UTAH STATE BULLETIN

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

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

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

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NOTICES OF
PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between September 2, 1998, 12:00 a.m., and September 15, 1998, 11:59 p.m., are included in this, the October 1, 1998, issue of the *Utah State Bulletin*.

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

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 Rules being repealed are completely struck out.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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least November 2, 1998. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through January 29, 1999, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Plant Industry
R68-8-7
Labeling of Agricultural Seed Varieties

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21434
FILED: 09/11/1998, 13:34
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The intent of the changes to this rule more accurately define the seed labels.

SUMMARY OF THE RULE OR CHANGE: Adds Subsection R68-8-7(B) which requires the variety name appear on certain seed labels.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-2-2, 4-16-3, and 4-17-3

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No anticipated cost or savings to the state budget. The cost will apply to the manufacturer of the product.
❖LOCAL GOVERNMENTS: No anticipated cost or savings to local government. The cost will apply to the manufacturer of the product.
❖OTHER PERSONS: The cost of the label would be the manufacturer or distributor's cost. There are approximately 500 manufacturers and the cost of the label would be determined by the printer.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated compliance cost other than the cost to print the label, which would be determined by the printer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost to produce the seed label would be the manufacturer's cost to be determined by the printer.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Agriculture and Food
Plant Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Burningham at the above address, by phone at (801) 538-7183, by FAX at (801) 538-7126, or by Internet E-mail at agmain.sburning@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: Cary G. Peterson, Commissioner

R68. Agriculture and Food, Plant Industry.
R68-8. Utah Seed Law.
R68-8-7. Labeling or Agricultural Seed Varieties.

A. The following kinds of agricultural seeds shall be labeled to show the variety name or the words, "Variety Not Stated."

[~~Alfalfa~~
] Bahiagrass
[~~Barley~~
] Beans, field
Beets, field
Brome, smooth
Broomcorn
Clover, crimson
Clover, red
Clover, white
Corn, field
Corn, pop
Cotton
Cowpea
Crambe
Fescue, tall
Flax
Lespedeza, striate
Millet, foxtail
Millet, pearl
[~~Oat~~
] Pea, field
Peanut
Rice
Rye
Safflower
Sorghum
Sorghum-Sudangrass
Sudangrass hybrid
Soybean
Sudangrass
Sunflower
Tobacco
Trefoil, birdsfoot
[~~Triticale~~
~~Wheat, common~~
~~Wheat, durum~~
] B. The following kinds of agricultural seeds shall be labeled to show the variety name:
Alfalfa
Barley
Oat
Triticale
Wheatgrass
Wheat, common
Wheat, durum

[~~B~~]C. When two or more varieties are present in excess of five percent and are named on the label, the name of each variety shall be accompanied by the percentage of each.

KEY: inspections
[~~November 3, 1997~~]1998 **4-2-2**
Notice of Continuation January 6, 1997 **4-16-3**
4-17-3

Education, Administration
R277-400
Emergency Preparedness Plan

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21467
FILED: 09/15/1998, 16:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah State Fire Marshal's requirement for fire drills in schools was changed making it necessary for this rule to be amended to incorporate those changes.

SUMMARY OF THE RULE OR CHANGE: This amendment designates specific time lines for fire drills in elementary and secondary schools.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-402(1)(b)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There may be an undetermined cost savings due to a more reasonable number of fire drills.
❖LOCAL GOVERNMENTS: There may be an undetermined cost savings due to a more reasonable number of fire drills.
❖OTHER PERSONS: There may be an undetermined cost savings due to a more reasonable number of fire drills.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs due to the enactment of this rule. There may be a cost savings due to a more reasonable number of fire drills.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.
R277-400. Emergency Preparedness Plan.

. . . . . .

R277-400-7. Plan Content--Emergency Training.

The Plan shall contain measures which assure that school children receive emergency preparedness training.

A. School children shall be provided with training appropriate to their ages in rescue techniques, first aid, safety measures appropriate for specific emergencies, and other emergency skills.

B. Fire drills:

(1) During each school year, elementary schools shall conduct fire drills at least once each month during school sessions. A fire drill in secondary schools shall be conducted at least every two months, for a total of four fire drills during the nine month school year. The first fire drill shall be conducted within the first two weeks of the school year for both elementary and secondary schools. An exception may be made, subject to the approval of the local fire chief, to postpone a fire drill due to severe weather conditions.

(2) Fire drills shall include the complete evacuation of all persons from the school building or portion thereof used for educational purposes. An exception may be made for the staff member responsible for notifying the local fire department and handling emergency communications.

(3) When required by the local fire chief, the local fire department shall be notified prior to each drill.

(4) When a fire alarm system is provided, fire drills shall be initiated by activation of the fire alarm system.

C. Schools shall hold at least one drill for other emergencies during the school year.

D. Resources and materials available for training shall be identified in the Plan.

E. Each school shall conduct an Emergency Preparedness Week prior to [~~October 31~~]April 30 of each school year.

. . . . . .

KEY: emergency preparedness, disasters, safety, safety education
[~~April 15, 1996~~]1998 **Art X Sec 3**
Notice of Continuation September 12, 1997 **53A-1-401(3)**
53A-1-402(1)(b)

Education, Administration
R277-410
Accreditation of Schools

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21468
FILED: 09/15/1998, 16:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to provide for students to receive credit for classes taken at appropriately accredited schools.

SUMMARY OF THE RULE OR CHANGE: The rule provides additional opportunities for schools or programs to be accredited and so applicable for high school graduation credit.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-402(1)(c)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No cost or savings because there is no cost attached to providing credit.
❖LOCAL GOVERNMENTS: No cost or savings because there is no cost attached to providing credit.
❖OTHER PERSONS: No cost or savings because there is no cost attached to providing credit.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs due to the enactment of this rule.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.
R277-410. Accreditation of Schools.

. . . . . .

[~~**R277-410-4. Accreditation of Private Schools.**~~
~~A. A private school may be accredited by the Board by meeting the standards and following the procedures required of public schools for accreditation.~~
~~B. The USOE shall maintain a file of private schools accredited by the Board.~~]

R277-410-[~~5~~]4. Transfer of Credit.
A. If a school is accredited by any member of the International Council of School Accreditation Commissions, credit earned at that school is accepted at face value in the public schools [~~of the state~~]in Utah.
B. Credit shall be accepted at face value in the public schools of Utah if a private school is evaluated under the credit approval criteria as established by the Board. Criteria shall include:
(1) Application for credit approval to the Board;
(2) Accreditation by a regional or national organization representing the category of the applicant school. The school's accreditation team shall include a representative from the USOE and shall have included at least the following:
(a) a written self evaluation;
(b) a listing of the school's course offerings;
(c) a description of the process for appointment and evaluation of faculty;
(d) a review of finance, governance, faculty and long range planning;
(3) A description of how the subject matter credits requested for transfer relate to the State Core Curriculum standards.
[~~B~~]C. If a school is not accredited, the school district to which the credit is to be transferred may decide whether or not to accept the credit earned at the non-accredited school consistent with Section R277-700-6.

