use Disorder Services	43771	5YR	06/05/2019	2019-13/116
R414-49	Dental, Oral and Maxillofacial Surgeons and Orthodontia	43536	AMD	04/22/2019	2019-6/7
R414-49	Dental, Oral and Maxillofacial Surgeons and Orthodontia	43749	5YR	05/31/2019	2019-12/138
R414-61	Home and Community-Based Services Waivers	43851	5YR	07/02/2019	2019-15/47
R414-61-2	Incorporation by Reference	43425	AMD	02/15/2019	2019-1/28
R414-140	Choice of Health Care Delivery Program	43772	5YR	06/05/2019	2019-13/117
R414-303	Coverage Groups	43706	EMR	05/07/2019	2019-11/25
R414-311-6	Household Composition and Income Provisions	43707	EMR	05/07/2019	2019-11/27
R414-312	Adult Expansion Medicaid	43708	EMR	05/07/2019	2019-11/28
R414-401	Nursing Care Facility Assessment	43687	AMD	07/01/2019	2019-10/16
R414-501	Preadmission Authorization, Retroactive Authorization, and Continued Stay Review	43770	5YR	06/05/2019	2019-13/117
R414-502	Nursing Facility Levels of Care	43750	5YR	05/31/2019	2019-12/138
R414-503	Preadmission Screening and Resident Review	43748	5YR	05/31/2019	2019-12/139
R414-510	Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program	43688	AMD	07/15/2019	2019-10/19
R414-515	Long Term Acute Care	43473	AMD	03/21/2019	2019-3/21

R414-516	Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program	43483	AMD	03/21/2019	2019-3/23
R414-520	Admission Criteria for Medically Complex Children's Waiver	43332	NEW	01/04/2019	2018-22/111
R414-521	Accountable Care Organization Hospital Report	43352	NEW	01/04/2019	2018-22/113
R414-522	Electronic Visit Verification Requirements for Personal Care and Home Health Care Services	43689	NEW	07/01/2019	2019-10/23
HERITAGE AND ARTS					
History					
R455-11	Historic Preservation Tax Credit	43716	5YR	05/14/2019	2019-11/42
R455-11	Historic Preservation Tax Credit	43721	NSC	05/24/2019	Not Printed
R455-14	Procedures for Electronic Meetings	43714	5YR	05/14/2019	2019-11/43
R455-15	Procedures for Emergency Meetings	43715	5YR	05/14/2019	2019-11/43
HUMAN RESOURCE MANAGEMENT					
Administration					
R477-1	Definitions	43670	AMD	07/01/2019	2019-10/25
R477-4	Filling Positions	43671	AMD	07/01/2019	2019-10/30
R477-5	Employee Status and Probation	43672	AMD	07/01/2019	2019-10/34
R477-6	Compensation	43673	AMD	07/01/2019	2019-10/36
R477-7	Leave	43674	AMD	07/01/2019	2019-10/41
R477-8	Working Conditions	43675	AMD	07/01/2019	2019-10/49
R477-9	Employee Conduct	43676	AMD	07/01/2019	2019-10/54
R477-11	Discipline	43677	AMD	07/01/2019	2019-10/58
R477-12	Separations	43678	AMD	07/01/2019	2019-10/60
R477-13	Volunteer Programs	43679	AMD	07/01/2019	2019-10/62
R477-14	Substance Abuse and Drug-Free Workplace	43669	AMD	07/01/2019	2019-10/64
R477-15	Workplace Harassment Prevention	43680	AMD	07/01/2019	2019-10/67
R477-101	Administrative Law Judge Conduct Committee	43470	5YR	01/07/2019	2019-3/44
HUMAN SERVICES					
Administration					
R495-882	Termination of Parental Rights	43496	5YR	02/01/2019	2019-4/43
R495-885	Employee Background Screenings	43719	EMR	05/14/2019	2019-11/30
R495-885	Employee Background Screenings	43690	AMD	07/18/2019	2019-10/69
Administration, Administrative Services, Licensing					
R501-1	General Provisions for Licensing	43330	AMD	01/17/2019	2018-22/119
R501-7	Child Placing Adoption Agencies	43356	AMD	02/12/2019	2018-23/105
R501-8	Outdoor Youth Programs	43234	AMD	01/17/2019	2018-21/89
R501-14	Human Service Program Background Screening	43718	EMR	05/14/2019	2019-11/33
R501-14	Human Service Program Background Screening	43691	AMD	07/18/2019	2019-10/73
R501-21	Outpatient Treatment Programs	43237	AMD	02/12/2019	2018-21/91
Child and Family Services					
R512-43	Adoption Assistance	43518	AMD	04/08/2019	2019-5/85
R512-305	Out-of-Home Services, Transition to Adult Living Services	43358	AMD	01/09/2019	2018-23/115
R512-310	Reasonable and Prudent Parent Standard	43981	5YR	08/12/2019	Not Printed
Juvenile Justice Services					
R547-15	Formula for Reform Savings	43804	EMR	06/13/2019	2019-13/109
Recovery Services					
R527-10	Disclosure of Information to the Office of Recovery Services	43700	5YR	05/03/2019	2019-11/44
R527-38	Unenforceable Cases	43593	AMD	07/18/2019	2019-8/46
R527-332	Unreimbursed Assistance Calculation	43699	5YR	05/03/2019	2019-11/44
R527-394	Posting Bond or Security	43682	5YR	04/29/2019	2019-10/116

R527-450	Federal Tax Refund Intercept	43727	5YR	05/20/2019	2019-12/139
Services for People with Disabilities					
R539-2	Service Coordination	43891	5YR	07/15/2019	2019-15/48
R539-3	Rights and Protections	43892	5YR	07/15/2019	2019-15/48
R539-4	Behavior Interventions	43893	5YR	07/15/2019	2019-15/49
R539-5	Self-Administered Services	43894	5YR	07/15/2019	2019-15/50
Substance Abuse and Mental Health					
R523-2-9	Distribution of Fee-On-Fine (DUI) Funds	43505	AMD	04/17/2019	2019-5/92
R523-5	Peer Support Specialist Training and Certification	43141	AMD	01/29/2019	2018-17/60
R523-5	Peer Support Specialist Training and Certification	43141	CPR	01/29/2019	2018-24/38
R523-12-4	Provider Responsibilities	43575	AMD	06/27/2019	2019-7/27
R523-13-4	Provider Responsibilities	43576	AMD	06/27/2019	2019-7/29
R523-17	Behavioral Health Crisis Response Systems Standards	43555	AMD	04/22/2019	2019-6/14
R523-18	Mobile Crisis Outreach Teams Certification Standards	43554	AMD	04/22/2019	2019-6/21
R523-19	Community Mental Health Crisis and Suicide Prevention Training Grant Standards	43355	NEW	01/29/2019	2018-23/118
INSURANCE					
Administration					
R590-93	Replacement of Life Insurance and Annuities	43627	5YR	04/03/2019	2019-9/84
R590-98	Unfair Practice in Payment of Life Insurance and Annuity Policy Values	43628	5YR	04/03/2019	2019-9/85
R590-102	Insurance Department Fee Payment Rule	43604	NSC	04/01/2019	Not Printed
R590-102-21	Dedicated Fees	43485	AMD	03/26/2019	2019-4/4
R590-126-2	Purpose and Scope	43428	AMD	05/01/2019	2019-1/30
R590-146	Medicare Supplement Insurance Standards	43659	AMD	06/07/2019	2019-9/44
R590-146-15	Filing of Policies, Certificates, and Premium Rates	43921	NSC	07/30/2019	Not Printed
R590-155	Utah Life and Health Insurance Guaranty Association Summary Document	43486	AMD	06/07/2019	2019-4/5
R590-155	Utah Life and Health Insurance Guaranty Association Summary Document	43486	CPR	06/07/2019	2019-9/72
R590-166	Home Protection Service Contract Rule	43626	5YR	04/03/2019	2019-9/85
R590-170	Fiduciary and Trust Account Obligations	43514	5YR	02/11/2019	2019-5/97
R590-171	Surplus Lines Procedures Rule	43737	5YR	05/23/2019	2019-12/140
R590-186	Bail Bond Surety Business	43694	AMD	06/21/2019	2019-10/79
R590-186-5	Company License Renewal	43429	AMD	02/07/2019	2019-1/31
R590-190	Unfair Property, Liability and Title Claims Settlement Practices Rule	43625	5YR	04/03/2019	2019-9/86
R590-191	Unfair Life Insurance Claims Settlement Practices Rule	43629	5YR	04/03/2019	2019-9/86
R590-192	Unfair Accident and Health Claims Settlement Practices	43785	5YR	06/10/2019	2019-13/118
R590-218	Permitted Language for Reservation of Discretion Clauses	43653	REP	06/07/2019	2019-9/67
R590-220	Submission of Accident and Health Insurance Filings	43520	5YR	02/13/2019	2019-5/98
R590-225	Submission of Property and Casualty Rate and Form Filings	43521	5YR	02/13/2019	2019-5/98
R590-225-3	Documents Incorporated by Reference	43615	AMD	05/22/2019	2019-8/47
R590-226	Submission of Life Insurance Filings	43580	5YR	03/14/2019	2019-7/63
R590-227	Submission of Annuity Filings	43581	5YR	03/14/2019	2019-7/64
R590-228	Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings	43582	5YR	03/14/2019	2019-7/64
R590-230	Suitability in Annuity Transactions	43738	5YR	05/23/2019	2019-12/140
R590-238-4	Annual Reporting Requirements	43693	AMD	06/21/2019	2019-10/84
R590-244	Individual and Agency Licensing Requirements	43786	5YR	06/10/2019	2019-13/119
R590-252	Use of Senior-Specific Certifications and Professional Designations	43513	5YR	02/11/2019	2019-5/99
R590-254	Annual Financial Reporting Rule	43826	5YR	06/26/2019	2019-14/78

R590-268	Small Employer Stop-Loss Insurance	43570	5YR	03/07/2019	2019-7/65
R590-268	Small Employer Stop-Loss Insurance	43692	AMD	06/21/2019	2019-10/85
R590-269	Individual Open Enrollment Period	43474	5YR	01/11/2019	2019-3/44
R590-278	Consent Requests Under 18 USC 1033(e)(2)	43695	AMD	06/21/2019	2019-10/88
R590-280	Counting Short-Term Funds	43561	NEW	04/23/2019	2019-6/25
R590-281	License Applications Submitted by Individuals Who Have a Criminal Conviction	43696	NEW	06/21/2019	2019-10/90
Title and Escrow Commission					
R592-6	Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	43781	5YR	06/10/2019	2019-13/119
R592-7	Title Insurance Continuing Education	43782	5YR	06/10/2019	2019-13/120
R592-8	Application Process for an Attorney Exemption for Agency Title Insurance Producer Licensing	43783	5YR	06/10/2019	2019-13/121
R592-9	Title Insurance Recovery, Education, and Research Fund Assessment Rule	43784	5YR	06/10/2019	2019-13/121
JUDICIAL PERFORMANCE EVALUATION COMMISSION					
Administration					
R597-1	General Provisions	43501	5YR	02/05/2019	2019-5/100
R597-3	Judicial Performance Evaluations	43500	5YR	02/05/2019	2019-5/100
R597-4	Justice Courts	43601	5YR	03/22/2019	2019-8/105
LABOR COMMISSION					
Adjudication					
R602-2-1	Pleadings and Discovery	43574	AMD	05/08/2019	2019-7/30
Boiler, Elevator and Coal Mine Safety					
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	43572	AMD	05/08/2019	2019-7/35
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	43710	EMR	05/09/2019	2019-11/39
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	43711	AMD	07/08/2019	2019-11/21
R616-2-8	Inspection of Boilers and Pressure Vessels	43573	AMD	05/08/2019	2019-7/36
LIEUTENANT GOVERNOR					
Administration					
R622-2	Use of the Great Seal of the State of Utah	43595	5YR	03/19/2019	2019-8/105
Elections					
R623-1	Lieutenant Governor's Procedure for Regulation of Lobbyist Activities	43493	5YR	01/28/2019	2019-4/44
R623-2	Uniform Ballot Counting Standards	43494	5YR	01/28/2019	2019-4/44
R623-3	Utah State Plan on Election Reform	43495	5YR	01/28/2019	2019-4/45
R623-5	Municipal Alternate Voting Methods Pilot Project	43275	NEW	03/01/2019	2018-21/96
MONEY MANAGEMENT COUNCIL					
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RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)
CPR = Change in Proposed Rule
EMR = 120-Day (Emergency) Rule
EXD = Expired Rule
EXP = Expedited Rule
EXT = Five-Year Review Extension
GEX = Governor's Extension
LNR = Legislative Nonreauthorization
NEW = New Rule (Proposed Rule)
NSC = Nonsubstantive Rule Change
R&R = Repeal and Reenact (Proposed Rule)
REP = Repeal (Proposed Rule)
5YR = Five-Year Notice of Review and Statement of Continuation

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	43567	R23-29	5YR	03/06/2019	2019-7/60
camp Regents (Board of), University of Utah, Administration	43541	R805-3	5YR	02/25/2019	2019-6/46
	43566	R805-3	AMD	05/22/2019	2019-7/38
campfire Regents (Board of), University of Utah, Administration	43541	R805-3	5YR	02/25/2019	2019-6/46
	43566	R805-3	AMD	05/22/2019	2019-7/38
camping Regents (Board of), University of Utah, Administration	43541	R805-3	5YR	02/25/2019	2019-6/46
	43566	R805-3	AMD	05/22/2019	2019-7/38
cancellations Administrative Services, Purchasing and General Services	43862	R33-9	5YR	07/08/2019	2019-15/37
cancer Health, Disease Control and Prevention, Health Promotion	43540	R384-100	5YR	02/25/2019	2019-6/41
cannabidiol Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed
cannabis cultivation facility Agriculture and Food, Plant Industry	43686	R68-27	EMR	05/03/2019	2019-10/107
cannabis processing Agriculture and Food, Plant Industry	43758	R68-28	NEW	07/22/2019	2019-12/16
cannabis production establishment Agriculture and Food, Plant Industry	43758	R68-28	NEW	07/22/2019	2019-12/16
capital improvements Administrative Services, Facilities Construction and Management	43568	R23-33	5YR	03/06/2019	2019-7/60
capital investments Governor, Economic Development	43488	R357-7	EXT	01/24/2019	2019-4/47