KEY: accreditation, public schools, private schools
19[~~87~~]98 **Art X Sec 3**
Notice of Continuation September 12, 1997 **53A-1-402(1)(c)**
53A-1-401(3)

Education, Administration
R277-470
Distribution of Funds for Charter Schools

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21469
FILED: 09/15/1998, 16:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is necessary to provide funding procedures for charter schools.

SUMMARY OF THE RULE OR CHANGE: This rule explains how charter schools will receive a Weighted Pupil Unit (WPU) and other funding through local boards of education.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1a-513(1)(b)(i)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No cost or savings because the program is fully funded by the Legislature.
❖LOCAL GOVERNMENTS: No cost or savings because the program is fully funded by the Legislature.
❖OTHER PERSONS: No cost or savings because the program is fully funded by the Legislature.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs due to the enactment of this rule.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.
R277-470. Distribution of Funds for Charter Schools.
R277-470-1. Definitions.

A. "ADM" means average daily membership.

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

C. "Charter schools" means schools approved by the Board under Section 53A-1a-505.

D. "On-going funds" means funds that are appropriated annually with the expectation that the funds will continue to be appropriated annually.

E. "One-time funds" means funds that are appropriated with the expectation that they may not be appropriated in subsequent years.

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

G. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of determining the costs of a program on a uniform basis for each district.

R277-470-2. Authority and Purpose.

This rule is authorized under Utah Constitution, Article X which vests general control and supervision over public education in the Board, Section 53A-1a-513(1)(b)(i) which directs the Board to adopt rules to provide a funding formula to pay school districts for charter school students, Section 53A-1a-513(2)(a) which directs the Board to adopt rules relating to the transportation of students to and from charter schools, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

R277-470-3. Funding Through WPUs.

A. All funding for charter school students shall be paid by the USOE to school districts.

B. School districts shall receive funding for charter school students on the same basis that they receive funding for other students in the district.

C. School districts shall distribute to eligible charter schools, upon request and verification of data, a proportional amount of the WPU for each eligible charter school student for the following programs or funding sources:

(1) Regular WPU;
(2) Class Size Reduction;
(3) Local Programs;
(4) Gifted and Talented;
(5) At Risk Flow Through; and
(6) Professional Staff (if data is submitted as outlined in R277-470-8.

D. Upon application and approval, a school district shall distribute to charter schools funds from the following programs or funding sources:

(1) Special Education;
(2) Career Ladder;
(3) Applied Technology;
(4) Youth in Custody;
(5) Advanced Placement; and
(6) Concurrent Enrollment.

R277-470-4. Distribution of Additional Funds.

A. A charter school shall receive a dollar amount per student from the following on-going programs or sources or funding:

(1) Social Security and Retirement;
(2) Class Size Reduction (for 7th and 8th grade students only);
(3) Experimental Developmental; and
(4) Educational Technology Initiative

B. A charter school shall receive a dollar amount per student from one-time programs or sources of funding which are part of the Minimum School Program if those funds are distributed on a per student or per teacher basis.

C. A charter school shall receive funds from the Alternative Language Services Program, upon application, by the charter school.

R277-470-5. Federal Funds.

If the school district receives funding and the charter school provides requisite services, then the charter school shall receive proportional funds for eligible students, upon application, for the following programs:

(1) Individuals with Disabilities Act (students with IEP's only);

(2) Title I - Basic Grant (free and reduced lunch eligible students);

(3) Title II - Professional Development (total students and disadvantaged students);

(4) Impact Aid (students who qualify);

(5) Title VI (total number of students);

(6) Safe and Drug Free Schools (students who qualify);

(7) Bilingual Education - Subpart I (based on the number of students receiving services);

(8) School Dropout Demonstration Act; and

(9) Goals 2000.

R277-470-6. Start Up Funds.

A charter school shall receive start up funds based upon available funds, total requests, number of students served, and needs as outlined in individual proposals submitted by each charter school.

R277-470-7. Residency for Funding Purposes.

A. For purposes of state and federal funding, a charter school student is considered a resident of the district in which the charter school is located.

B. For purposes of local funding, a district shall pay to an eligible charter school one-half of the original resident district's residual per student expenditure for each student properly registered in a charter school according to formula developed by the USOE.

R277-470-8. Ongoing Funds.

A. Ongoing funds shall be distributed to charter schools based on data submitted by the charter schools. Data shall include names of students, addresses, resident districts, grades, birth dates, immunization data, and special program applications, as necessary. Districts shall distribute these funds ten days after receiving the data from charter schools.

B. Distributions for September and October shall be made to charter schools based on data submitted to the district five school days after the beginning of the school year, as determined by the Board-approved charter. If school begins later than September, the distribution for the first two months will be based on data submitted for the first five days of school.

C. Charter schools that provide verification of appropriate professional staff as defined under Section 53A-1a-512(3) by November 14 shall receive designated professional staff funding.

D. The remaining distributions shall be made based on enrollment data as of the charter school's first school day of the preceding month.

E. A monthly payment shall equal ten percent of a charter school's annual entitlement as determined at the first of each month.

F. Monthly payments shall be adjusted entitling the charter school to the appropriate percentage of its eligible funding for the school year, based on projected ADM for the year.

G. Necessary final calculations shall be made by June 30 of each year.

R277-470-6. Funding for Transportation.

A. Charter schools are not eligible for to-and-from school transportation funds.

B. A charter school transporting students is subject to Utah law under Section 41-6-115.

C. A school district may provide transportation for charter school students on a space-available basis on approved routes.

(1) Districts may not incur increased costs or displace eligible students to transport charter school students.

(2) A charter school student shall board and leave the bus only at existing designated stops on approved bus routes or at identified destination schools.

(3) A charter school student shall board and leave the bus at the same stop each day.

KEY: education, charter schools*
1998 **Art X, Sec 3**
53A-1a-513(1)(b)(i)
53A-1a-513(2)(a)
53A-1-401(3)

◆ ◆

Environmental Quality, Air Quality
R307-220-3
Hospital, Medical, Infectious Waste Incinerators

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21455
FILED: 09/14/1998, 13:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To incorporate by reference a new emission control plan.

SUMMARY OF THE RULE OR CHANGE: R307-220 incorporates by reference Utah plans for designated facilities, i.e., sources of air pollution which were in existence before issuance of a federal rule setting standards of performance for similar new sources. Section R307-220-3 incorporates the "Plan for Hospital, Medical, Infectious Waste Incinerators." Federal guidelines for these existing sources are found at 40 CFR 60, Subpart Ce, and became effective September 16, 1997. Specific rules to implement the Utah Plan are found in new R307-222, also proposed for public comment. If not properly operated and well controlled, these incinerators can be a source of dioxins and furans, mercury, cadmium, lead, and

other pollutants. The plan includes special provisions to reduce costs for small rural incinerators.
(**DAR Note:** The proposed new rule for R307-222 is under DAR No. 21456 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 60, Subparts Ce and Ec

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Plan for Hospital, Medical, Infectious Waste Incinerators

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There are only a few incinerators of this type in Utah and administering the program will not result in additional burdens for state government.
❖LOCAL GOVERNMENTS: The Division of Air Quality (DAQ) does not yet know which sources, if any, are owned by local governments.
❖OTHER PERSONS: Operators have several options for reaching compliance. One is to switch to alternative methods for disinfecting waste such as steam autoclaving, microwave irradiation, macrowave irradiation, chemical treatment, thermal treatment, and biological treatment. Costs could be reduced further by separating out noninfectious waste and recycling or landfilling it. Another method for reaching compliance is to pay a commercial hauler to take the waste to a disposal site. For some operators, this will be the least expensive alternative. Operators may comply by installing pollution control equipment on incinerators. Small rural incinerators are not required to install additional equipment but are required to undergo compliance testing for three years at an annual cost approximating $28,000. If the tests show that the incinerator is meeting emission limits, testing need be conducted only every third year thereafter.
COMPLIANCE COSTS FOR AFFECTED PERSONS: For a large incinerator, the annual cost to operate the incinerator itself is about $120,000 and the cost for control equipment could be $150,000 to $300,000 per year. Control equipment costs would be somewhat less for medium and small incinerators. Small rural incinerators are not required to install control equipment if they can meet their emission limits. In addition, all incinerator operators are required to provide 24 hours of training for each person operating the incinerator. A stack test (approximately $28,000) is required annually for three years and every third year thereafter so long as the tests show compliance with the emission limit for each pollutant. If not, annual testing is required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The federal requirements anticipate that many operators will find it more economical to shut down the incinerator and switch to off-site disposal or alternative methods for disinfection. Congress required this in order to protect citizens from dioxins and furans, mercury, cadmium, lead, and other pollutants. These are common by-products of this kind of incinerator, which may be located in residential neighborhoods--Dianne R. Nielson.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 10/20/1998, 10:00 a.m., Room 201, Department of Environmental Quality (DEQ) Bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-220. Emission Standards: Plan for Designated Facilities.
R307-220-3. Hospital, Medical, Infectious Waste Incinerators.
The Plan for Hospital, Medical, Infectious Waste Incinerators, as most recently adopted by the Air Quality Board on December 2, 1998, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, landfills*, environmental protection, incinerators*
1998 19-2-104

Environmental Quality, Air Quality
R307-222
Existing Incinerators for Hospital, Medical, Infectious Waste

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21456
FILED: 09/14/1998, 13:35
RECEIVED BY: NL

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Establish state rules for these sources, rather than leaving enforcement to the federal government.

SUMMARY OF THE RULE OR CHANGE: Federal requirements for these existing sources are found at 40 CFR 60, Subpart Ce, which became effective September 16, 1997. Hazardous substances such as dioxins and furans and heavy metals are regulated, as well as other pollutants. The federal provisions set compliance dates, specify emission limits, training requirements for operators, and testing and reporting requirements, and include special provisions for small rural incinerators. R307-222 incorporates federal provisions by reference, provides for extensions under specified conditions, and sets an interim compliance schedule for sources choosing to retrofit incinerators. R307-220-3 incorporates the "Plan for Hospital, Medical, Infectious Waste Incinerators."
(**DAR Note:** The proposed amendment for R307-220-3 is under DAR No. 21455 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 60, Subparts Ce and Ec

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Portions of 40 CFR 60, Subparts Ce and Ec, September 15, 1997

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There are only a few incinerators of this type in Utah and administering the program will not result in additional burdens for state government.
❖LOCAL GOVERNMENTS: The Division of Air Quality (DAQ) does not yet know which sources are owned by local governments.
❖OTHER PERSONS: Operators have several options for reaching compliance. One is to switch to alternative methods for disinfecting waste such as steam autoclaving, microwave irradiation, macrowave irradiation, chemical treatment, thermal treatment, and biological treatment. Costs could be reduced further by separating out noninfectious waste and recycling or landfilling it. Another method for reaching compliance is to pay a commercial hauler to take the waste to a disposal site. For some operators, this will be the least expensive alternative. Operators may comply by installing pollution control equipment on incinerators. Small rural incinerators are not required to install additional equipment but are required to undergo compliance testing for three years at an annual cost approximating $28,000. If the tests show that the incinerator is meeting emission limits, testing need be conducted only every third year thereafter.
COMPLIANCE COSTS FOR AFFECTED PERSONS: For a large incinerator, the annual cost to operate the incinerator itself is about $120,000 and the cost for control equipment could be $150,000 to $300,000 per year. Control equipment costs would be somewhat less for medium and small incinerators. Small rural incinerators are not required to install control equipment if they can meet their emission limits. In addition, all incinerator operators are required to provide 24 hours of training for each person operating the incinerator. A stack test (approximately $28,000) is required annually for three years and every third year thereafter so long as the tests show compliance with the emission limit for each pollutant. If not, annual testing is required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The federal requirements anticipate that many operators will find it more economical to shut down the incinerator and switch to off-site disposal or alternative methods for disinfection. Congress required this in order to protect citizens from dioxins and furans, mercury, cadmium, lead, and other pollutants. These are common by-products of this kind of incinerator, which may be located in residential neighborhoods--Dianne R. Nielson.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 10/20/1998, 10:00 a.m., Room 201, Department of Environmental Quality (DEQ) Bldg., 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-222. Existing Incinerators for Hospital, Medical, Infectious Waste.
R307-222-1. Purpose and Applicability.

(1) R307-222 regulates emissions from existing incinerators for hospital, medical, or infectious waste or any combination of them. The purpose of R307-222 is to reduce the emissions of particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans from incinerators burning hospital, medical or infectious waste. Reductions are required by 42 U.S.C. 7411(d) and 7429 and 40 CFR Part 60, subpart Ce, published at 62 FR 48348, September 15, 1997, and by the Plan for Incinerators for Hospital, Medical, and Infectious Waste which is incorporated by reference at R307-220-3.