	43734	R357-7	5YR	05/22/2019	2019-12/136
captive insurance					
Insurance, Administration	43693	R590-238-4	AMD	06/21/2019	2019-10/84
carbon monoxide detectors					
Education, Administration	43507	R277-400	5YR	02/08/2019	2019-5/95
	43512	R277-400	AMD	04/08/2019	2019-5/21
career and technical education					
UTech Board of Trustees, Administration	43617	R945-1	AMD	07/16/2019	2019-8/96
CCHD screening					
Health, Family Health and Preparedness, Children with Special Health Care Needs	43472	R398-5	AMD	03/11/2019	2019-3/18
	43886	R398-5	5YR	07/12/2019	2019-15/47
certificate of state authorization					
Commerce, Consumer Protection	43612	R152-34a	5YR	04/01/2019	2019-8/101
certification					
Education, Administration	43655	R277-926	NEW	07/02/2019	2019-9/40
Labor Commission, Boiler, Elevator and Coal Mine Safety	43572	R616-2-3	AMD	05/08/2019	2019-7/35
	43710	R616-2-3	EMR	05/09/2019	2019-11/39
	43711	R616-2-3	AMD	07/08/2019	2019-11/21
	43573	R616-2-8	AMD	05/08/2019	2019-7/36
certification of programs					
Human Services, Substance Abuse and Mental Health	43141	R523-5	AMD	01/29/2019	2018-17/60
	43141	R523-5	CPR	01/29/2019	2018-24/38
certifications					
Agriculture and Food, Conservation Commission	43685	R64-3	5YR	04/30/2019	2019-10/115
Public Safety, Peace Officer Standards and Training	43666	R728-409	AMD	06/24/2019	2019-10/100
Transportation, Motor Carrier	43443	R909-19	AMD	02/07/2019	2019-1/56
certified medical language interpreter					
Commerce, Occupational and Professional Licensing	43465	R156-80a	5YR	01/02/2019	2019-2/19
change orders					
Administrative Services, Purchasing and General Services	43865	R33-12	5YR	07/08/2019	2019-15/38
charter schools					
Education, Administration	43374	R277-470	REP	01/09/2019	2018-23/9
	43637	R277-472	5YR	04/08/2019	2019-9/81
	43712	R277-480	5YR	05/13/2019	2019-11/41
	43647	R277-480	AMD	07/02/2019	2019-9/31
	43399	R277-481	REP	01/09/2019	2018-23/12
	43400	R277-550	NEW	01/09/2019	2018-23/21
	43393	R277-551	NEW	01/09/2019	2018-23/24
	43478	R277-551	AMD	03/13/2019	2019-3/10
	43401	R277-553	NEW	01/09/2019	2018-23/31
	43395	R277-554	NEW	01/09/2019	2018-23/34
	43396	R277-555	NEW	01/09/2019	2018-23/38
chief procurement officer					
Administrative Services, Purchasing and General Services	43855	R33-3	5YR	07/08/2019	2019-15/34
child care					
Workforce Services, Employment Development	43556	R986-700	AMD	06/01/2019	2019-6/30

child care facilities					
Health, Family Health and Preparedness, Child Care Licensing	43661	R430-8	5YR	04/17/2019	2019-10/116
child care providers					
Health, Disease Control and Prevention, Environmental Services	43660	R392-110	R&R	07/16/2019	2019-10/12
child placing					
Human Services, Administration, Administrative Services, Licensing	43356	R501-7	AMD	02/12/2019	2018-23/105
child support					
Human Services, Recovery Services	43700	R527-10	5YR	05/03/2019	2019-11/44
	43593	R527-38	AMD	07/18/2019	2019-8/46
	43699	R527-332	5YR	05/03/2019	2019-11/44
	43682	R527-394	5YR	04/29/2019	2019-10/116
	43727	R527-450	5YR	05/20/2019	2019-12/139
child welfare					
Administrative Services, Child Welfare Parental Defense (Office of)	43705	R19-1	REP	07/08/2019	2019-11/4
Human Services, Child and Family Services	43518	R512-43	AMD	04/08/2019	2019-5/85
	43358	R512-305	AMD	01/09/2019	2018-23/115
	43981	R512-310	5YR	08/12/2019	Not Printed
chronic wasting disease					
Agriculture and Food, Animal Industry	43754	R58-18	AMD	07/22/2019	2019-12/6
	43909	R58-18	NSC	08/01/2019	Not Printed
class size average reporting					
Education, Administration	43636	R277-463	5YR	04/08/2019	2019-9/80
	43652	R277-463	AMD	07/02/2019	2019-9/29
clinical health information exchange					
Health, Administration	43487	R380-70	5YR	01/24/2019	2019-4/43
co-curricular					
Education, Administration	43506	R277-494-4	NSC	02/20/2019	Not Printed
coal mines					
Natural Resources, Oil, Gas and Mining; Coal	43913	R645-105	5YR	07/23/2019	2019-16/103
	43916	R645-400	5YR	07/23/2019	2019-16/104
coal mining					
Natural Resources, Oil, Gas and Mining; Coal	43914	R645-106	5YR	07/23/2019	2019-16/104
cold case database					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	43435	R722-920	NEW	02/20/2019	2019-1/49
cold cases					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	43435	R722-920	NEW	02/20/2019	2019-1/49
collection transfer					
Administrative Services, Debt Collection	43801	R21-1	AMD	08/07/2019	2019-13/6
colleges					
Public Safety, Administration	43523	R698-4	5YR	02/14/2019	2019-5/101
colorectal cancer screening					
Health, Disease Control and Prevention, Health Promotion	43539	R384-200	5YR	02/25/2019	2019-6/42
commercial					
Governor, Energy Development (Office of)	43419	R362-5	NEW	01/23/2019	2018-24/15

community crisis training grant					
Human Services, Substance Abuse and Mental Health	43355	R523-19	NEW	01/29/2019	2018-23/118
competency-based instruction					
Education, Administration	43622	R277-720	NEW	05/23/2019	2019-8/30
compliance determinations					
Environmental Quality, Drinking Water	43382	R309-210-8	AMD	01/15/2019	2018-23/80
	43383	R309-211	AMD	01/15/2019	2018-23/85
	43384	R309-215-10	AMD	01/15/2019	2018-23/91
	43385	R309-215-16	AMD	01/15/2019	2018-23/93
compulsory education					
Education, Administration	43959	R277-607	5YR	08/06/2019	Not Printed
conduct					
Administrative Services, Purchasing and General Services	43869	R33-16	5YR	07/08/2019	2019-15/40
conduct committee					
Human Resource Management, Administration	43470	R477-101	5YR	01/07/2019	2019-3/44
confidentiality					
Education, Administration	43511	R277-117	REP	04/08/2019	2019-5/19
	43476	R277-487	AMD	03/13/2019	2019-3/4
confidentiality of information					
Workforce Services, Unemployment Insurance	43821	R994-312	5YR	06/17/2019	2019-14/82
conflict of interest					
Human Resource Management, Administration	43676	R477-9	AMD	07/01/2019	2019-10/54
conservation permits					
Natural Resources, Wildlife Resources	43736	R657-41	AMD	07/22/2019	2019-12/91
construction management					
Administrative Services, Purchasing and General Services	43866	R33-13	5YR	07/08/2019	2019-15/39
consumer confidence report					
Environmental Quality, Drinking Water	43387	R309-225-4	AMD	01/15/2019	2018-23/101
consumer protection					
Commerce, Consumer Protection	43612	R152-34a	5YR	04/01/2019	2019-8/101
contraception					
Health, Family Health and Preparedness, Maternal and Child Health	43402	R433-200	NEW	03/06/2019	2018-24/18
contract requirements					
Administrative Services, Facilities Construction and Management	43642	R23-23	5YR	04/11/2019	2019-9/79
contractors					
Administrative Services, Facilities Construction and Management	43642	R23-23	5YR	04/11/2019	2019-9/79
Capitol Preservation Board (State), Administration	43662	R131-13	5YR	04/17/2019	2019-10/115
	43517	R131-13	AMD	06/13/2019	2019-5/6
Commerce, Occupational and Professional Licensing	43522	R156-15A	AMD	04/08/2019	2019-5/8
	43747	R156-55a	AMD	07/22/2019	2019-12/23
contracts					
Administrative Services, Facilities Construction and Management	43642	R23-23	5YR	04/11/2019	2019-9/79

Administrative Services, Purchasing and General Services	43865	R33-12	5YR	07/08/2019	2019-15/38
	43867	R33-14	5YR	07/08/2019	2019-15/39
Capitol Preservation Board (State), Administration	43662	R131-13	5YR	04/17/2019	2019-10/115
	43517	R131-13	AMD	06/13/2019	2019-5/6
Education, Administration	43619	R277-115	NEW	05/23/2019	2019-8/10
Public Service Commission, Administration	43966	R746-401	5YR	08/07/2019	Not Printed
controlled substances					
Health, Disease Control and Prevention, Health Promotion	43537	R384-203	5YR	02/25/2019	2019-6/42
controlled substances database					
Health, Disease Control and Prevention, Health Promotion	43562	R384-203	AMD	07/23/2019	2019-7/25
controversies					
Administrative Services, Purchasing and General Services	43869	R33-16	5YR	07/08/2019	2019-15/40
conveyance					
Natural Resources, Water Rights	43922	R655-3	5YR	07/27/2019	2019-16/105
cooperative purchasing					
Administrative Services, Purchasing and General Services	43875	R33-21	5YR	07/08/2019	2019-15/43
cooperative wildlife management unit					
Natural Resources, Wildlife Resources	43724	R657-37	AMD	07/22/2019	2019-12/82
corrections					
Corrections, Administration	43218	R251-105	AMD	02/11/2019	2018-20/12
corrective action					
Education, Administration	43396	R277-555	NEW	01/09/2019	2018-23/38
corrective action orders					
Transportation, Operations, Aeronautics	43722	R914-4	NEW	07/23/2019	2019-12/106
costs					
Administrative Services, Purchasing and General Services	43865	R33-12	5YR	07/08/2019	2019-15/38
counselors					
Education, Administration	43739	R277-462	5YR	05/23/2019	2019-12/135
	43728	R277-462	R&R	07/31/2019	2019-12/39
counting					
Lieutenant Governor, Elections	43275	R623-5	NEW	03/01/2019	2018-21/96
coverage					
Workforce Services, Unemployment Insurance	43819	R994-310	5YR	06/17/2019	2019-14/81
coverage groups					
Health, Health Care Financing, Coverage and Reimbursement Policy	43706	R414-303	EMR	05/07/2019	2019-11/25
credit insurance filings					
Insurance, Administration	43582	R590-228	5YR	03/14/2019	2019-7/64
criminal justice agencies					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	43665	R722-900	AMD	06/24/2019	2019-10/95
crisis response services					
Human Services, Substance Abuse and Mental Health	43555	R523-17	AMD	04/22/2019	2019-6/14

crisis training grant					
Human Services, Substance Abuse and Mental Health	43355	R523-19	NEW	01/29/2019	2018-23/118
crisis worker certification					
Human Services, Substance Abuse and Mental Health	43555	R523-17	AMD	04/22/2019	2019-6/14
critical congenital heart disease (CCHD)					
Health, Family Health and Preparedness, Children with Special Health Care Needs	43472	R398-5	AMD	03/11/2019	2019-3/18
	43886	R398-5	5YR	07/12/2019	2019-15/47
curation					
Regents (Board of), University of Utah, Museum of Natural History (Utah)	43535	R807-1	5YR	02/22/2019	2019-6/47
dairy inspections					
Agriculture and Food, Regulatory Services	43775	R70-310	5YR	06/07/2019	2019-13/114
	43777	R70-310	AMD	08/13/2019	2019-13/16
database					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	43435	R722-920	NEW	02/20/2019	2019-1/49
debarment					
Administrative Services, Purchasing and General Services	43862	R33-9	5YR	07/08/2019	2019-15/37
decommissioning					
Environmental Quality, Waste Management and Radiation Control, Radiation	43809	R313-22-75	AMD	08/09/2019	2019-13/65
definitions					
Administrative Services, Purchasing and General Services	43859	R33-1	5YR	07/08/2019	2019-15/33
Education, Administration	43479	R277-100	AMD	03/13/2019	2019-3/2
Environmental Quality, Air Quality	43372	R307-101-2	AMD	02/07/2019	2018-23/49
Environmental Quality, Drinking Water	43380	R309-110-4	AMD	01/15/2019	2018-23/60
Human Resource Management, Administration	43670	R477-1	AMD	07/01/2019	2019-10/25
delegation					
Administrative Services, Facilities Construction and Management	43525	R23-29	NSC	03/01/2019	Not Printed
	43567	R23-29	5YR	03/06/2019	2019-7/60
delegation of authority					
Administrative Services, Purchasing and General Services	43855	R33-3	5YR	07/08/2019	2019-15/34
dental					
Environmental Quality, Waste Management and Radiation Control, Radiation	43253	R313-28-31	AMD	01/14/2019	2018-21/52
	43530	R313-28-31	AMD	04/15/2019	2019-5/50
Department of Human Services					
Human Services, Administration	43690	R495-885	AMD	07/18/2019	2019-10/69
depredation					
Natural Resources, Wildlife Resources	43723	R657-44	AMD	07/22/2019	2019-12/100
design					
Administrative Services, Facilities Construction and Management	43524	R23-3	NSC	03/01/2019	Not Printed
	43569	R23-3	5YR	03/06/2019	2019-7/59

design and engineering services					
Transportation, Administration	43490	R907-66	R&R	03/26/2019	2019-4/31
design-build transportation projects					
Administrative Services, Purchasing and General Services	43867	R33-14	5YR	07/08/2019	2019-15/39
digital teaching and learning					
Education, Administration	43398	R277-922	AMD	01/09/2019	2018-23/45
	43713	R277-922	NSC	05/24/2019	Not Printed
disabilities					
Human Services, Services for People with Disabilities	43894	R539-5	5YR	07/15/2019	2019-15/50
disasters					
Education, Administration	43507	R277-400	5YR	02/08/2019	2019-5/95
	43512	R277-400	AMD	04/08/2019	2019-5/21
discipline of employees					
Human Resource Management, Administration	43677	R477-11	AMD	07/01/2019	2019-10/58
	43669	R477-14	AMD	07/01/2019	2019-10/64
discretion clauses					
Insurance, Administration	43653	R590-218	REP	06/07/2019	2019-9/67
discretionary funds					
Education, Administration	43618	R277-119	REP	05/23/2019	2019-8/12
disinfection monitoring					
Environmental Quality, Drinking Water	43384	R309-215-10	AMD	01/15/2019	2018-23/91
	43385	R309-215-16	AMD	01/15/2019	2018-23/93
dismissal of employees					
Human Resource Management, Administration	43677	R477-11	AMD	07/01/2019	2019-10/58
disposal of fireworks					
Public Safety, Fire Marshal	43354	R710-15	NEW	01/14/2019	2018-22/155
dissemination of information					
Education, Administration	43703	R277-714	REP	07/31/2019	2019-11/13
distribution system monitoring					
Environmental Quality, Drinking Water	43382	R309-210-8	AMD	01/15/2019	2018-23/80
	43383	R309-211	AMD	01/15/2019	2018-23/85
dogs					
Natural Resources, Wildlife Resources	43726	R657-46	5YR	05/20/2019	2019-12/141
drinking water					
Environmental Quality, Drinking Water	43378	R309-100-9	AMD	01/15/2019	2018-23/57
	43379	R309-105-4	AMD	01/15/2019	2018-23/58
	43380	R309-110-4	AMD	01/15/2019	2018-23/60
	43381	R309-200	AMD	01/15/2019	2018-23/73
	43382	R309-210-8	AMD	01/15/2019	2018-23/80
	43383	R309-211	AMD	01/15/2019	2018-23/85
	43384	R309-215-10	AMD	01/15/2019	2018-23/91
	43385	R309-215-16	AMD	01/15/2019	2018-23/93
	43386	R309-220-4	AMD	01/15/2019	2018-23/99
	43387	R309-225-4	AMD	01/15/2019	2018-23/101
drip irrigation					
Environmental Quality, Water Quality	43633	R317-401	5YR	04/08/2019	2019-9/82
driver license restrictions					
Public Safety, Driver License	43590	R708-10	5YR	03/15/2019	2019-7/65