(2) R307-222 applies to each incinerator for hospital, medical, or infectious waste or any combination of them for which construction was commenced on or before June 20, 1996, except as set forth below.

(a) A combustor is not subject to R307-222 during periods when only pathological waste, low-level radioactive waste,

chemotherapeutic waste or any combination of them is burned, provided the owner or operator of the combustor:

(i) Notifies the executive secretary of an exemption claim; and

(ii) Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, chemotherapeutic waste or any combination of them is burned.

(b) Any co-fired combustor is not subject to this subpart if the owner or operator of the co-fired combustor:

(i) Notifies the executive secretary of an exemption claim;

(ii) Provides an estimate of the relative weight of wastes to be combusted, including hospital, medical or infectious waste or any combination of them, and other fuels and wastes; and

(iii) Keeps records on a calendar quarter basis of the weight of hospital, medical, or infectious waste or any combination of them which was combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

(c) Any combustor required to have a permit under R315-306 is not subject to R307-222.

(d) Any combustor which meets the applicability requirements under subpart Cb, Ea, or Eb of 40 CFR Part 60 is not subject to R307-222.

(e) Any pyrolysis unit as defined in 40 CFR 60.51c is not subject to R307-222.

(f) Any cement kiln firing hospital, medical, or infectious waste or any combination of them is not subject to R307-223.

(g) Physical or operational changes made to an existing hospital, medical or infectious waste incinerator unit solely for the purpose of complying with emission guidelines under R307-223 are not considered a modification and do not result in an existing hospital, medical or infectious or any combination waste incinerator unit becoming subject to the provisions of R307-18.

(3) Any facility subject to R307-222 also is required to obtain an operating permit under R307-415 no later than September 15, 2000.

R307-222-2. Definitions and References.

(1) The following definitions apply only to R307-222. Definitions found in 40 CFR 60.31e, effective November 14, 1997, and 40 CFR 60.51c, effective March 16, 1998, are adopted and incorporated by reference, with the following substitutions.

(a) Substitute "executive secretary" for all federal regulation references to "Administrator."

(b) Substitute "State of Utah" for all federal regulation references to "State agency" or "State regulatory agency."

(c) Substitute "Rule R307-222" for all references to "this subpart."

(d) Substitute "40 CFR Part 60" for all references to "this part."

(e) Substitute "40 CFR" for all references to "This title."

R307-222-3. All Incinerators.

(1) Each incinerator subject to R307-222 must comply with the requirements of 40 CFR 60.52c(b) for emission limits, 40 CFR 60.53c for operator training and qualification, 40 CFR 60.55c for a waste management plan, 40 CFR 60.58c(b) excluding (b)(2)(ii) and (b)(7) for recordkeeping, and 40 CFR 60.58c(c) through (f) for reporting. These provisions are adopted and incorporated by reference.

(2) Each incinerator subject to R307-222 must submit by February 1, 1999, an initial emissions inventory for inclusion in the Plan.

(3) Compliance dates.

(a) Except as provided in (b) and (c), each incinerator must be in compliance with all requirements of R307-222 on or before the date one year after federal approval of the State Plan.

(b) The owner or operator may petition the executive secretary to extend the compliance date as late as three years after EPA approval of the State Plan or September 15, 2000, whichever is earlier. The petition must meet the requirements set forth in (c) below.

(c) The petition must be submitted by January 2, 2000 and must include the following documentation:

(i) analysis supporting the need for an extension;

(ii) an evaluation of the option to transport waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis;

(iii) measurable and enforceable incremental steps of progress to be taken towards compliance;

(iv) a compliance plan as set forth in (d) below.

(d) The compliance plan must include compliance dates for either:

(i) disposal of waste offsite or installation of equipment other than an incinerator to treat waste at the earliest possible date, or

(ii) each activity to retrofit the incinerator, including the following intermediate steps:

(A) The owner or operator must award the contract for retrofitting no later than March 1, 2000.

(B) The owner or operator must begin installation of air pollution control devices no later than June 1, 2000.

(C) The owner or operator must complete installation of the air pollution control devices no later than February 2, 2002.

(D) The owner or operator must conduct initial compliance testing of each air pollution control device by April 2, 2002.

(E) The owner or operator must complete all requirements to show compliance no later than three years following EPA approval of the Plan or September 15, 2002, whichever is earlier.

(e) If the petition is granted, the owner or operator must comply with the schedule in the compliance plan.

R307-222-4. Large, Medium and Urban Small Incinerators.

Except as provided in Section R307-222-5, each incinerator must comply with the emissions limitations of Table 1 in 40 CFR Part 60, Subpart Ce, 40 CFR 60.57c, and 40 CFR 60.56c excluding 56c(b)(12) and 56c(c)(3), which are adopted and incorporated by reference.

R307-222-5. Small Rural Incinerators.

(1) A small rural incinerator is a small incinerator as defined in Section R307-222-2 that:

(a) is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area listed in OMB bulletin No. 93-17 entitled "Revised Statistical definitions for Metropolitan Areas," June 30, 1993; and

(b) burns less than 2000 pounds per week of hospital, medical or infectious waste or any combination of them. The 2000 pounds per week limitation does not apply during performance tests.

(2) Each small rural incinerator must comply with the emission limits of Table 2 in 40 CFR Part 60, Subpart Ce, which are adopted and incorporated by reference.

(3) Each small incinerator must comply with the inspection requirements of 40 CFR 60.36e(a)(1) and (a)(2), which are adopted and incorporated by reference. An inspection meeting these requirements must be conducted within one year after federal approval of the Plan incorporated by reference in R307-220-3, and annually no more than 12 months following the previous annual inspection.

(4) Each small incinerator must comply with the compliance and performance testing requirements of 40 CFR 60.37e(b)(1) through (b)(5), which are adopted and incorporated by reference.

(5) Each small incinerator must comply with the monitoring requirements of 40 CFR 60.37e(d)(1) through (d)(3), which are adopted and incorporated by reference.

(6) Each small incinerator must comply with the recordkeeping and reporting requirements of 40 CFR 60.38e(b)(1) and (b)(2), which are adopted and incorporated by reference.

KEY: air pollution, hospitals, medical incinerator*, infectious waste*
1998 **19-2-104**

◆ ◆

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

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21459
FILED: 09/15/1998, 12:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This proposed rule change: excludes from regulation condensates derived from overhead gases from kraft mill steam strippers; adds K140 and U408 hazardous waste codes to the current hazardous waste lists; amends the rules to define which secondary materials from mineral processing are considered to be wastes; and excludes from the regulatory definition of solid waste, fuels produced from a hazardous waste which are comparable to some currently used fossil fuels.