drug abuse					
Human Resource Management, Administration	43669	R477-14	AMD	07/01/2019	2019-10/64
drug and alcohol testing					
Administrative Services, Purchasing and General Services	43866	R33-13	5YR	07/08/2019	2019-15/39
drug/alcohol education					
Human Resource Management, Administration	43669	R477-14	AMD	07/01/2019	2019-10/64
dual employment					
Human Resource Management, Administration	43675	R477-8	AMD	07/01/2019	2019-10/49
early graduation					
Education, Administration	43622	R277-720	NEW	05/23/2019	2019-8/30
economic development					
Governor, Economic Development	43488	R357-7	EXT	01/24/2019	2019-4/47
	43734	R357-7	5YR	05/22/2019	2019-12/136
	43720	R357-24	NEW	07/08/2019	2019-11/15
economics					
Education, Administration	43519	R277-704	AMD	04/08/2019	2019-5/46
education					
Education, Administration	43532	R277-407	AMD	04/08/2019	2019-5/25
	43374	R277-470	REP	01/09/2019	2018-23/9
	43400	R277-550	NEW	01/09/2019	2018-23/21
	43393	R277-551	NEW	01/09/2019	2018-23/24
	43478	R277-551	AMD	03/13/2019	2019-3/10
education finance					
Education, Administration	43475	R277-419	NSC	01/15/2019	Not Printed
educational facilities					
Education, Administration	43957	R277-471	5YR	08/06/2019	Not Printed
educator licensing					
Education, Administration	43654	R277-301	AMD	07/02/2019	2019-9/15
	43664	R277-502	NSC	05/14/2019	Not Printed
	43600	R277-502-4	NSC	04/01/2019	Not Printed
educator licensure					
Education, Administration	43648	R277-511	AMD	07/02/2019	2019-9/34
educator preparation program					
Education, Administration	43657	R277-303	AMD	07/02/2019	2019-9/20
educators					
Education, Administration	43624	R277-304	NEW	05/23/2019	2019-8/13
	43509	R277-528	5YR	02/08/2019	2019-5/96
efficiency					
Education, Administration	43441	R277-122	AMD	02/07/2019	2019-1/17
elections					
Lieutenant Governor, Elections	43494	R623-2	5YR	01/28/2019	2019-4/44
	43495	R623-3	5YR	01/28/2019	2019-4/45
electric and gas utility customer information					
Public Service Commission, Administration	43811	R746-460	NEW	08/07/2019	2019-13/95
electric safety codes					
Public Service Commission, Administration	43603	R746-310	AMD	05/22/2019	2019-8/49
electric utility industries					
Public Service Commission, Administration	43603	R746-310	AMD	05/22/2019	2019-8/49

electronic data interchange					
Health, Administration	43774	R380-25	5YR	06/07/2019	2019-13/116
electronic devices					
Education, Administration	43531	R277-495	AMD	04/08/2019	2019-5/42
electronic meetings					
Administrative Services, Child Welfare Parental Defense (Office of)	43705	R19-1	REP	07/08/2019	2019-11/4
Administrative Services, Finance	43471	R25-11	5YR	01/07/2019	2019-3/43
elevator mechanics					
Commerce, Occupational and Professional Licensing	43542	R156-55e	AMD	04/22/2019	2019-6/4
eligibility					
Health, Health Care Financing, Coverage and Reimbursement Policy	43707	R414-311-6	EMR	05/07/2019	2019-11/27
	43708	R414-312	EMR	05/07/2019	2019-11/28
eligible regional service centers					
Education, Administration	43960	R277-706	5YR	08/06/2019	Not Printed
elk					
Agriculture and Food, Animal Industry	43754	R58-18	AMD	07/22/2019	2019-12/6
	43909	R58-18	NSC	08/01/2019	Not Printed
	43469	R58-20	5YR	01/07/2019	2019-3/43
	43752	R58-20	AMD	07/22/2019	2019-12/13
	43910	R58-20	NSC	08/01/2019	Not Printed
emergency medical services					
Health, Family Health and Preparedness, Emergency Medical Services	43177	R426-1	AMD	01/11/2019	2018-18/15
	43178	R426-2	AMD	01/11/2019	2018-18/19
	43260	R426-2-400	NSC	01/11/2019	Not Printed
	43608	R426-8	AMD	07/01/2019	2019-8/39
	43321	R426-9	AMD	01/18/2019	2018-22/114
emergency preparedness					
Education, Administration	43507	R277-400	5YR	02/08/2019	2019-5/95
	43512	R277-400	AMD	04/08/2019	2019-5/21
emergency procurements					
Administrative Services, Purchasing and General Services	43861	R33-8	5YR	07/08/2019	2019-15/36
employee benefit plans					
Human Resource Management, Administration	43673	R477-6	AMD	07/01/2019	2019-10/36
employees					
Human Services, Administration	43719	R495-885	EMR	05/14/2019	2019-11/30
	43690	R495-885	AMD	07/18/2019	2019-10/69
employees' rights					
Human Resource Management, Administration	43678	R477-12	AMD	07/01/2019	2019-10/60
employment					
Corrections, Administration	43218	R251-105	AMD	02/11/2019	2018-20/12
Human Resource Management, Administration	43671	R477-4	AMD	07/01/2019	2019-10/30
	43672	R477-5	AMD	07/01/2019	2019-10/34
employment support procedures					
Workforce Services, Employment Development	43481	R986-100-117	AMD	06/01/2019	2019-3/33
energy					
Governor, Energy Development (Office of)	43419	R362-5	NEW	01/23/2019	2018-24/15

engineers Administrative Services, Purchasing and General Services	43868	R33-15	5YR	07/08/2019	2019-15/40
enhancement programs Education, Administration	43651	R277-707	AMD	07/02/2019	2019-9/37
enrichments Education, Administration	43638 43683	R277-493 R277-493	5YR AMD	04/08/2019 07/02/2019	2019-9/81 2019-10/9
enrollment Education, Administration	43658	R277-417	AMD	07/02/2019	2019-9/26
enrollment options Education, Administration	43397	R277-437	AMD	01/09/2019	2018-23/6
enrollment reporting Education, Administration	43636 43652	R277-463 R277-463	5YR AMD	04/08/2019 07/02/2019	2019-9/80 2019-9/29
enterprise zone Governor, Economic Development	43946	R357-15-2	NSC	08/13/2019	Not Printed
enterprise zones Governor, Economic Development	43814	R357-15	AMD	08/12/2019	2019-13/80
environment Agriculture and Food, Conservation Commission	43685	R64-3	5YR	04/30/2019	2019-10/115
environmental health scientist Commerce, Occupational and Professional Licensing	43466	R156-20a	NSC	01/11/2019	Not Printed
environmental health scientist-in-training Commerce, Occupational and Professional Licensing	43466	R156-20a	NSC	01/11/2019	Not Printed
environmental protection Environmental Quality, Drinking Water	43378	R309-100-9	AMD	01/15/2019	2018-23/57
ESSA Education, Administration	43515	R277-483	NEW	04/08/2019	2019-5/36
evaluation cycles Judicial Performance Evaluation Commission, Administration	43500	R597-3	5YR	02/05/2019	2019-5/100
exceptions to procurement requirements Administrative Services, Purchasing and General Services	43861	R33-8	5YR	07/08/2019	2019-15/36
executive branch employees Administrative Services, Purchasing and General Services	43877	R33-24	5YR	07/08/2019	2019-15/44
executive branch insurance procurement Administrative Services, Purchasing and General Services	43879	R33-25	5YR	07/08/2019	2019-15/45
exemptions Environmental Quality, Waste Management and Radiation Control, Radiation	43810	R313-19-34	AMD	08/09/2019	2019-13/62
exhibitions Agriculture and Food, Marketing and Development	43545	R65-8	NSC	03/13/2019	Not Printed
expansion Education, Administration	43392	R277-482	REP	01/09/2019	2018-23/15

	43394	R277-552	NEW	01/09/2019	2018-23/26
	43623	R277-552	AMD	05/23/2019	2019-8/19
expenses					
Public Safety, Emergency Management	43668	R704-1	AMD	06/24/2019	2019-10/92
	43827	R704-1	5YR	06/26/2019	2019-14/79
extracurricular					
Education, Administration	43506	R277-494-4	NSC	02/20/2019	Not Printed
facilities					
Education, Administration	43579	R277-724	5YR	03/13/2019	2019-7/61
fair employment practices					
Human Resource Management, Administration	43671	R477-4	AMD	07/01/2019	2019-10/30
family employment program					
Workforce Services, Employment Development	43482	R986-200-250	AMD	06/01/2019	2019-3/35
family planning					
Health, Family Health and Preparedness, Maternal and Child Health	43402	R433-200	NEW	03/06/2019	2018-24/18
federal election reform					
Lieutenant Governor, Elections	43495	R623-3	5YR	01/28/2019	2019-4/45
filing deadlines					
Workforce Services, Unemployment Insurance	43557	R994-403	AMD	05/01/2019	2019-6/38
	43365	R994-403-109b	AMD	03/31/2019	2018-23/122
filings					
Public Service Commission, Administration	43965	R746-700	5YR	08/07/2019	Not Printed
finance					
Administrative Services, Finance	43404	R25-10	AMD	01/23/2019	2018-24/6
financial					
Education, Administration	43519	R277-704	AMD	04/08/2019	2019-5/46
financial information					
Human Services, Recovery Services	43700	R527-10	5YR	05/03/2019	2019-11/44
financial reimbursement					
Public Safety, Emergency Management	43668	R704-1	AMD	06/24/2019	2019-10/92
	43827	R704-1	5YR	06/26/2019	2019-14/79
financing					
Governor, Energy Development (Office of)	43419	R362-5	NEW	01/23/2019	2018-24/15
fingerprinting					
Human Services, Administration, Administrative Services, Licensing	43718	R501-14	EMR	05/14/2019	2019-11/33
	43691	R501-14	AMD	07/18/2019	2019-10/73
fire					
Regents (Board of), University of Utah, Administration	43541	R805-3	5YR	02/25/2019	2019-6/46
	43566	R805-3	AMD	05/22/2019	2019-7/38
fiscal					
Natural Resources, Parks and Recreation	43416	R651-301	AMD	01/24/2019	2018-24/20
fish					
Natural Resources, Wildlife Resources	43420	R657-13	AMD	01/24/2019	2018-24/27
fishing					
Natural Resources, Wildlife Resources	43420	R657-13	AMD	01/24/2019	2018-24/27

food programs Education, Administration	43579	R277-724	5YR	03/13/2019	2019-7/61
food service Health, Disease Control and Prevention, Environmental Services	43660	R392-110	R&R	07/16/2019	2019-10/12
foreign deposits Money Management Council, Administration	43504	R628-20	EXT	02/05/2019	2019-5/103
	43646	R628-20	5YR	04/12/2019	2019-9/88
forest products School and Institutional Trust Lands, Administration	43792	R850-70	AMD	08/07/2019	2019-13/103
former foster care youth Health, Health Care Financing, Coverage and Reimbursement Policy	43706	R414-303	EMR	05/07/2019	2019-11/25
formula Human Services, Juvenile Justice Services	43804	R547-15	EMR	06/13/2019	2019-13/109
foster care Human Services, Child and Family Services	43518	R512-43	AMD	04/08/2019	2019-5/85
	43981	R512-310	5YR	08/12/2019	Not Printed
freedom of religion Education, Administration	43610	R277-105	REP	05/23/2019	2019-8/6
funding formula Human Services, Substance Abuse and Mental Health	43505	R523-2-9	AMD	04/17/2019	2019-5/92
furbearers Natural Resources, Wildlife Resources	43414	R657-11	AMD	01/24/2019	2018-24/25
game birds Natural Resources, Wildlife Resources	43491	R657-22	AMD	03/25/2019	2019-4/22
game laws Natural Resources, Wildlife Resources	43431	R657-5	AMD	02/07/2019	2019-1/37
	43741	R657-5	AMD	07/22/2019	2019-12/79
	43414	R657-11	AMD	01/24/2019	2018-24/25
	43492	R657-33	AMD	03/25/2019	2019-4/27
	43951	R657-54	5YR	08/05/2019	Not Printed
	43498	R657-67	5YR	02/04/2019	2019-5/101
	43952	R657-68	5YR	08/05/2019	Not Printed
general construction provisions Administrative Services, Purchasing and General Services	43866	R33-13	5YR	07/08/2019	2019-15/39
general procurement provisions Administrative Services, Purchasing and General Services	43859	R33-1	5YR	07/08/2019	2019-15/33
	43856	R33-4	5YR	07/08/2019	2019-15/34
	43878	R33-26	5YR	07/08/2019	2019-15/45
general provisions Administrative Services, Purchasing and General Services	43872	R33-19	5YR	07/08/2019	2019-15/42
	43873	R33-20	5YR	07/08/2019	2019-15/42
generators Environmental Quality, Waste Management and Radiation Control, Waste Management	43528	R315-262	AMD	04/15/2019	2019-5/83