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

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 261.2, 1997 ed.; 63 FR 28555, May 26, 1998; 40 CFR 261.32, 1998 ed.; 40 CFR 261.33(f), 1998 ed.; and 40 CFR 261.38, 1998 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the changes in the rule do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or savings impact.
❖OTHER PERSONS: Since the changes in the rule do not affect other persons and the enforcement of the rule will not change, there will be no cost or savings impact.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs beyond that which is already required by adherence to equivalent federal regulations.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Director

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

(a)(1) A solid waste is any discarded material that is not excluded by subsection R315-2-4(a) or that is not excluded by variance granted under R315-2-18 and R315-2-19.

(2) A discarded material is any material which is:

(i) Abandoned, as explained in paragraph (b) of this section; or

(ii) Recycled, as explained in paragraph (c) of this section; or

(iii) Considered inherently waste-like, as explained in paragraph (d) of this section.

(b) Materials are solid waste if they are abandoned by being;

(1) Disposed of; or

(2) Burned or incinerated; or

(3) Accumulated, stored, or treated, but not recycled, before or in lieu of being abandoned by being disposed of, burned, or incinerated.

(c) Materials are solid wastes if they are recycled - or accumulated, stored, or treated before recycling - as specified in paragraphs (c)(1) through (c)(4) of this section.

(1) Used in a manner constituting disposal

(i) Materials noted with "*" in Column 1 of Table 1 of 40 CFR 261.2, 1997 ed., as amended by 63 FR 28555, May 26, 1998, which is adopted and incorporated by reference, are solid wastes when they are:

(A) Applied to or placed on the land in a manner that constitutes disposal; or

(B) Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land, in which cases the product itself remains a solid waste.

(ii) However, commercial chemical products listed in R315-2-11 are not solid wastes if they are applied to the land and that is their ordinary manner of use.

(2) Burning for energy recovery.

(i) Materials noted with a "*" in Column 2 of Table 1 of 40 CFR 261.2 are solid wastes when they are:

(A) Burned to recover energy;

(B) Used to produce a fuel or are otherwise contained in fuels, in which cases the fuel itself remains a solid waste.

(ii) However, commercial chemical products listed in R315-2-11 are not solid wastes if they are themselves fuels.

(3) Reclaimed. Materials noted with a "*" in Column 3 of Table 1 of 40 CFR 261.2 are solid wastes when reclaimed, except as provided under R315-2-4(a)(16). Materials noted with a "---" in column 3 of Table 1 are not solid wastes when reclaimed, except as provided under R315-2-4(a)(16).

(4) Accumulated speculatively. Materials noted with a "*" in Column 4 of Table 1 of 40 CFR 261.2 are solid wastes when accumulated speculatively.

(d) Inherently waste-like materials. The following materials are solid wastes when they are recycled in any manner:

(1) Hazardous Waste Nos. F020, F021, unless used as an ingredient to make a product at the site of generation, F022, F023, F026, and F028.

(2) Secondary materials fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste as defined in R315-2-9 through R315-2-10 and R315-2-24, except for brominated material that meets the following criteria:

(i) The material must contain a bromine concentration of at least 45%; and

(ii) The material must contain less than a total of 1% of toxic organic compounds listed in 40 CFR 261 Appendix VIII; and

(iii) The material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping).

(3) The Board will use the following criteria to add wastes to that list:

(i)(A) The materials are ordinarily disposed of, burned, or incinerated; or

(B) The materials contain toxic constituents listed in R315-50-10 and these constituents are not ordinarily found in raw materials or products for which the materials substitute, or are found in raw materials or products in smaller concentrations, and are not used or reused during the recycling process; and

(ii) The material may pose a substantial hazard to human health and the environment when recycled.

(e) Materials that are not solid waste when recycled.

(1) Materials are not solid wastes when they can be shown to be recycled by being:

(i) Used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or

(ii) Used or reused as effective substitutes for commercial products; or

(iii) [~~Returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on the land.~~]In cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion found at R315-2-4(a)(16) apply rather than this provision.

(2) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process, described in paragraphs (e)(1)(i)-(iii) of this section:

(i) Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

(ii) Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

(iii) Materials accumulated speculatively; or

(iv) Materials listed in paragraphs (d)(1) and (d)(2) of this section.

(f) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce rules implementing the Utah Solid and Hazardous Waste Act who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation, such as contracts showing that a second person uses the material as an ingredient in a production process, to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

R315-2-3. Definition of Hazardous Waste.

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

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

(2) It meets any of the following criteria:

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

(ii) [~~It exhibits any of the characteristics of hazardous waste identified in section R315-2-9 except that any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded under R315-2-4(b)(7) and any other solid waste exhibiting a characteristic of hazardous waste under section R315-2-9 only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred or it continues to exhibit any of the characteristics exhibited by the non-excluded wastes prior to mixture. Further, for the purposes of applying the Toxicity Characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in Table 1 of 40 CFR 261.24, which R315-2-9(g)(2) incorporates by reference, that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture. The generator may declare a waste to be hazardous without testing by applying knowledge of the hazardous characteristic(s) of the waste in light of the materials or processes used.~~]It exhibits any of the characteristics of hazardous waste identified in R315-2-9. However, any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded under R315-2-4(b)(7) and any other solid waste exhibiting a characteristic of hazardous waste under R315-2-9 is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred, or if it continues to exhibit any of the characteristics exhibited by the non-excluded wastes prior to mixture. Further, for the purposes of applying the Toxicity Characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in table I, 40 CFR 261.24, which R315-2-9(g)(2) incorporates by reference, that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture.

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

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

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

(B) One or more of the following spent solvents listed in R315-2-10(e), which incorporates by reference 40 CFR 261.31 - methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents - provided that the maximum total weekly usage of these solvents, other than the amounts that can be demonstrated not to be discharged to wastewater, divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed 25 parts per million;

(C) One of the following wastes listed in R315-2-10(f), which incorporates by reference 40 CFR 261.32 - heat exchanger bundle cleaning sludge from the petroleum refining industry, EPA Hazardous Waste No. K050;

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

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

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

concentrations of halogenated hazardous constituents listed in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII.