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Health, Disease Control and Prevention, Environmental Services	43502	R392-303	5YR	02/05/2019	2019-5/96
geothermal pools					
Health, Disease Control and Prevention, Environmental Services	43502	R392-303	5YR	02/05/2019	2019-5/96
geothermal spas					
Health, Disease Control and Prevention, Environmental Services	43502	R392-303	5YR	02/05/2019	2019-5/96
goals					
Education, Administration	43649	R277-406	AMD	07/02/2019	2019-9/23
government corporations					
Workforce Services, Unemployment Insurance	43820	R994-311	5YR	06/17/2019	2019-14/81
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Administrative Services, Records Committee	43760	R35-1	5YR	06/03/2019	2019-13/111
	43761	R35-1a	5YR	06/03/2019	2019-13/111
	43762	R35-2	5YR	06/03/2019	2019-13/112
	43763	R35-4	5YR	06/03/2019	2019-13/112
	43766	R35-4-1	NSC	06/12/2019	Not Printed
	43764	R35-5	5YR	06/03/2019	2019-13/113
	43765	R35-6	5YR	06/03/2019	2019-13/113
government ethics					
Human Resource Management, Administration	43676	R477-9	AMD	07/01/2019	2019-10/54
government hearings					
Human Resource Management, Administration	43677	R477-11	AMD	07/01/2019	2019-10/58
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Administrative Services, Purchasing and General Services	43859	R33-1	5YR	07/08/2019	2019-15/33
	43854	R33-2	5YR	07/08/2019	2019-15/33
	43855	R33-3	5YR	07/08/2019	2019-15/34
	43856	R33-4	5YR	07/08/2019	2019-15/34
	43857	R33-5	5YR	07/08/2019	2019-15/35
	43858	R33-6	5YR	07/08/2019	2019-15/35
	43860	R33-7	5YR	07/08/2019	2019-15/36
	43861	R33-8	5YR	07/08/2019	2019-15/36
	43862	R33-9	5YR	07/08/2019	2019-15/37
	43868	R33-15	5YR	07/08/2019	2019-15/40
	43869	R33-16	5YR	07/08/2019	2019-15/40
	43874	R33-22	5YR	07/08/2019	2019-15/43
	43876	R33-23	5YR	07/08/2019	2019-15/44
	43879	R33-25	5YR	07/08/2019	2019-15/45
	43878	R33-26	5YR	07/08/2019	2019-15/45
Governmental Immunity Act caps					
Administrative Services, Risk Management	43235	R37-4	AMD	01/18/2019	2018-21/2
graduation requirements					
Education, Administration	43621	R277-700	AMD	05/23/2019	2019-8/23
GRAMA					
Corrections, Administration	43596	R251-111	5YR	03/19/2019	2019-8/102
Regents (Board of), Salt Lake Community College	43594	R784-1	5YR	03/17/2019	2019-8/107
GRAMA appeals					
Administrative Services, Administration	43744	R13-2	5YR	05/29/2019	2019-12/135
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Administrative Services, Administration	43744	R13-2	5YR	05/29/2019	2019-12/135

grant programs					
Education, Administration	43398	R277-922	AMD	01/09/2019	2018-23/45
	43713	R277-922	NSC	05/24/2019	Not Printed
Workforce Services, Employment Development	43556	R986-700	AMD	06/01/2019	2019-6/30
grants					
Education, Administration	43511	R277-117	REP	04/08/2019	2019-5/19
Environmental Quality, Waste Management and Radiation Control, Waste Management	43529	R315-15-14	AMD	04/15/2019	2019-5/54
	43768	R315-15-16	NSC	06/12/2019	Not Printed
Health, Family Health and Preparedness, Primary Care and Rural Health	43709	R434-40	5YR	05/08/2019	2019-11/41
graywater					
Environmental Quality, Water Quality	43633	R317-401	5YR	04/08/2019	2019-9/82
great seal					
Lieutenant Governor, Administration	43595	R622-2	5YR	03/19/2019	2019-8/105
greenhouse gases					
Environmental Quality, Air Quality	43589	R307-401-10	AMD	06/06/2019	2019-7/6
grievances					
Human Resource Management, Administration	43677	R477-11	AMD	07/01/2019	2019-10/58
	43678	R477-12	AMD	07/01/2019	2019-10/60
Hatch Act					
Human Resource Management, Administration	43676	R477-9	AMD	07/01/2019	2019-10/54
hazardous materials					
Public Safety, Administration	43418	R698-5	AMD	02/20/2019	2018-24/29
	43828	R698-5	5YR	06/26/2019	2019-14/79
Public Safety, Fire Marshal	43455	R710-12	NEW	04/09/2019	2019-2/14
hazardous waste					
Environmental Quality, Waste Management and Radiation Control, Waste Management	43526	R315-260	AMD	04/15/2019	2019-5/56
	43527	R315-261	AMD	04/15/2019	2019-5/67
	43528	R315-262	AMD	04/15/2019	2019-5/83
	43252	R315-273	AMD	01/14/2019	2018-21/55
health					
Health, Administration	43774	R380-25	5YR	06/07/2019	2019-13/116
Health, Center for Health Data, Health Care Statistics	43544	R428-1	AMD	05/01/2019	2019-6/12
health care facilities					
Health, Family Health and Preparedness, Licensing	43553	R432-7	5YR	02/27/2019	2019-6/43
	43559	R432-8	5YR	02/28/2019	2019-6/44
	43560	R432-9	5YR	02/28/2019	2019-6/44
	43563	R432-10	5YR	03/04/2019	2019-7/62
	43564	R432-11	5YR	03/04/2019	2019-7/62
	43565	R432-12	5YR	03/04/2019	2019-7/63
	43598	R432-13	5YR	03/21/2019	2019-8/103
	43599	R432-14	5YR	03/21/2019	2019-8/103
	43597	R432-30	5YR	03/21/2019	2019-8/104
	43614	R432-32	5YR	04/01/2019	2019-8/104
	43630	R432-45	5YR	04/05/2019	2019-9/83
	43533	R432-270	5YR	02/20/2019	2019-6/45
health effects					
Environmental Quality, Drinking Water	43386	R309-220-4	AMD	01/15/2019	2018-23/99
health insurance					
Administrative Services, Facilities Construction and Management	43642	R23-23	5YR	04/11/2019	2019-9/79
Capitol Preservation Board (State), Administration	43662	R131-13	5YR	04/17/2019	2019-10/115
	43517	R131-13	AMD	06/13/2019	2019-5/6

Human Services, Recovery Services	43700	R527-10	5YR	05/03/2019	2019-11/44
Insurance, Administration	43428	R590-126-2	AMD	05/01/2019	2019-1/30
health insurance filings					
Insurance, Administration	43520	R590-220	5YR	02/13/2019	2019-5/98
health planning					
Health, Center for Health Data, Health Care Statistics	43544	R428-1	AMD	05/01/2019	2019-6/12
health policy					
Health, Center for Health Data, Health Care Statistics	43544	R428-1	AMD	05/01/2019	2019-6/12
hearing procedures					
Workforce Services, Employment Development	43481	R986-100-117	AMD	06/01/2019	2019-3/33
hearings					
Administrative Services, Purchasing and General Services	43870	R33-17	5YR	07/08/2019	2019-15/41
Labor Commission, Adjudication	43574	R602-2-1	AMD	05/08/2019	2019-7/30
Help America Vote Act					
Lieutenant Governor, Elections	43494	R623-2	5YR	01/28/2019	2019-4/44
hemp extraction					
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed
hemp oil					
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed
hemp products					
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed
higher education					
Money Management Council, Administration	43504	R628-20	EXT	02/05/2019	2019-5/103
	43646	R628-20	5YR	04/12/2019	2019-9/88
Regents (Board of), Administration	43901	R765-604	5YR	07/17/2019	2019-16/107
	43405	R765-615	NEW	03/14/2019	2018-24/33
highways					
Transportation, Program Development	43584	R926-16	NEW	05/08/2019	2019-7/40
hiring practices					
Human Resource Management, Administration	43671	R477-4	AMD	07/01/2019	2019-10/30
holidays					
Human Resource Management, Administration	43674	R477-7	AMD	07/01/2019	2019-10/41
home school					
Education, Administration	43732	R277-604	AMD	07/31/2019	2019-12/50
hormonal contraception					
Health, Family Health and Preparedness, Maternal and Child Health	43402	R433-200	NEW	03/06/2019	2018-24/18
horse racing					
Agriculture and Food, Horse Racing Commission (Utah)	43753	R52-7	AMD	07/22/2019	2019-12/4
horses					
Agriculture and Food, Horse Racing Commission (Utah)	43753	R52-7	AMD	07/22/2019	2019-12/4
hostile work environment					
Human Resource Management, Administration	43680	R477-15	AMD	07/01/2019	2019-10/67

hot springs					
Health, Disease Control and Prevention, Environmental Services	43502	R392-303	5YR	02/05/2019	2019-5/96
housing					
Heritage and Arts, History	43716	R455-11	5YR	05/14/2019	2019-11/42
	43721	R455-11	NSC	05/24/2019	Not Printed
human services					
Human Services, Administration	43719	R495-885	EMR	05/14/2019	2019-11/30
Human Services, Administration, Administrative Services, Licensing	43330	R501-1	AMD	01/17/2019	2018-22/119
	43356	R501-7	AMD	02/12/2019	2018-23/105
	43234	R501-8	AMD	01/17/2019	2018-21/89
	43718	R501-14	EMR	05/14/2019	2019-11/33
	43691	R501-14	AMD	07/18/2019	2019-10/73
	43237	R501-21	AMD	02/12/2019	2018-21/91
Human Services, Juvenile Justice Services	43804	R547-15	EMR	06/13/2019	2019-13/109
hunter education					
Natural Resources, Wildlife Resources	43498	R657-67	5YR	02/04/2019	2019-5/101
	43952	R657-68	5YR	08/05/2019	Not Printed
hunting					
Natural Resources, Wildlife Resources	43432	R657-38	AMD	02/07/2019	2019-1/44
hunting guides					
Commerce, Occupational and Professional Licensing	43880	R156-79	5YR	07/08/2019	2019-15/46
hunting parks					
Agriculture and Food, Animal Industry	43469	R58-20	5YR	01/07/2019	2019-3/43
	43752	R58-20	AMD	07/22/2019	2019-12/13
	43910	R58-20	NSC	08/01/2019	Not Printed
hunting permits					
Agriculture and Food, Animal Industry	43752	R58-20	AMD	07/22/2019	2019-12/13
	43910	R58-20	NSC	08/01/2019	Not Printed
identify theft					
Technology Services, Administration	43681	R895-13	REP	06/21/2019	2019-10/105
ignition interlock systems					
Public Safety, Driver License	43592	R708-31	5YR	03/15/2019	2019-7/66
implementation					
Education, Administration	43395	R277-554	NEW	01/09/2019	2018-23/34
improvement					
Education, Administration	43649	R277-406	AMD	07/02/2019	2019-9/23
in-service training					
Public Safety, Peace Officer Standards and Training	43534	R728-502	5YR	02/21/2019	2019-6/45
incentives					
Education, Administration	43658	R277-417	AMD	07/02/2019	2019-9/26
Governor, Energy Development (Office of)	43223	R362-4	AMD	02/05/2019	2018-20/18
Regents (Board of), Administration	43405	R765-615	NEW	03/14/2019	2018-24/33
incident reporting					
Education, Administration	43439	R277-912	NEW	02/07/2019	2019-1/26
individual open enrollment period					
Insurance, Administration	43474	R590-269	5YR	01/11/2019	2019-3/44
information technology resources					
Technology Services, Administration	43467	R895-7	5YR	01/03/2019	2019-3/45

inspections					
Agriculture and Food, Animal Industry	43754	R58-18	AMD	07/22/2019	2019-12/6
	43909	R58-18	NSC	08/01/2019	Not Printed
	43469	R58-20	5YR	01/07/2019	2019-3/43
	43752	R58-20	AMD	07/22/2019	2019-12/13
	43910	R58-20	NSC	08/01/2019	Not Printed
instructor certification					
Public Safety, Peace Officer Standards and Training	43534	R728-502	5YR	02/21/2019	2019-6/45
insurance					
Human Resource Management, Administration	43673	R477-6	AMD	07/01/2019	2019-10/36
Insurance, Administration	43659	R590-146	AMD	06/07/2019	2019-9/44
	43921	R590-146-15	NSC	07/30/2019	Not Printed
	43486	R590-155	AMD	06/07/2019	2019-4/5
	43486	R590-155	CPR	06/07/2019	2019-9/72
	43626	R590-166	5YR	04/03/2019	2019-9/85
	43514	R590-170	5YR	02/11/2019	2019-5/97
	43737	R590-171	5YR	05/23/2019	2019-12/140
	43694	R590-186	AMD	06/21/2019	2019-10/79
	43429	R590-186-5	AMD	02/07/2019	2019-1/31
	43653	R590-218	REP	06/07/2019	2019-9/67
	43695	R590-278	AMD	06/21/2019	2019-10/88
	43561	R590-280	NEW	04/23/2019	2019-6/25
	43696	R590-281	NEW	06/21/2019	2019-10/90
insurance annuity suitability					
Insurance, Administration	43738	R590-230	5YR	05/23/2019	2019-12/140
insurance company financial reporting					
Insurance, Administration	43826	R590-254	5YR	06/26/2019	2019-14/78
insurance fees					
Insurance, Administration	43604	R590-102	NSC	04/01/2019	Not Printed
	43485	R590-102-21	AMD	03/26/2019	2019-4/4
insurance law					
Insurance, Administration	43628	R590-98	5YR	04/03/2019	2019-9/85
	43625	R590-190	5YR	04/03/2019	2019-9/86
	43629	R590-191	5YR	04/03/2019	2019-9/86
	43785	R590-192	5YR	06/10/2019	2019-13/118
insurance licensing requirements					
Insurance, Administration	43786	R590-244	5YR	06/10/2019	2019-13/119
intellectual disability					
Health, Family Health and Preparedness, Children with Special Health Care Needs	43538	R398-10	5YR	02/25/2019	2019-6/43
interns					
Education, Administration	43373	R277-509	AMD	01/09/2019	2018-23/19
intervention					
Education, Administration	43824	R277-710	5YR	06/21/2019	2019-14/77
inventories					
Environmental Quality, Air Quality	43588	R307-150-3	AMD	06/25/2019	2019-7/5
investigations					
Public Safety, Peace Officer Standards and Training	43666	R728-409	AMD	06/24/2019	2019-10/100
investment advisers					
Money Management Council, Administration	43503	R628-19	EXT	02/05/2019	2019-5/103
	43645	R628-19	5YR	04/12/2019	2019-9/87
investments					
Money Management Council, Administration	43815	R628-22	NEW	08/07/2019	2019-13/93