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

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

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

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

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

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

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

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

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

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

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

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

(C)(1) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in 40 CFR 260.10 (6), (7), and (13) of the definition for "Industrial Furnace" which R315-1-1(b) incorporates by reference), that are disposed in solid waste landfills regulated under R315-301 through R315-320, provided that these residues meet the generic exclusion levels identified below for all constituents, and exhibit no characteristics of hazardous waste. Testing requirements shall be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues shall be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

TABLE

Constituent Maximum for any single composite sample - TCLP (mg/l)

Generic exclusion levels for K061 and K062 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Generic exclusion levels for F006 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total)(mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(2) A one-time notification and certification shall be placed in the facility's files and sent to the Executive Secretary for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to solid waste landfills regulated under R315-301 through R315-320. The notification and certification that is placed in the generators or treaters files shall be updated if the process or operation generating the waste changes and/or if the solid waste landfill regulated under R315-301 through R315-320 receiving the waste changes. However, the generator or treater need only notify the Executive Secretary on an annual basis if such changes occur. Such notification and certification should be sent to the Executive Secretary by the end of the calendar year, but no later than December 31. The notification shall include the following information: The name and address of the solid waste landfill regulated under R315-301 through R315-320 receiving the waste shipments; the EPA Hazardous Waste Number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification shall be signed by an authorized representative and shall state as follows: "I certify under penalty of law that the generic

exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

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

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

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

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

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

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

R315-2-4. Exclusions.

(a) MATERIALS WHICH ARE NOT SOLID WASTES.

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

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

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

(3) Irrigation return flows.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit

the Toxicity Characteristic (TC) specified in R315-2-9(g) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or the tar recovery or refining processes, or mixed with coal tar.

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

(12) Recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process, SIC Code 2911, at or before a point, other than direct insertion into a coker, where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials, such as wastewater, generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include, among other things, oil-bearing hazardous wastes listed in R315-2-10, which incorporates by reference 40 CFR part 261 D, e.g., K048-K052, F037, F038. However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in R315-1-1.

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

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

(ii) The secondary material is not accumulated speculatively;

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

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

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

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

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

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

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

(17) Comparable fuels or comparable syngas fuels, i.e., comparable/syngas fuels, that meet the requirements of R315

(b) SOLID WASTES WHICH ARE NOT HAZARDOUS WASTES.

The following solid wastes are not hazardous wastes:

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

(i) Receives and burns only

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

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

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

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

(i) The growing and harvesting of agricultural crops.

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

(3) Mining overburden returned to the mine site.

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

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

(6) The following additional solid wastes:

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) [~~Solid waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock and overburden from the mining of uranium ore, except as provided by R315-14-7, which incorporates by reference 40 CFR 266.112, for facilities that burn or process hazardous waste. For the purposes of this paragraph, 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 or carbon dioxide or both, 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. For the purposes of this paragraph, solid waste from the processing of ores and minerals includes only the following wastes:~~

~~(i) Slag from primary copper processing;~~

~~(ii) Slag from primary lead processing;~~

~~(iii) Red and brown muds from bauxite refining;~~

~~(iv) Phosphogypsum from phosphoric acid production;~~

~~(v) Slag from elemental phosphorus production;~~

~~(vi) Gasifier ash from coal gasification;~~

~~(vii) Process wastewater from coal gasification;~~

~~(viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;~~
~~(ix) Slag tailings from primary copper processing;~~
~~(x) Fluorogypsum from hydrofluoric acid production;~~
~~(xi) Process wastewater from hydrofluoric acid production;~~
~~(xii) Air pollution control dust or sludge from iron blast furnaces;~~
~~(xiii) Iron blast furnace slag;~~
~~(xiv) Treated residue from roasting or leaching of chrome ore;~~
~~(xv) Process wastewater from primary magnesium processing by the anhydrous process;~~
~~(xvi) Process wastewater from phosphoric acid production;~~
~~(xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;~~
~~(xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;~~
~~(xix) Chloride process waste solids from titanium tetrachloride production;~~
~~(xx) Slag from primary zinc processing~~]Solid waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock, and overburden from the mining of uranium ore, except as provided by R315-14-7, which incorporates by reference 40 CFR 266.112 for facilities that burn or process hazardous waste.

(i) For purposes of R315-2-4(b)(7) beneficiation of ores and minerals is restricted to the following activities; crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching, except where the roasting, and/or autoclaving and/or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing; gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching.

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

(A) Slag from primary copper processing;
(B) Slag from primary lead processing;
(C) Red and brown muds from bauxite refining;
(D) Phosphogypsum from phosphoric acid production;
(E) Slag from elemental phosphorus production ;
(F) Gasifier ash from coal gasification;
(G) Process wastewater from coal gasification;
(H) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
(I) Slag tailings from primary copper processing;
(J) Fluorogypsum from hydrofluoric acid production;
(K) Process wastewater from hydrofluoric acid production;
(L) Air pollution control dust/sludge from iron blast furnaces;
(M) Iron blast furnace slag;
(N) Treated residue from roasting/leaching of chrome ore;
(O) Process wastewater from primary magnesium processing by the anhydrous process;
(P) Process wastewater from phosphoric acid production;
(Q) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
(R) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
(S) Chloride process waste solids from titanium tetrachloride production;
(T) Slag from primary zinc processing.

(iii) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials remains excluded under paragraph (b) of this section if the owner or operator:

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

(B) Legitimately reclaims the secondary mineral processing materials.

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

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

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

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

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

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

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

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

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

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

(ii) Hot-draining and crushing;

(iii) Dismantling and hot-draining; or

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

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

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

(d) SAMPLES

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The quantity of the sample;

(4) The date of shipment; and

(5) A description of the sample.

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

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

(e) TREATABILITY STUDY SAMPLES.

(1) Except as provided in paragraph (e)(2) of this Section, a person who generates or collects samples for the purpose of conducting treatability studies as defined in section R315-1-1, which incorporates by reference the definitions of 40 CFR 260.10, are not subject to any requirement of R315-2, and R315-4 through R315-6, or to the notification requirements of Section 3010 of RCRA, nor are these samples included in the quantity determinations of R315-2-5, which incorporates by reference the requirements concerning conditionally exempt small quantity generators of 40 CFR 261.5 and R315-5-10, which incorporates by reference the requirements concerning waste accumulation time for generators of 40 CFR 262.34(d) when:

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

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

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

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

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

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

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

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

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

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

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

(3) the quantity of the sample;

(4) the date of shipment; and

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

(iv) the sample is shipped to a laboratory or testing facility which is exempt under R315-2-1.3(f) (40 CFR 261.4(f)) or has an appropriate RCRA plan approval or interim status;

(v) the generator or sample collector maintains the following records for a period ending 3 years after completion of the treatability study:

(A) copies of the shipping documents;

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

(C) documentation showing:

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

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

(3) the date the shipment was made; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) The facility maintains records for three years following completion of each study that show compliance with the treatment

rate limits and the storage time and quantity limits. The following specific information shall be included for each treatability study conducted:

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

(ii) the date the shipment was received;

(iii) the quantity of waste accepted;

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

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

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

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

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

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

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

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

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

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

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

(vi) when each treatability study was conducted; and

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

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

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

R315-2-10. Lists of Hazardous Wastes.

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

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

Ignitable Waste: (I)

Corrosive Waste: (C)

Reactive Waste: (R)

Toxicity Characteristic Waste: (E)

Acute Hazardous Waste: (H)

Toxic Waste: (T)

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

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

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

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

(e) The listing of hazardous wastes from non-specific sources found in 40 CFR 261.31, 1996 ed., is adopted and incorporated by reference with the following additional waste:

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

(f) The listing of hazardous wastes from specific sources found in 40 CFR 261.32, [~~1997~~]1998 ed., is adopted and incorporated by reference, excluding the following wastes:

(1) K064 -- Acid Plant blowdown slurry or sludge resulting from the thickening of blowdown slurry from primary copper production. (T)

(2) K065 -- Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities. (T)

(3) K066 -- Sludge from treatment of process wastewater or acid plant blowdown or both from primary zinc production. (T)

(4) K090 -- Emission control dust or sludge from ferrochromium silicon production. (T)

(5) K091 -- Emission control dust or sludge from ferrochromium production. (T)

(6) K160 -- Solids from the production of thiocarbamates and solids from the treatment of wastes from thiocarbamates.

R315-2-11. Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof.

The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in R315-2-11" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33. Where a manufacturing process waste is deemed to be hazardous waste because it contains a substance listed in paragraphs (e) or (f) of this section, that waste will be listed in Section R315-2-10, which incorporates the lists of hazardous wastes in 40 CFR 261.31 and 261.32, or will be identified as a hazardous waste by the characteristics set forth in Section R315-2-9.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded as described in Subsection R315-2-2(a)(2)(i), when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use, or when, in lieu of their original intended use, they are produced for use as, or a component of a fuel, distributed for use as a fuel, or burned as a fuel.

(a) Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33.

(b) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33.

(c) Any residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33, unless the container is empty as defined in R315-2-7(b). Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, the Board considers the residue to be intended for discard and thus, a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.

(d) Any residue or contaminated soil, water or other debris resulting from the cleanup of a discharge, into or on any land or water, of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33, or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraph (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33. Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, the Board considers the residue to be intended for discard, and thus a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to the drum reconditioner who reconditions the drum but discards the residue.

(e) The listing of chemicals, found in 40 CFR 261.33(e), 1997 ed., is adopted and incorporated by reference, with the addition of the following waste:

(1) P999 Nerve, Military, and Chemical Agents (i.e., CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX.)

(f) The listing of chemicals, found in 40 CFR 261.33(f), [~~1996~~]1998 ed., is adopted and incorporated by reference, excluding the following wastes:

(1) U277 -- Sulfallate.

(2) U365 -- H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester.

(3) U366 -- Dazomet.

(4) U375 -- Carbamic acid, butyl-, 3-iodo-2-propynyl ester.

(5) U376 -- Carbamodithioid acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid.

(6) U377 -- Carbamodithioic acid, methyl,- monopotassium salt.

(7) U378 -- Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt.

(8) U379 -- Carbamodithioic acie, dibutyl, sodium salt.

(9) U381 -- Carbamodithioic acid, diethyl-, sodium salt.

(10) U382 -- Carbamodithioic acid, dimethyl-, sodium salt.

(11) U383 -- Carbamodithioic acid, dimethyl, potassium salt.

(12) U384 -- Carbamodithioic acid, methyl-, monosodium salt.

(13) U385 -- Carbamothioic acid, dipropyl-, S-propyl ester.

(14) U386 -- Carbamothioic acid, cyclohexylethyl-, S-ethyl ester.

(15) U390 -- Carbamothioic acid, dipropyl-, S-ethyl ester.

(16) U391 -- Carbamothioic acid, butylethyl-, S-propyl ester.

(17) U392 -- Carbamothioic acid, bis (2-methylpropyl)-, S-ethyl ester.

(18) U393 -- Copper, bis(dimethylcarbamodithioato-S, S')-, Copper dimethyldithiocarbamate.

(19) U396 -- Iron, tris(dimethylcarbamodithioato-S,S').

(20) U400 -- Bis(pentamethylene)thiuram tetrasulfide, Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-.

(21) U401 -- Bis(dimethylthiocarbomoyl) sulfide.

(22) U402 -- Tetrabutylthiuram disulfide, Thioperoxydicarbonid diamide, tetrabutyl.

(23) U403 -- Disulfiram, Thioperoxpydicarbonic diamide, tetraethyl.

(24) U407 -- Zinc, bis(diethylcarbamodithioato-S,S')-.

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

The requirements of 40 CFR 261.38, 1998 ed., are adopted and incorporated by reference with the following exception:

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

KEY: hazardous waste
[~~February 20,~~]1998 **19-6-105**
19-6-106

Environmental Quality, Solid and Hazardous Waste
R315-3
Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21460
FILED: 09/15/1998, 12:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This proposed rule change adds a new permit modification provision intended to make it easier for facilities to make changes to their existing permits. Facilities, with certain hazardous waste combustion units, can use this permit modification provision when adding air pollution control equipment, making other changes in equipment, or making changes in operation needed to comply with upcoming air emission standards.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 270.42, 1998 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the changes in the rule do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or savings impact.
❖OTHER PERSONS: There will be no additional costs or savings impacts beyond that which is already required by adherence to equivalent federal regulations.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs beyond that which is already required by adherence to equivalent federal regulations.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-3. Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-3-15. Modification or Revocation and Reissuance of Plan Approvals.

When the Executive Secretary receives any information, for example, inspects the facility, receives information submitted by the permittee as required in the plan approval see R315-3-10, receives a request for modification or revocation and reissuance under R315-3-17 or conducts review of the plan approval file, he may determine whether one or more of the causes listed in R315-3-15(a) and (b) for modification or revocation and reissuance or both exist. If cause exists, the Executive Secretary may modify or revoke and reissue the plan approval accordingly, subject to the limitations of R315-3-17(c), and may request an updated application if necessary. When a plan approval is modified, only the conditions subject to modification are reopened. If a plan approval is revoked and reissued, the entire plan approval is reopened and subject to revision and the plan approval is reissued for a new term. See R315-3-17(c)(2). If cause does not exist under this section, the Executive Secretary shall not modify or revoke and reissue the plan approval, except on request of the permittee. If a plan approval modification is requested by the permittee, the Executive Secretary shall approve or deny the request according to the procedures of R315-3-15(d), which incorporates by reference 40 CFR 270.42. Otherwise, a draft plan approval shall be prepared and other procedures in R315-3-24 followed.

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

(1) Alterations. There are material and substantial alterations or additions to the approved facility or activity which occurred after plan approval issuance which justify the application of plan

approval conditions that are different or absent in the existing plan approval.