IRIS					
Technology Services, Administration	43681	R895-13	REP	06/21/2019	2019-10/105
IT bid committee					
Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45
IT standards council					
Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45
judges					
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100
	43500	R597-3	5YR	02/05/2019	2019-5/100
judicial performance evaluations					
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100
	43500	R597-3	5YR	02/05/2019	2019-5/100
judiciary					
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100
justice court classifications					
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105
justice court evaluations					
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105
justice court multiple election years					
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105
justice court multiple jurisdictions					
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105
Juvenile Justice Services					
Human Services, Juvenile Justice Services	43804	R547-15	EMR	06/13/2019	2019-13/109
juvenile offenders					
Education, Administration	43703	R277-714	REP	07/31/2019	2019-11/13
kindergarten					
Education, Administration	43638	R277-493	5YR	04/08/2019	2019-9/81
	43683	R277-493	AMD	07/02/2019	2019-10/9
law enforcement					
Education, Administration	43439	R277-912	NEW	02/07/2019	2019-1/26
Public Safety, Highway Patrol	43844	R714-600	5YR	07/01/2019	2019-14/80
law enforcement officer certification					
Public Safety, Administration	43523	R698-4	5YR	02/14/2019	2019-5/101
learner permit					
Public Safety, Driver License	43591	R708-26	5YR	03/15/2019	2019-7/66
lease provisions					
School and Institutional Trust Lands, Administration	43616	R850-21	R&R	06/01/2019	2019-8/55
	43903	R850-21	NSC	08/01/2019	Not Printed
leave benefits					
Human Resource Management, Administration	43674	R477-7	AMD	07/01/2019	2019-10/41

licenses					
Environmental Quality, Waste Management and Radiation Control, Radiation	43810	R313-19-34	AMD	08/09/2019	2019-13/62
licensing					
Commerce, Occupational and Professional Licensing	43522	R156-15A	AMD	04/08/2019	2019-5/8
	43466	R156-20a	NSC	01/11/2019	Not Printed
	43189	R156-28	AMD	03/25/2019	2018-19/7
	43189	R156-28	CPR	03/25/2019	2019-4/40
	43822	R156-31c	5YR	06/17/2019	2019-14/77
	43779	R156-50	AMD	08/08/2019	2019-13/18
	43747	R156-55a	AMD	07/22/2019	2019-12/23
	43542	R156-55e	AMD	04/22/2019	2019-6/4
	43543	R156-60	5YR	02/26/2019	2019-6/41
	43799	R156-60a	5YR	06/13/2019	2019-13/114
	43800	R156-60b	5YR	06/13/2019	2019-13/115
	43318	R156-63a	AMD	05/13/2019	2018-22/89
	43318	R156-63a	CPR	05/13/2019	2019-7/48
	43577	R156-63a	NSC	05/14/2019	Not Printed
	43319	R156-63b	AMD	05/13/2019	2018-22/96
	43319	R156-63b	CPR	05/13/2019	2019-7/53
	43578	R156-63b	NSC	05/14/2019	Not Printed
	43890	R156-78	5YR	07/15/2019	2019-15/46
	43880	R156-79	5YR	07/08/2019	2019-15/46
	43465	R156-80a	5YR	01/02/2019	2019-2/19
Human Services, Administration, Administrative Services, Licensing	43330	R501-1	AMD	01/17/2019	2018-22/119
	43356	R501-7	AMD	02/12/2019	2018-23/105
	43234	R501-8	AMD	01/17/2019	2018-21/89
	43718	R501-14	EMR	05/14/2019	2019-11/33
	43691	R501-14	AMD	07/18/2019	2019-10/73
	43237	R501-21	AMD	02/12/2019	2018-21/91
Insurance, Administration	43696	R590-281	NEW	06/21/2019	2019-10/90
Public Safety, Driver License	43590	R708-10	5YR	03/15/2019	2019-7/65
	43607	R708-24	5YR	03/28/2019	2019-8/106
life insurance annuity replacement					
Insurance, Administration	43627	R590-93	5YR	04/03/2019	2019-9/84
life insurance filings					
Insurance, Administration	43580	R590-226	5YR	03/14/2019	2019-7/63
limitation on judgments					
Administrative Services, Risk Management	43235	R37-4	AMD	01/18/2019	2018-21/2
literacy					
Education, Administration	43519	R277-704	AMD	04/08/2019	2019-5/46
litter					
Transportation, Operations, Maintenance	43489	R918-4	AMD	03/26/2019	2019-4/36
livestock					
Agriculture and Food, Marketing and Development	43545	R65-8	NSC	03/13/2019	Not Printed
loans					
Agriculture and Food, Conservation Commission	43907	R64-1	5YR	07/23/2019	2019-16/103
Regents (Board of), Administration	43405	R765-615	NEW	03/14/2019	2018-24/33
lobbyist					
Lieutenant Governor, Elections	43493	R623-1	5YR	01/28/2019	2019-4/44
lobbyist registration					
Lieutenant Governor, Elections	43493	R623-1	5YR	01/28/2019	2019-4/44
Local Mental Health Authority					
Human Services, Substance Abuse and Mental Health	43505	R523-2-9	AMD	04/17/2019	2019-5/92

Local Substance Abuse Authority					
Human Services, Substance Abuse and Mental Health	43505	R523-2-9	AMD	04/17/2019	2019-5/92
long term acute care					
Health, Health Care Financing, Coverage and Reimbursement Policy	43473	R414-515	AMD	03/21/2019	2019-3/21
lt. governor					
Lieutenant Governor, Administration	43595	R622-2	5YR	03/19/2019	2019-8/105
LTAC					
Health, Health Care Financing, Coverage and Reimbursement Policy	43473	R414-515	AMD	03/21/2019	2019-3/21
MAGI-based					
Health, Health Care Financing, Coverage and Reimbursement Policy	43706	R414-303	EMR	05/07/2019	2019-11/25
major plant additions					
Public Service Commission, Administration	43965	R746-700	5YR	08/07/2019	Not Printed
mammography					
Environmental Quality, Waste Management and Radiation Control, Radiation	43253	R313-28-31	AMD	01/14/2019	2018-21/52
	43530	R313-28-31	AMD	04/15/2019	2019-5/50
marijuana					
Agriculture and Food, Plant Industry	43686	R68-27	EMR	05/03/2019	2019-10/107
marketing to utility customers					
Public Service Commission, Administration	43811	R746-460	NEW	08/07/2019	2019-13/95
marriage and family therapist					
Commerce, Occupational and Professional Licensing	43800	R156-60b	5YR	06/13/2019	2019-13/115
MCOT standards					
Human Services, Substance Abuse and Mental Health	43554	R523-18	AMD	04/22/2019	2019-6/21
Medicaid					
Health, Health Care Financing, Coverage and Reimbursement Policy	43635	R414-7A	NSC	04/24/2019	Not Printed
	43740	R414-7A	5YR	05/24/2019	2019-12/137
	43634	R414-14A	5YR	04/08/2019	2019-9/82
	43751	R414-31	5YR	05/31/2019	2019-12/137
	43771	R414-36	5YR	06/05/2019	2019-13/116
	43536	R414-49	AMD	04/22/2019	2019-6/7
	43749	R414-49	5YR	05/31/2019	2019-12/138
	43851	R414-61	5YR	07/02/2019	2019-15/47
	43425	R414-61-2	AMD	02/15/2019	2019-1/28
	43772	R414-140	5YR	06/05/2019	2019-13/117
	43707	R414-311-6	EMR	05/07/2019	2019-11/27
	43708	R414-312	EMR	05/07/2019	2019-11/28
	43687	R414-401	AMD	07/01/2019	2019-10/16
	43770	R414-501	5YR	06/05/2019	2019-13/117
	43750	R414-502	5YR	05/31/2019	2019-12/138
	43748	R414-503	5YR	05/31/2019	2019-12/139
	43688	R414-510	AMD	07/15/2019	2019-10/19
	43473	R414-515	AMD	03/21/2019	2019-3/21
	43483	R414-516	AMD	03/21/2019	2019-3/23
	43332	R414-520	NEW	01/04/2019	2018-22/111
	43352	R414-521	NEW	01/04/2019	2018-22/113
	43689	R414-522	NEW	07/01/2019	2019-10/23

medical examiner					
Health, Disease Control and Prevention, Medical Examiner	43631	R448-10	5YR	04/05/2019	2019-9/83
	43632	R448-20	5YR	04/05/2019	2019-9/84
medical language interpreter					
Commerce, Occupational and Professional Licensing	43465	R156-80a	5YR	01/02/2019	2019-2/19
medically underserved					
Health, Family Health and Preparedness, Primary Care and Rural Health	43709	R434-40	5YR	05/08/2019	2019-11/41
mental health					
Commerce, Occupational and Professional Licensing	43543	R156-60	5YR	02/26/2019	2019-6/41
Education, Administration	43729	R277-622	NEW	07/31/2019	2019-12/53
mental health crisis and suicide prevention training grant					
Human Services, Substance Abuse and Mental Health	43355	R523-19	NEW	01/29/2019	2018-23/118
mentoring					
Education, Administration	43395	R277-554	NEW	01/09/2019	2018-23/34
mentors					
Education, Administration	43442	R277-308	NEW	02/07/2019	2019-1/22
migratory birds					
Natural Resources, Wildlife Resources	43430	R657-9	AMD	02/07/2019	2019-1/41
mobile crisis outreach team					
Human Services, Substance Abuse and Mental Health	43554	R523-18	AMD	04/22/2019	2019-6/21
monitoring					
Education, Administration	43619	R277-115	NEW	05/23/2019	2019-8/10
	43399	R277-481	REP	01/09/2019	2018-23/12
	43401	R277-553	NEW	01/09/2019	2018-23/31
motor carrier					
Public Safety, Highway Patrol	43844	R714-600	5YR	07/01/2019	2019-14/80
multiple stage bidding					
Administrative Services, Purchasing and General Services	43858	R33-6	5YR	07/08/2019	2019-15/35
NCLB					
Education, Administration	43583	R277-524	5YR	03/14/2019	2019-7/61
needles					
Health, Disease Control and Prevention, Epidemiology	43468	R386-900	AMD	05/15/2019	2019-3/16
new educators					
Education, Administration	43442	R277-308	NEW	02/07/2019	2019-1/22
nonattainment					
Environmental Quality, Air Quality	43211	R307-511	NEW	03/05/2019	2018-19/32
	43211	R307-511	CPR	03/05/2019	2019-3/41
nonprofit organizations					
Workforce Services, Unemployment Insurance	43818	R994-309	5YR	06/17/2019	2019-14/80
notification requirements					
Commerce, Real Estate	43407	R162-2f	AMD	01/23/2019	2018-24/8
	43643	R162-2f	AMD	06/19/2019	2019-9/10

nuclear medicine					
Environmental Quality, Waste Management and Radiation Control, Radiation	43812	R313-32	AMD	08/09/2019	2019-13/74
nurses					
Commerce, Occupational and Professional Licensing	43822	R156-31c	5YR	06/17/2019	2019-14/77
nursing facility					
Health, Health Care Financing, Coverage and Reimbursement Policy	43687	R414-401	AMD	07/01/2019	2019-10/16
occupational licensing					
Commerce, Occupational and Professional Licensing	43747	R156-55a	AMD	07/22/2019	2019-12/23
off-highway vehicles					
Natural Resources, Parks and Recreation	43415	R651-406	AMD	01/24/2019	2018-24/23
	43759	R651-411	AMD	07/22/2019	2019-12/71
	43756	R651-615	AMD	07/22/2019	2019-12/73
off-premises					
Human Services, Substance Abuse and Mental Health	43576	R523-13-4	AMD	06/27/2019	2019-7/29
offset					
Environmental Quality, Air Quality	43211	R307-511	NEW	03/05/2019	2018-19/32
	43211	R307-511	CPR	03/05/2019	2019-3/41
oil and gas law					
Natural Resources, Oil, Gas and Mining; Oil and Gas	43912	R649-10	5YR	07/23/2019	2019-16/105
oil gas and hydrocarbons					
School and Institutional Trust Lands, Administration	43616	R850-21	R&R	06/01/2019	2019-8/55
	43903	R850-21	NSC	08/01/2019	Not Printed
on-premise					
Human Services, Substance Abuse and Mental Health	43575	R523-12-4	AMD	06/27/2019	2019-7/27
operation					
School and Institutional Trust Lands, Administration	43616	R850-21	R&R	06/01/2019	2019-8/55
operational requirements					
Commerce, Real Estate	43407	R162-2f	AMD	01/23/2019	2018-24/8
	43643	R162-2f	AMD	06/19/2019	2019-9/10
operations					
School and Institutional Trust Lands, Administration	43903	R850-21	NSC	08/01/2019	Not Printed
out-of-home care					
Human Services, Child and Family Services	43358	R512-305	AMD	01/09/2019	2018-23/115
outfitters					
Commerce, Occupational and Professional Licensing	43880	R156-79	5YR	07/08/2019	2019-15/46
outpatient treatment programs					
Human Services, Administration, Administrative Services, Licensing	43237	R501-21	AMD	02/12/2019	2018-21/91
overpayments					
Human Services, Recovery Services	43699	R527-332	5YR	05/03/2019	2019-11/44
Workforce Services, Unemployment Insurance	43558	R994-305-801	AMD	07/01/2019	2019-6/35
oversight					
Education, Administration	43399	R277-481	REP	01/09/2019	2018-23/12
	43401	R277-553	NEW	01/09/2019	2018-23/31

overtime					
Human Resource Management, Administration	43675	R477-8	AMD	07/01/2019	2019-10/49
ownership					
Natural Resources, Water Rights	43922	R655-3	5YR	07/27/2019	2019-16/105
ozone					
Environmental Quality, Air Quality	43212	R307-110-10	AMD	03/05/2019	2018-19/31
	43212	R307-110-10	CPR	03/05/2019	2019-3/40
	42976	R307-110-17	AMD	01/03/2019	2018-13/35
	42976	R307-110-17	CPR	01/03/2019	2018-21/134
	43587	R307-110-28	AMD	08/15/2019	2019-7/4
	43587	R307-110-28	CPR	08/15/2019	2019-14/73
paleontological					
Regents (Board of), University of Utah, Museum of Natural History (Utah)	43535	R807-1	5YR	02/22/2019	2019-6/47
parades					
Transportation, Operations, Traffic and Safety	43769	R920-4-9	NSC	06/19/2019	Not Printed
paraprofessional qualifications					
Education, Administration	43583	R277-524	5YR	03/14/2019	2019-7/61
parental defense					
Administrative Services, Child Welfare Parental Defense (Office of)	43705	R19-1	REP	07/08/2019	2019-11/4
parental rights					
Human Services, Administration	43496	R495-882	5YR	02/01/2019	2019-4/43
parks					
Natural Resources, Parks and Recreation	43756	R651-615	AMD	07/22/2019	2019-12/73
participation					
Education, Administration	43732	R277-604	AMD	07/31/2019	2019-12/50
payment bonds					
Administrative Services, Purchasing and General Services	43863	R33-11	5YR	07/08/2019	2019-15/38
payments					
School and Institutional Trust Lands, Administration	43613	R850-5-300	AMD	06/01/2019	2019-8/54
peace officers					
Public Safety, Peace Officer Standards and Training	43534	R728-502	5YR	02/21/2019	2019-6/45
pedagogical assessment					
Education, Administration	43657	R277-303	AMD	07/02/2019	2019-9/20
peer support specialist					
Human Services, Substance Abuse and Mental Health	43141	R523-5	AMD	01/29/2019	2018-17/60
peer support specialists					
Human Services, Substance Abuse and Mental Health	43141	R523-5	CPR	01/29/2019	2018-24/38
people with disabilities					
Human Services, Services for People with Disabilities	43891	R539-2	5YR	07/15/2019	2019-15/48
	43892	R539-3	5YR	07/15/2019	2019-15/48
	43893	R539-4	5YR	07/15/2019	2019-15/49
per diem allowances					
Administrative Services, Finance	43656	R25-7	AMD	07/01/2019	2019-9/4

performance bonds					
Administrative Services, Purchasing and General Services	43863	R33-11	5YR	07/08/2019	2019-15/38
performance evaluations					
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100
permits					
Environmental Quality, Air Quality	43589	R307-401-10	AMD	06/06/2019	2019-7/6
Natural Resources, Forestry, Fire and State Lands	43480	R652-70	AMD	03/25/2019	2019-3/28
Natural Resources, Wildlife Resources	43639	R657-62	5YR	04/09/2019	2019-9/89
	43725	R657-62	AMD	07/22/2019	2019-12/104
Transportation, Motor Carrier	43735	R909-2	5YR	05/22/2019	2019-12/141
Transportation, Operations, Traffic and Safety	43769	R920-4-9	NSC	06/19/2019	Not Printed
Transportation, Preconstruction	43602	R930-6	AMD	05/22/2019	2019-8/67
personal property					
Tax Commission, Property Tax	43437	R884-24P-19	AMD	03/28/2019	2019-1/51
	43640	R884-24P-19	NSC	04/24/2019	Not Printed
	43371	R884-24P-27	AMD	01/10/2019	2018-23/119
	43698	R884-24P-62	NSC	05/17/2019	Not Printed
	43438	R884-24P-74	AMD	03/28/2019	2019-1/54
personnel management					
Human Resource Management, Administration	43670	R477-1	AMD	07/01/2019	2019-10/25
	43672	R477-5	AMD	07/01/2019	2019-10/34
	43673	R477-6	AMD	07/01/2019	2019-10/36
	43676	R477-9	AMD	07/01/2019	2019-10/54
	43679	R477-13	AMD	07/01/2019	2019-10/62
	43669	R477-14	AMD	07/01/2019	2019-10/64
planning					
Administrative Services, Facilities Construction and Management	43524	R23-3	NSC	03/01/2019	Not Printed
	43569	R23-3	5YR	03/06/2019	2019-7/59
PM10					
Environmental Quality, Air Quality	43212	R307-110-10	AMD	03/05/2019	2018-19/31
	43212	R307-110-10	CPR	03/05/2019	2019-3/40
	42976	R307-110-17	AMD	01/03/2019	2018-13/35
	42976	R307-110-17	CPR	01/03/2019	2018-21/134
	43587	R307-110-28	AMD	08/15/2019	2019-7/4
	43587	R307-110-28	CPR	08/15/2019	2019-14/73
PM2.5					
Environmental Quality, Air Quality	43212	R307-110-10	AMD	03/05/2019	2018-19/31
	43212	R307-110-10	CPR	03/05/2019	2019-3/40
	42976	R307-110-17	AMD	01/03/2019	2018-13/35
	42976	R307-110-17	CPR	01/03/2019	2018-21/134
	43587	R307-110-28	AMD	08/15/2019	2019-7/4
	43587	R307-110-28	CPR	08/15/2019	2019-14/73
policy					
Education, Administration	43531	R277-495	AMD	04/08/2019	2019-5/42
postsecondary schools					
Commerce, Consumer Protection	43612	R152-34a	5YR	04/01/2019	2019-8/101
poverty					
Education, Administration	43824	R277-710	5YR	06/21/2019	2019-14/77
preferences for resident contractors					
Administrative Services, Purchasing and General Services	43864	R33-10	5YR	07/08/2019	2019-15/37

prescription drug database					
Health, Disease Control and Prevention, Health Promotion	43537	R384-203	5YR	02/25/2019	2019-6/42
	43562	R384-203	AMD	07/23/2019	2019-7/25
preservation					
Heritage and Arts, History	43716	R455-11	5YR	05/14/2019	2019-11/42
	43721	R455-11	NSC	05/24/2019	Not Printed
presumptive eligibility					
Health, Health Care Financing, Coverage and Reimbursement Policy	43706	R414-303	EMR	05/07/2019	2019-11/25
prioritization					
Administrative Services, Facilities Construction and Management	43568	R23-33	5YR	03/06/2019	2019-7/60
prisons					
Corrections, Administration	43218	R251-105	AMD	02/11/2019	2018-20/12
privacy					
Education, Administration	43476	R277-487	AMD	03/13/2019	2019-3/4
private activity bond					
Governor, Economic Development	43755	R357-8	REP	07/26/2019	2019-12/63
Workforce Services, Housing and Community Development	43746	R990-200	NEW	07/30/2019	2019-12/128
private probation provider					
Commerce, Occupational and Professional Licensing	43779	R156-50	AMD	08/08/2019	2019-13/18
private school					
Education, Administration	43732	R277-604	AMD	07/31/2019	2019-12/50
private security officers					
Commerce, Occupational and Professional Licensing	43318	R156-63a	AMD	05/13/2019	2018-22/89
	43318	R156-63a	CPR	05/13/2019	2019-7/48
	43577	R156-63a	NSC	05/14/2019	Not Printed
probation					
Commerce, Occupational and Professional Licensing	43779	R156-50	AMD	08/08/2019	2019-13/18
procurement					
Administrative Services, Facilities Construction and Management	43524	R23-3	NSC	03/01/2019	Not Printed
	43569	R23-3	5YR	03/06/2019	2019-7/59
Administrative Services, Purchasing and General Services	43867	R33-14	5YR	07/08/2019	2019-15/39
Education, Administration	43441	R277-122	AMD	02/07/2019	2019-1/17
Transportation, Administration	43490	R907-66	R&R	03/26/2019	2019-4/31
Procurement Appeals Board					
Administrative Services, Purchasing and General Services	43870	R33-17	5YR	07/08/2019	2019-15/41
procurement code					
Administrative Services, Purchasing and General Services	43872	R33-19	5YR	07/08/2019	2019-15/42
	43873	R33-20	5YR	07/08/2019	2019-15/42
	43877	R33-24	5YR	07/08/2019	2019-15/44
procurement methods					
Administrative Services, Purchasing and General Services	43879	R33-25	5YR	07/08/2019	2019-15/45

Procurement Policy Board					
Administrative Services, Purchasing and General Services	43854	R33-2	5YR	07/08/2019	2019-15/33
procurement procedures					
Administrative Services, Purchasing and General Services	43863	R33-11	5YR	07/08/2019	2019-15/38
procurement professionals					
Administrative Services, Purchasing and General Services	43877	R33-24	5YR	07/08/2019	2019-15/44
procurement rules					
Administrative Services, Purchasing and General Services	43878	R33-26	5YR	07/08/2019	2019-15/45
procurement units					
Administrative Services, Purchasing and General Services	43875	R33-21	5YR	07/08/2019	2019-15/43
procurements					
Administrative Services, Purchasing and General Services	43857	R33-5	5YR	07/08/2019	2019-15/35
professional competency					
Education, Administration	43654	R277-301	AMD	07/02/2019	2019-9/15
	43657	R277-303	AMD	07/02/2019	2019-9/20
	43664	R277-502	NSC	05/14/2019	Not Printed
	43600	R277-502-4	NSC	04/01/2019	Not Printed
professional education					
Education, Administration	43958	R277-504	5YR	08/06/2019	Not Printed
professional staff					
Education, Administration	43508	R277-486	5YR	02/08/2019	2019-5/95
	43516	R277-486	AMD	04/08/2019	2019-5/39
programs					
Education, Administration	43657	R277-303	AMD	07/02/2019	2019-9/20
	43624	R277-304	NEW	05/23/2019	2019-8/13
	43729	R277-622	NEW	07/31/2019	2019-12/53
promotions					
Agriculture and Food, Marketing and Development	43546	R65-1	NSC	03/13/2019	Not Printed
	43547	R65-5	NSC	03/13/2019	Not Printed
	43548	R65-11	NSC	03/13/2019	Not Printed
	43549	R65-12	NSC	03/13/2019	Not Printed
	43641	R65-12	5YR	04/11/2019	2019-9/79
property casualty insurance filing					
Insurance, Administration	43521	R590-225	5YR	02/13/2019	2019-5/98
	43615	R590-225-3	AMD	05/22/2019	2019-8/47
property tax					
Tax Commission, Property Tax	43437	R884-24P-19	AMD	03/28/2019	2019-1/51
	43640	R884-24P-19	NSC	04/24/2019	Not Printed
	43371	R884-24P-27	AMD	01/10/2019	2018-23/119
	43698	R884-24P-62	NSC	05/17/2019	Not Printed
	43438	R884-24P-74	AMD	03/28/2019	2019-1/54
protests					
Administrative Services, Purchasing and General Services	43869	R33-16	5YR	07/08/2019	2019-15/40
	43871	R33-18	5YR	07/08/2019	2019-15/41
	43872	R33-19	5YR	07/08/2019	2019-15/42

PSS program					
Human Services, Substance Abuse and Mental Health	43141	R523-5	AMD	01/29/2019	2018-17/60
	43141	R523-5	CPR	01/29/2019	2018-24/38
public assistance					
Workforce Services, Employment Development	43481	R986-100-117	AMD	06/01/2019	2019-3/33
public buildings					
Administrative Services, Facilities Construction and Management	43524	R23-3	NSC	03/01/2019	Not Printed
	43569	R23-3	5YR	03/06/2019	2019-7/59
public education					
Education, Administration	43610	R277-105	REP	05/23/2019	2019-8/6
	43397	R277-437	AMD	01/09/2019	2018-23/6
	43739	R277-462	5YR	05/23/2019	2019-12/135
	43728	R277-462	R&R	07/31/2019	2019-12/39
	43703	R277-714	REP	07/31/2019	2019-11/13
public funds					
Money Management Council, Administration	43503	R628-19	EXT	02/05/2019	2019-5/103
	43645	R628-19	5YR	04/12/2019	2019-9/87
	43504	R628-20	EXT	02/05/2019	2019-5/103
	43646	R628-20	5YR	04/12/2019	2019-9/88
	43644	R628-21	5YR	04/12/2019	2019-9/88
	43815	R628-22	NEW	08/07/2019	2019-13/93
public information					
Administrative Services, Administration	43744	R13-2	5YR	05/29/2019	2019-12/135
public notification					
Environmental Quality, Drinking Water	43386	R309-220-4	AMD	01/15/2019	2018-23/99
public schools					
Education, Administration	43636	R277-463	5YR	04/08/2019	2019-9/80
	43652	R277-463	AMD	07/02/2019	2019-9/29
	43824	R277-710	5YR	06/21/2019	2019-14/77
public utilities					
Public Service Commission, Administration	43603	R746-310	AMD	05/22/2019	2019-8/49
	43966	R746-401	5YR	08/07/2019	Not Printed
	43811	R746-460	NEW	08/07/2019	2019-13/95
public-private partnerships					
Transportation, Program Development	43584	R926-16	NEW	05/08/2019	2019-7/40
pump installers					
Natural Resources, Water Rights	43923	R655-4	5YR	07/27/2019	2019-16/106
pupil accounting					
Education, Administration	43475	R277-419	NSC	01/15/2019	Not Printed
pupil-teacher ratio reporting					
Education, Administration	43636	R277-463	5YR	04/08/2019	2019-9/80
	43652	R277-463	AMD	07/02/2019	2019-9/29
qualified depository					
Money Management Council, Administration	43644	R628-21	5YR	04/12/2019	2019-9/88
qualified entities					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	43665	R722-900	AMD	06/24/2019	2019-10/95
quality standards					
Environmental Quality, Drinking Water	43381	R309-200	AMD	01/15/2019	2018-23/73

radioactive materials					
Environmental Quality, Waste Management and Radiation Control, Radiation	43809	R313-22-75	AMD	08/09/2019	2019-13/65
	43812	R313-32	AMD	08/09/2019	2019-13/74
radiopharmaceutical					
Environmental Quality, Waste Management and Radiation Control, Radiation	43812	R313-32	AMD	08/09/2019	2019-13/74
rates					
Health, Family Health and Preparedness, Emergency Medical Services	43608	R426-8	AMD	07/01/2019	2019-8/39
reading					
Education, Administration	43649	R277-406	AMD	07/02/2019	2019-9/23
real estate business					
Commerce, Real Estate	43407	R162-2f	AMD	01/23/2019	2018-24/8
	43643	R162-2f	AMD	06/19/2019	2019-9/10
reciprocal deposits					
Money Management Council, Administration	43644	R628-21	5YR	04/12/2019	2019-9/88
reciprocal preferences					
Administrative Services, Purchasing and General Services	43864	R33-10	5YR	07/08/2019	2019-15/37
reciprocity					
Environmental Quality, Waste Management and Radiation Control, Radiation	43810	R313-19-34	AMD	08/09/2019	2019-13/62
reclamation					
Natural Resources, Oil, Gas and Mining; Coal	43913	R645-105	5YR	07/23/2019	2019-16/103
	43914	R645-106	5YR	07/23/2019	2019-16/104
	43916	R645-400	5YR	07/23/2019	2019-16/104
records					
Administrative Services, Purchasing and General Services	43873	R33-20	5YR	07/08/2019	2019-15/42
Education, Administration	43476	R277-487	AMD	03/13/2019	2019-3/4
Health, Disease Control and Prevention, Medical Examiner	43632	R448-20	5YR	04/05/2019	2019-9/84
records access					
Corrections, Administration	43596	R251-111	5YR	03/19/2019	2019-8/102
records appeal hearings					
Administrative Services, Records Committee	43760	R35-1	5YR	06/03/2019	2019-13/111
	43761	R35-1a	5YR	06/03/2019	2019-13/111
	43762	R35-2	5YR	06/03/2019	2019-13/112
	43763	R35-4	5YR	06/03/2019	2019-13/112
	43766	R35-4-1	NSC	06/12/2019	Not Printed
	43764	R35-5	5YR	06/03/2019	2019-13/113
	43765	R35-6	5YR	06/03/2019	2019-13/113
recreation					
Natural Resources, Parks and Recreation	43416	R651-301	AMD	01/24/2019	2018-24/20
Natural Resources, Wildlife Resources	43432	R657-38	AMD	02/07/2019	2019-1/44
recycling					
Environmental Quality, Waste Management and Radiation Control, Waste Management	43529	R315-15-14	AMD	04/15/2019	2019-5/54
	43768	R315-15-16	NSC	06/12/2019	Not Printed
registration					
Environmental Quality, Waste Management and Radiation Control, Waste Management	43529	R315-15-14	AMD	04/15/2019	2019-5/54

	43768	R315-15-16	NSC	06/12/2019	Not Printed
Workforce Services, Unemployment Insurance	43557	R994-403	AMD	05/01/2019	2019-6/38
	43365	R994-403-109b	AMD	03/31/2019	2018-23/122
regulated contaminants					
Environmental Quality, Drinking Water	43381	R309-200	AMD	01/15/2019	2018-23/73
rehabilitation					
Heritage and Arts, History	43716	R455-11	5YR	05/14/2019	2019-11/42
	43721	R455-11	NSC	05/24/2019	Not Printed
reimbursements					
Education, Administration	43622	R277-720	NEW	05/23/2019	2019-8/30
reinstatements					
School and Institutional Trust Lands, Administration	43613	R850-5-300	AMD	06/01/2019	2019-8/54
reinvestment					
Human Services, Juvenile Justice Services	43804	R547-15	EMR	06/13/2019	2019-13/109
rejections					
Administrative Services, Purchasing and General Services	43862	R33-9	5YR	07/08/2019	2019-15/37
relinquishments					
Public Safety, Peace Officer Standards and Training	43666	R728-409	AMD	06/24/2019	2019-10/100
reporting					
Education, Administration	43515	R277-483	NEW	04/08/2019	2019-5/36
	43729	R277-622	NEW	07/31/2019	2019-12/53
Health, Family Health and Preparedness, Children with Special Health Care Needs	43538	R398-10	5YR	02/25/2019	2019-6/43
Health, Family Health and Preparedness, Emergency Medical Services	43321	R426-9	AMD	01/18/2019	2018-22/114
reporting death					
Health, Disease Control and Prevention, Medical Examiner	43631	R448-10	5YR	04/05/2019	2019-9/83
reporting requirements					
Health, Health Care Financing, Coverage and Reimbursement Policy	43352	R414-521	NEW	01/04/2019	2018-22/113
reporting requirements and procedures					
Health, Disease Control and Prevention, Health Promotion	43540	R384-100	5YR	02/25/2019	2019-6/41
reports					
Environmental Quality, Air Quality	43588	R307-150-3	AMD	06/25/2019	2019-7/5
repository					
Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45
repurposing of fireworks					
Public Safety, Fire Marshal	43354	R710-15	NEW	01/14/2019	2018-22/155
request for information					
Administrative Services, Purchasing and General Services	43857	R33-5	5YR	07/08/2019	2019-15/35
request for proposals					
Administrative Services, Purchasing and General Services	43860	R33-7	5YR	07/08/2019	2019-15/36
reserved					
Administrative Services, Purchasing and General Services	43874	R33-22	5YR	07/08/2019	2019-15/43

	43876	R33-23	5YR	07/08/2019	2019-15/44
residential support					
Health, Disease Control and Prevention, Environmental Services	43660	R392-110	R&R	07/16/2019	2019-10/12
residential treatment					
Health, Disease Control and Prevention, Environmental Services	43660	R392-110	R&R	07/16/2019	2019-10/12
residential treatment centers					
Education, Administration	43655	R277-926	NEW	07/02/2019	2019-9/40
resources					
Regents (Board of), University of Utah, Museum of Natural History (Utah)	43535	R807-1	5YR	02/22/2019	2019-6/47
retirement					
Human Resource Management, Administration	43678	R477-12	AMD	07/01/2019	2019-10/60
reverse auction					
Administrative Services, Purchasing and General Services	43858	R33-6	5YR	07/08/2019	2019-15/35
reviews					
Transportation, Operations, Aeronautics	43722	R914-4	NEW	07/23/2019	2019-12/106
revocations					
Public Safety, Peace Officer Standards and Training	43666	R728-409	AMD	06/24/2019	2019-10/100
revolving account					
Education, Administration	43712	R277-480	5YR	05/13/2019	2019-11/41
	43647	R277-480	AMD	07/02/2019	2019-9/31
RFPs					
Education, Administration	43511	R277-117	REP	04/08/2019	2019-5/19
right of way					
Transportation, Preconstruction	43742	R930-7	AMD	07/23/2019	2019-12/109
right-of-way					
Transportation, Preconstruction	43745	R930-8	AMD	07/23/2019	2019-12/124
rights					
Human Services, Services for People with Disabilities	43892	R539-3	5YR	07/15/2019	2019-15/48
risk management					
Administrative Services, Risk Management	43235	R37-4	AMD	01/18/2019	2018-21/2
road races					
Transportation, Operations, Traffic and Safety	43769	R920-4-9	NSC	06/19/2019	Not Printed
ropeways					
Transportation, Operations, Traffic and Safety	43444	R920-50	AMD	02/07/2019	2019-1/63
royalties					
School and Institutional Trust Lands, Administration	43613	R850-5-300	AMD	06/01/2019	2019-8/54
rules					
Education, Administration	43479	R277-100	AMD	03/13/2019	2019-3/2
rules and procedures					
Education, Administration	43609	R277-102	REP	05/23/2019	2019-8/4
Human Resource Management, Administration	43670	R477-1	AMD	07/01/2019	2019-10/25
	43679	R477-13	AMD	07/01/2019	2019-10/62
Public Service Commission, Administration	43966	R746-401	5YR	08/07/2019	Not Printed

rules of procedure					
Administrative Services, Purchasing and General Services	43854	R33-2	5YR	07/08/2019	2019-15/33
runoff					
Lieutenant Governor, Elections	43275	R623-5	NEW	03/01/2019	2018-21/96
safety					
Labor Commission, Boiler, Elevator and Coal Mine Safety	43572	R616-2-3	AMD	05/08/2019	2019-7/35
	43710	R616-2-3	EMR	05/09/2019	2019-11/39
	43711	R616-2-3	AMD	07/08/2019	2019-11/21
	43573	R616-2-8	AMD	05/08/2019	2019-7/36
Transportation, Motor Carrier	43704	R909-3	AMD	07/08/2019	2019-11/22
safety education					
Education, Administration	43507	R277-400	5YR	02/08/2019	2019-5/95
	43512	R277-400	AMD	04/08/2019	2019-5/21
safety regulations					
Transportation, Motor Carrier	43735	R909-2	5YR	05/22/2019	2019-12/141
	43443	R909-19	AMD	02/07/2019	2019-1/56
sanitarian					
Commerce, Occupational and Professional Licensing	43466	R156-20a	NSC	01/11/2019	Not Printed
satellite					
Education, Administration	43392	R277-482	REP	01/09/2019	2018-23/15
	43394	R277-552	NEW	01/09/2019	2018-23/26
	43623	R277-552	AMD	05/23/2019	2019-8/19
scholarships					
Health, Family Health and Preparedness, Primary Care and Rural Health	43709	R434-40	5YR	05/08/2019	2019-11/41
Regents (Board of), Administration	43901	R765-604	5YR	07/17/2019	2019-16/107
UTech Board of Trustees, Administration	43617	R945-1	AMD	07/16/2019	2019-8/96
school buses					
Education, Administration	43375	R277-600	AMD	01/09/2019	2018-23/38
	43611	R277-601	5YR	03/29/2019	2019-8/102
Transportation, Motor Carrier	43704	R909-3	AMD	07/08/2019	2019-11/22
school enrollment					
Education, Administration	43475	R277-419	NSC	01/15/2019	Not Printed
school fees					
Education, Administration	43532	R277-407	AMD	04/08/2019	2019-5/25
school screening					
Health, Disease Control and Prevention, Health Promotion	43757	R384-201	AMD	08/01/2019	2019-12/66
school transportation					
Education, Administration	43375	R277-600	AMD	01/09/2019	2018-23/38
	43611	R277-601	5YR	03/29/2019	2019-8/102
scoring					
Administrative Services, Facilities Construction and Management	43568	R23-33	5YR	03/06/2019	2019-7/60
screenings					
Human Services, Administration	43719	R495-885	EMR	05/14/2019	2019-11/30
	43690	R495-885	AMD	07/18/2019	2019-10/69
sealed bidding					
Administrative Services, Purchasing and General Services	43858	R33-6	5YR	07/08/2019	2019-15/35

search and rescue					
Public Safety, Emergency Management	43668	R704-1	AMD	06/24/2019	2019-10/92
	43827	R704-1	5YR	06/26/2019	2019-14/79
secondary education					
Regents (Board of), Administration	43901	R765-604	5YR	07/17/2019	2019-16/107
UTech Board of Trustees, Administration	43617	R945-1	AMD	07/16/2019	2019-8/96
securities					
Money Management Council, Administration	43503	R628-19	EXT	02/05/2019	2019-5/103
	43645	R628-19	5YR	04/12/2019	2019-9/87
security guards					
Commerce, Occupational and Professional Licensing	43318	R156-63a	AMD	05/13/2019	2018-22/89
	43318	R156-63a	CPR	05/13/2019	2019-7/48
	43577	R156-63a	NSC	05/14/2019	Not Printed
	43319	R156-63b	AMD	05/13/2019	2018-22/96
	43319	R156-63b	CPR	05/13/2019	2019-7/53
	43578	R156-63b	NSC	05/14/2019	Not Printed
seizure of fireworks					
Public Safety, Fire Marshal	43354	R710-15	NEW	01/14/2019	2018-22/155
self-administered services					
Human Services, Services for People with Disabilities	43894	R539-5	5YR	07/15/2019	2019-15/50
seminars					
Human Services, Substance Abuse and Mental Health	43576	R523-13-4	AMD	06/27/2019	2019-7/29
senior-specific insurance designations					
Insurance, Administration	43513	R590-252	5YR	02/11/2019	2019-5/99
SERC					
Public Safety, Administration	43418	R698-5	AMD	02/20/2019	2018-24/29
	43828	R698-5	5YR	06/26/2019	2019-14/79
server training					
Human Services, Substance Abuse and Mental Health	43575	R523-12-4	AMD	06/27/2019	2019-7/27
services					
Human Services, Services for People with Disabilities	43891	R539-2	5YR	07/15/2019	2019-15/48
settlements					
Labor Commission, Adjudication	43574	R602-2-1	AMD	05/08/2019	2019-7/30
shooting range					
Regents (Board of), University of Utah, Administration	43499	R805-6	5YR	02/04/2019	2019-5/102
size and weight					
Transportation, Motor Carrier	43735	R909-2	5YR	05/22/2019	2019-12/141
SLCC					
Regents (Board of), Salt Lake Community College	43594	R784-1	5YR	03/17/2019	2019-8/107
small employer stop-loss					
Insurance, Administration	43570	R590-268	5YR	03/07/2019	2019-7/65
	43692	R590-268	AMD	06/21/2019	2019-10/85
small purchases					
Administrative Services, Purchasing and General Services	43856	R33-4	5YR	07/08/2019	2019-15/34
Transportation, Administration	43490	R907-66	R&R	03/26/2019	2019-4/31

SNAP					
Workforce Services, Employment Development	43481	R986-100-117	AMD	06/01/2019	2019-3/33
	43482	R986-200-250	AMD	06/01/2019	2019-3/35
social services					
Human Services, Child and Family Services	43358	R512-305	AMD	01/09/2019	2018-23/115
social workers					
Commerce, Occupational and Professional Licensing	43799	R156-60a	5YR	06/13/2019	2019-13/114
sovereign lands					
Natural Resources, Forestry, Fire and State Lands	43480	R652-70	AMD	03/25/2019	2019-3/28
special education					
Education, Administration	43655	R277-926	NEW	07/02/2019	2019-9/40
special events					
Transportation, Operations, Traffic and Safety	43769	R920-4-9	NSC	06/19/2019	Not Printed
specific licenses					
Environmental Quality, Waste Management and Radiation Control, Radiation	43809	R313-22-75	AMD	08/09/2019	2019-13/65
specifications					
Administrative Services, Purchasing and General Services	43856	R33-4	5YR	07/08/2019	2019-15/34
speech/hearing challenges					
Public Service Commission, Administration	43550	R746-8-301	AMD	04/30/2019	2019-6/27
sponsor-a-highway					
Transportation, Operations, Maintenance	43489	R918-4	AMD	03/26/2019	2019-4/36
sportsman					
Natural Resources, Wildlife Resources	43736	R657-41	AMD	07/22/2019	2019-12/91
standard procurement process					
Administrative Services, Purchasing and General Services	43860	R33-7	5YR	07/08/2019	2019-15/36
standards					
Education, Administration	43621	R277-700	AMD	05/23/2019	2019-8/23
Health, Administration	43487	R380-70	5YR	01/24/2019	2019-4/43
startup					
Education, Administration	43395	R277-554	NEW	01/09/2019	2018-23/34
State Board of Education					
Education, Administration	43618	R277-119	REP	05/23/2019	2019-8/12
state contracts					
Administrative Services, Purchasing and General Services	43866	R33-13	5YR	07/08/2019	2019-15/39
	43875	R33-21	5YR	07/08/2019	2019-15/43
state custody					
Human Services, Administration	43496	R495-882	5YR	02/01/2019	2019-4/43
state emergency response commission					
Public Safety, Administration	43418	R698-5	AMD	02/20/2019	2018-24/29
	43828	R698-5	5YR	06/26/2019	2019-14/79
state employees					
Administrative Services, Finance	43656	R25-7	AMD	07/01/2019	2019-9/4
	43404	R25-10	AMD	01/23/2019	2018-24/6
Human Resource Management, Administration	43672	R477-5	AMD	07/01/2019	2019-10/34

state flag					
Lieutenant Governor, Administration	43595	R622-2	5YR	03/19/2019	2019-8/105
state plan					
Lieutenant Governor, Elections	43495	R623-3	5YR	01/28/2019	2019-4/45
state products					
Administrative Services, Purchasing and General Services	43864	R33-10	5YR	07/08/2019	2019-15/37
state records committee					
Administrative Services, Records Committee	43760	R35-1	5YR	06/03/2019	2019-13/111
	43761	R35-1a	5YR	06/03/2019	2019-13/111
	43762	R35-2	5YR	06/03/2019	2019-13/112
	43763	R35-4	5YR	06/03/2019	2019-13/112
	43766	R35-4-1	NSC	06/12/2019	Not Printed
	43764	R35-5	5YR	06/03/2019	2019-13/113
	43765	R35-6	5YR	06/03/2019	2019-13/113
state surplus property					
Administrative Services, Purchasing and General Services	43878	R33-26	5YR	07/08/2019	2019-15/45
statewide crisis line standards					
Human Services, Substance Abuse and Mental Health	43555	R523-17	AMD	04/22/2019	2019-6/14
statewide crisis response standards					
Human Services, Substance Abuse and Mental Health	43554	R523-18	AMD	04/22/2019	2019-6/21
statewide online education program					
Education, Administration	43620	R277-726	AMD	05/23/2019	2019-8/32
stewardships					
Agriculture and Food, Conservation Commission	43685	R64-3	5YR	04/30/2019	2019-10/115
storage of fireworks					
Public Safety, Fire Marshal	43354	R710-15	NEW	01/14/2019	2018-22/155
stream alterations					
Natural Resources, Water Rights	43743	R655-13	R&R	07/25/2019	2019-12/74
student achievements					
Education, Administration	43450	R277-404	AMD	02/22/2019	2019-2/6
student eligibility					
Workforce Services, Unemployment Insurance	43557	R994-403	AMD	05/01/2019	2019-6/38
	43365	R994-403-109b	AMD	03/31/2019	2018-23/122
student participation					
Education, Administration	43506	R277-494-4	NSC	02/20/2019	Not Printed
student teachers					
Education, Administration	43373	R277-509	AMD	01/09/2019	2018-23/19
students					
Education, Administration	43658	R277-417	AMD	07/02/2019	2019-9/26
	43637	R277-472	5YR	04/08/2019	2019-9/81
	43476	R277-487	AMD	03/13/2019	2019-3/4
substance abuse					
Education, Administration	43448	R277-910	NEW	02/07/2019	2019-1/24
Human Services, Substance Abuse and Mental Health	43575	R523-12-4	AMD	06/27/2019	2019-7/27

substance abuse database					
Health, Disease Control and Prevention, Health Promotion	43537	R384-203	5YR	02/25/2019	2019-6/42
	43562	R384-203	AMD	07/23/2019	2019-7/25
substance use disorder					
Human Services, Substance Abuse and Mental Health	43141	R523-5	AMD	01/29/2019	2018-17/60
	43141	R523-5	CPR	01/29/2019	2018-24/38
suicide prevention training grant					
Human Services, Substance Abuse and Mental Health	43355	R523-19	NEW	01/29/2019	2018-23/118
supplementals					
Education, Administration	43638	R277-493	5YR	04/08/2019	2019-9/81
	43683	R277-493	AMD	07/02/2019	2019-10/9
surcharges and disbursements					
Public Service Commission, Administration	43550	R746-8-301	AMD	04/30/2019	2019-6/27
surface water treatment plant monitoring					
Environmental Quality, Drinking Water	43384	R309-215-10	AMD	01/15/2019	2018-23/91
	43385	R309-215-16	AMD	01/15/2019	2018-23/93
surveys					
Judicial Performance Evaluation Commission, Administration	43500	R597-3	5YR	02/05/2019	2019-5/100
syringe exchange programs					
Health, Disease Control and Prevention, Epidemiology	43468	R386-900	AMD	05/15/2019	2019-3/16
syringes					
Health, Disease Control and Prevention, Epidemiology	43468	R386-900	AMD	05/15/2019	2019-3/16
talent ready					
Regents (Board of), Administration	43405	R765-615	NEW	03/14/2019	2018-24/33
Talent Ready Utah					
Governor, Economic Development	43720	R357-24	NEW	07/08/2019	2019-11/15
Targeted Adult Medicaid					
Health, Health Care Financing, Coverage and Reimbursement Policy	43707	R414-311-6	EMR	05/07/2019	2019-11/27
tax credits					
Governor, Economic Development	43488	R357-7	EXT	01/24/2019	2019-4/47
	43734	R357-7	5YR	05/22/2019	2019-12/136
	43814	R357-15	AMD	08/12/2019	2019-13/80
	43946	R357-15-2	NSC	08/13/2019	Not Printed
Heritage and Arts, History	43716	R455-11	5YR	05/14/2019	2019-11/42
	43721	R455-11	NSC	05/24/2019	Not Printed
taxation					
Tax Commission, Property Tax	43437	R884-24P-19	AMD	03/28/2019	2019-1/51
	43640	R884-24P-19	NSC	04/24/2019	Not Printed
	43371	R884-24P-27	AMD	01/10/2019	2018-23/119
	43698	R884-24P-62	NSC	05/17/2019	Not Printed
	43438	R884-24P-74	AMD	03/28/2019	2019-1/54
teacher licensing					
Education, Administration	43958	R277-504	5YR	08/06/2019	Not Printed
teacher preparation					
Education, Administration	43624	R277-304	NEW	05/23/2019	2019-8/13

teacher preparation programs					
Education, Administration	43373	R277-509	AMD	01/09/2019	2018-23/19
teachers					
Education, Administration	43733	R277-503	AMD	07/31/2019	2019-12/45
technical college					
UTech Board of Trustees, Administration	43617	R945-1	AMD	07/16/2019	2019-8/96
technology best practices					
Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45
telecommuting					
Human Resource Management, Administration	43675	R477-8	AMD	07/01/2019	2019-10/49
terms and conditions					
Administrative Services, Purchasing and General Services	43865	R33-12	5YR	07/08/2019	2019-15/38
therapists					
Commerce, Occupational and Professional Licensing	43543	R156-60	5YR	02/26/2019	2019-6/41
	43800	R156-60b	5YR	06/13/2019	2019-13/115
third-party providers					
Education, Administration	43619	R277-115	NEW	05/23/2019	2019-8/10
timber					
School and Institutional Trust Lands, Administration	43792	R850-70	AMD	08/07/2019	2019-13/103
timelines					
Education, Administration	43392	R277-482	REP	01/09/2019	2018-23/15
	43394	R277-552	NEW	01/09/2019	2018-23/26
	43623	R277-552	AMD	05/23/2019	2019-8/19
title insurance					
Insurance, Title and Escrow Commission	43781	R592-6	5YR	06/10/2019	2019-13/119
title insurance continuing education					
Insurance, Title and Escrow Commission	43782	R592-7	5YR	06/10/2019	2019-13/120
title insurance recovery assessment					
Insurance, Title and Escrow Commission	43784	R592-9	5YR	06/10/2019	2019-13/121
titles					
Natural Resources, Water Rights	43922	R655-3	5YR	07/27/2019	2019-16/105
TMDL					
Environmental Quality, Water Quality	43585	R317-1-1	AMD	07/01/2019	2019-7/8
total coliform					
Environmental Quality, Drinking Water	43383	R309-211	AMD	01/15/2019	2018-23/85
tow trucks					
Transportation, Motor Carrier	43443	R909-19	AMD	02/07/2019	2019-1/56
towing					
Public Safety, Highway Patrol	43844	R714-600	5YR	07/01/2019	2019-14/80
Transportation, Motor Carrier	43443	R909-19	AMD	02/07/2019	2019-1/56
training					
Education, Administration	43442	R277-308	NEW	02/07/2019	2019-1/22
	43392	R277-482	REP	01/09/2019	2018-23/15
	43394	R277-552	NEW	01/09/2019	2018-23/26
	43623	R277-552	AMD	05/23/2019	2019-8/19
Human Services, Substance Abuse and Mental Health	43576	R523-13-4	AMD	06/27/2019	2019-7/29

Natural Resources, Wildlife Resources	43726	R657-46	5YR	05/20/2019	2019-12/141
tramway permits					
Transportation, Operations, Traffic and Safety	43444	R920-50	AMD	02/07/2019	2019-1/63
tramways					
Transportation, Operations, Traffic and Safety	43444	R920-50	AMD	02/07/2019	2019-1/63
transfers					
Education, Administration	43637	R277-472	5YR	04/08/2019	2019-9/81
Transition to Adult Living					
Human Services, Child and Family Services	43358	R512-305	AMD	01/09/2019	2018-23/115
transparency					
Administrative Services, Finance	43404	R25-10	AMD	01/23/2019	2018-24/6
transportation					
Administrative Services, Finance	43656	R25-7	AMD	07/01/2019	2019-9/4
Environmental Quality, Waste Management and Radiation Control, Radiation	43810	R313-19-34	AMD	08/09/2019	2019-13/62
Transportation, Program Development	43584	R926-16	NEW	05/08/2019	2019-7/40
transportation safety					
Transportation, Operations, Traffic and Safety	43444	R920-50	AMD	02/07/2019	2019-1/63
trauma					
Health, Family Health and Preparedness, Emergency Medical Services	43321	R426-9	AMD	01/18/2019	2018-22/114
trauma center designation					
Health, Family Health and Preparedness, Emergency Medical Services	43321	R426-9	AMD	01/18/2019	2018-22/114
truancy					
Education, Administration	43959	R277-607	5YR	08/06/2019	Not Printed
trucks					
Transportation, Motor Carrier	43735	R909-2	5YR	05/22/2019	2019-12/141
trust account records					
Commerce, Real Estate	43407	R162-2f	AMD	01/23/2019	2018-24/8
	43643	R162-2f	AMD	06/19/2019	2019-9/10
UCJIS					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	43665	R722-900	AMD	06/24/2019	2019-10/95
unattended death					
Health, Disease Control and Prevention, Medical Examiner	43631	R448-10	5YR	04/05/2019	2019-9/83
underage drinking prevention					
Education, Administration	43448	R277-910	NEW	02/07/2019	2019-1/24
unemployment compensation					
Workforce Services, Unemployment Insurance	43558	R994-305-801	AMD	07/01/2019	2019-6/35
	43818	R994-309	5YR	06/17/2019	2019-14/80
	43819	R994-310	5YR	06/17/2019	2019-14/81
	43820	R994-311	5YR	06/17/2019	2019-14/81
	43821	R994-312	5YR	06/17/2019	2019-14/82
	43557	R994-403	AMD	05/01/2019	2019-6/38
	43365	R994-403-109b	AMD	03/31/2019	2018-23/122
universal waste					
Environmental Quality, Waste Management and Radiation Control, Waste Management	43252	R315-273	AMD	01/14/2019	2018-21/55

unlawful conduct					
Administrative Services, Purchasing and General Services	43877	R33-24	5YR	07/08/2019	2019-15/44
unsolicited proposals					
Transportation, Program Development	43584	R926-16	NEW	05/08/2019	2019-7/40
used oil					
Environmental Quality, Waste Management and Radiation Control, Waste Management	43529	R315-15-14	AMD	04/15/2019	2019-5/54
	43768	R315-15-16	NSC	06/12/2019	Not Printed
Utah Cancer Control Program					
Health, Disease Control and Prevention, Health Promotion	43539	R384-200	5YR	02/25/2019	2019-6/42
Utah Capital Investment Board					
Governor, Economic Development	43488	R357-7	EXT	01/24/2019	2019-4/47
	43734	R357-7	5YR	05/22/2019	2019-12/136
Utah Court of Appeals					
Administrative Services, Purchasing and General Services	43871	R33-18	5YR	07/08/2019	2019-15/41
Utah procurement rules					
Administrative Services, Purchasing and General Services	43859	R33-1	5YR	07/08/2019	2019-15/33
Utah Public Financial Website					
Administrative Services, Finance	43404	R25-10	AMD	01/23/2019	2018-24/6
Utah Transparency Advisory Board					
Administrative Services, Finance	43471	R25-11	5YR	01/07/2019	2019-3/43
Utah universal service fund					
Public Service Commission, Administration	43550	R746-8-301	AMD	04/30/2019	2019-6/27
Utah Works Program					
Governor, Economic Development	43720	R357-24	NEW	07/08/2019	2019-11/15
utilities					
Public Service Commission, Administration	43965	R746-700	5YR	08/07/2019	Not Printed
Transportation, Preconstruction	43742	R930-7	AMD	07/23/2019	2019-12/109
	43745	R930-8	AMD	07/23/2019	2019-12/124
utility accommodation					
Transportation, Preconstruction	43742	R930-7	AMD	07/23/2019	2019-12/109
	43745	R930-8	AMD	07/23/2019	2019-12/124
utility facilities					
Transportation, Preconstruction	43745	R930-8	AMD	07/23/2019	2019-12/124
utility regulation					
Public Service Commission, Administration	43603	R746-310	AMD	05/22/2019	2019-8/49
	43811	R746-460	NEW	08/07/2019	2019-13/95
vacations					
Human Resource Management, Administration	43674	R477-7	AMD	07/01/2019	2019-10/41
verification of legal authority					
Administrative Services, Purchasing and General Services	43870	R33-17	5YR	07/08/2019	2019-15/41
veterinarian					
Commerce, Occupational and Professional Licensing	43189	R156-28	AMD	03/25/2019	2018-19/7
	43189	R156-28	CPR	03/25/2019	2019-4/40

veterinary medicine					
Commerce, Occupational and Professional Licensing	43189	R156-28	AMD	03/25/2019	2018-19/7
	43189	R156-28	CPR	03/25/2019	2019-4/40
vision					
Health, Disease Control and Prevention, Health Promotion	43757	R384-201	AMD	08/01/2019	2019-12/66
vision screening					
Health, Disease Control and Prevention, Health Promotion	43757	R384-201	AMD	08/01/2019	2019-12/66
vital records					
Health, Center for Health Data, Vital Records and Statistics	43462	R436-19	NEW	05/08/2019	2019-2/10
vocational rehabilitation counselor					
Commerce, Occupational and Professional Licensing	43890	R156-78	5YR	07/15/2019	2019-15/46
volume cap					
Governor, Economic Development	43755	R357-8	REP	07/26/2019	2019-12/63
Workforce Services, Housing and Community Development	43746	R990-200	NEW	07/30/2019	2019-12/128
volunteer					
Transportation, Operations, Maintenance	43489	R918-4	AMD	03/26/2019	2019-4/36
volunteers					
Human Resource Management, Administration	43679	R477-13	AMD	07/01/2019	2019-10/62
voting					
Lieutenant Governor, Elections	43494	R623-2	5YR	01/28/2019	2019-4/44
	43275	R623-5	NEW	03/01/2019	2018-21/96
wage list					
Workforce Services, Unemployment Insurance	43558	R994-305-801	AMD	07/01/2019	2019-6/35
wages					
Human Resource Management, Administration	43673	R477-6	AMD	07/01/2019	2019-10/36
wastewater					
Environmental Quality, Water Quality	43633	R317-401	5YR	04/08/2019	2019-9/82
water pollution					
Environmental Quality, Water Quality	43585	R317-1-1	AMD	07/01/2019	2019-7/8
	43586	R317-2	AMD	07/01/2019	2019-7/11
	43848	R317-2-14	NSC	07/01/2019	Not Printed
water quality					
Environmental Quality, Drinking Water	43387	R309-225-4	AMD	01/15/2019	2018-23/101
water quality standards					
Environmental Quality, Water Quality	43586	R317-2	AMD	07/01/2019	2019-7/11
	43848	R317-2-14	NSC	07/01/2019	Not Printed
water rights					
Natural Resources, Water Rights	43922	R655-3	5YR	07/27/2019	2019-16/105
water wells					
Natural Resources, Water Rights	43923	R655-4	5YR	07/27/2019	2019-16/106
waterfowl					
Natural Resources, Wildlife Resources	43430	R657-9	AMD	02/07/2019	2019-1/41
watershed management					
Environmental Quality, Drinking Water	43379	R309-105-4	AMD	01/15/2019	2018-23/58

well drillers license					
Natural Resources, Water Rights	43923	R655-4	5YR	07/27/2019	2019-16/106
wild turkey					
Natural Resources, Wildlife Resources	43951	R657-54	5YR	08/05/2019	Not Printed
wildlife					
Natural Resources, Wildlife Resources	43431	R657-5	AMD	02/07/2019	2019-1/37
	43741	R657-5	AMD	07/22/2019	2019-12/79
	43430	R657-9	AMD	02/07/2019	2019-1/41
	43414	R657-11	AMD	01/24/2019	2018-24/25
	43420	R657-13	AMD	01/24/2019	2018-24/27
	43491	R657-22	AMD	03/25/2019	2019-4/22
	43492	R657-33	AMD	03/25/2019	2019-4/27
	43724	R657-37	AMD	07/22/2019	2019-12/82
	43432	R657-38	AMD	02/07/2019	2019-1/44
	43736	R657-41	AMD	07/22/2019	2019-12/91
	43723	R657-44	AMD	07/22/2019	2019-12/100
	43726	R657-46	5YR	05/20/2019	2019-12/141
	43951	R657-54	5YR	08/05/2019	Not Printed
	43639	R657-62	5YR	04/09/2019	2019-9/89
	43725	R657-62	AMD	07/22/2019	2019-12/104
	43498	R657-67	5YR	02/04/2019	2019-5/101
	43952	R657-68	5YR	08/05/2019	Not Printed
wildlife conservation					
Natural Resources, Wildlife Resources	43432	R657-38	AMD	02/07/2019	2019-1/44
wildlife law					
Natural Resources, Wildlife Resources	43414	R657-11	AMD	01/24/2019	2018-24/25
	43420	R657-13	AMD	01/24/2019	2018-24/27
	43491	R657-22	AMD	03/25/2019	2019-4/22
wildlife permits					
Natural Resources, Wildlife Resources	43736	R657-41	AMD	07/22/2019	2019-12/91
workers' compensation					
Labor Commission, Adjudication	43574	R602-2-1	AMD	05/08/2019	2019-7/30
X-rays					
Environmental Quality, Waste Management and Radiation Control, Radiation	43253	R313-28-31	AMD	01/14/2019	2018-21/52
	43530	R313-28-31	AMD	04/15/2019	2019-5/50
youth					
Human Services, Administration, Administrative Services, Licensing	43234	R501-8	AMD	01/17/2019	2018-21/89