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

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

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

(5) Notwithstanding any other provision in this section, when a plan approval for a land disposal facility is reviewed by the Executive Secretary under R315-3-11(i), the Executive Secretary shall modify the plan approval as necessary to assure that the facility continues to comply with the currently applicable requirements in these rules.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or, alternatively, revoke and reissue a plan approval;

(1) Cause exists for termination under R315-3-16 and the Executive Secretary determines that modification or revocation and reissuance is appropriate.

(2) The Executive Secretary has received notification as required in the plan approval, see R315-3-10(l)(3) of a proposed transfer of the plan approval.

(c) Facility siting. Suitability of the facility location may not be considered at the time of plan approval modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of plan approval issuance.

(d) Plan Approval Modification at the request of the permittee.

The requirements of 40 CFR 270.42, [~~1992~~]1998 ed., are adopted and incorporated by reference[~~, as amended by 57 FR 37194, August 18, 1992 and 58 FR 8658, February 16, 1993,~~] with the following exceptions;

(1) substitute "Executive Secretary" for all Federal regulation references made to "Director" or "Administrator";

(2) substitute "Plan Approval" for all Federal regulation references made to "Permit".

R315-3-31. Changes During Interim Status.

(a) Except as provided in R315-3-31(b), the owner or operator of an interim status facility may make the following changes at the facility:

(1) Treatment, storage, or disposal of new hazardous wastes not previously identified in Part A of the plan approval application and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the hazardous wastes on the effective date of the listing or identification if the owner or operator submits a revised Part A plan approval application prior to treatment, storage, or disposal;

(2) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to a change, along with a justification explaining the need for the change, and the Executive Secretary approves the changes because :

(i) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities, or

(ii) The change is necessary to comply with a Federal, State, or local requirement.

(3) Changes in the processes for the treatment, storage, or disposal of hazardous waste or addition of processes if the owner or operator submits a revised Part A plan approval application prior to such change, along with a justification explaining the need for the change, and the Executive Secretary approves the change because:

(i) The change is necessary to prevent a threat to human health and the environment because of an emergency situation, or

(ii) The change is necessary to comply with a Federal, State, or local requirement.

(4) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A plan approval application no later than 90 days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator shall comply with the requirements of R315-7-15, which incorporates by reference 40 CFR 265.140 - 265.150, until the new owner or operator has demonstrated to the Executive Secretary that he is complying with the requirements of that section. The new owner or operator must demonstrate compliance with R315-7-15, which incorporates by reference 40 CFR 265.140 - 265.150, within six months of the date of the change in ownership or operational control of the facility. Upon demonstration to the Executive Secretary by the new owner or operator of compliance with R315-7-15, which incorporates by reference 40 CFR 265.140 - 265.150, the Executive Secretary shall notify the old owner or operator in writing that he no longer needs to comply with R315-7-15, which incorporates by reference 40 CFR 265.140 - 265.150, as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(5) Changes made in accordance with an interim status corrective action order issued, under 19-6-105(d), or by EPA under section 3008(h) RCRA or other Federal authority or by a court in a judicial action brought by EPA or by an authorized state. Changes under this paragraph are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(6) Addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised Part A permit application on or before the date on which the unit becomes subject to the new requirements.

(b) Except as specifically allowed under this paragraph, changes listed under R315-3-31(a) may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(1) Changes made solely for the purposes of complying with the requirements of R315-7-17, which incorporates by reference 40 CFR 265.193, for tanks and ancillary equipment.

(2) If necessary to comply with Federal, State, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of section 3004(o) of RCRA.

(3) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(4) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(5) Changes necessary to comply with an interim status corrective action order issued, under Subsection 19-6-105(d), or by EPA under section 3008(h) of RCRA or other Federal authority, or by a court in a judicial proceeding brought by EPA, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(6) Changes to treat or store, in tanks or containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by R315-13, which incorporates by reference 40 CFR 268, or R315-8, provided that these changes are made solely for the purpose of complying with R315-13, which incorporates by reference 40 CFR 268, or R315-8.

(7) Addition of newly regulated units under paragraph (a)(6) of this section.

(8) Changes necessary to comply with standards under 40 CFR part 63, Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.

KEY: hazardous waste
[~~February 20,~~]1998 **19-6-105**
19-6-106

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Environmental Quality, Solid and Hazardous Waste

R315-7

Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21461
FILED: 09/15/1998, 12:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This proposed rule change promulgates standards to reduce organic air emissions from certain hazardous waste management activities to levels that are protective of human health and the environment.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 265.73, 1997 ed.; 40 CFR 265.1030-1035, 1997 ed.; 62 FR 64636, December 8, 1997; 40 CFR 265.1050-1064, 1997 ed.; and 40 CFR 265.1080-1091, 1997 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the changes in the rule do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or savings impact.
❖OTHER PERSONS: Since the changes in the rule do not affect other persons and the enforcement of the rule will not change, there will be no cost or savings impact.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs beyond that which is already required by adherence to equivalent federal regulations.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-7. Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-7-9. General Facility Standards.

9.1 APPLICABILITY

The rules in this section apply to the owners and operators of all hazardous waste management facilities, except as provided otherwise in R315-7-8.1.

9.2 IDENTIFICATION NUMBER

Every facility owner or operator shall apply for an EPA Identification Number in accordance with Section 3010 of RCRA. Facility owners or operators who did not obtain an EPA Identification Number for their facilities through the notification process shall obtain one. Information on obtaining this number can be acquired by contacting the Utah Bureau of Solid and Hazardous Waste Management.

9.3 REQUIRED NOTICES

(1) An owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall notify the Board in writing at least four weeks in advance of the expected date of arrival of these shipments at the facility. A notice of subsequent shipments of the same waste from the same foreign sources is not required.

(2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to R315-5-15, which incorporates by reference 40 CFR 262, Subpart H, shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Division of Solid and Hazardous Waste, P.O. Box 144880, Salt Lake City, Utah, 84114-4880; Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document must be maintained at the facility for at least three years.

(b) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of R315-7 and R315-3. An owner's or operator's failure to notify the new owner or operator of the requirements of R315-7 in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

9.4 GENERAL WASTE ANALYSIS

The requirements of 40 CFR 265.13, 1996 ed., are adopted and incorporated by reference.

9.5 SECURITY

(a) A facility owner or operator shall prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of his facility; unless

(1) Physical contact with the waste, structures, or equipment within the active portion of the facility will not injure unknowing or unauthorized persons or livestock which may enter the active portion of a facility; and

(2) Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility will not cause a violation of the requirements of R315-7.

(b) Unless exempt under R315-7-9.5(a)(1) and (a)(2), facilities shall have;

(1) A 24-hour surveillance system, e.g., television monitoring or surveillance by guards or facility personnel, which continuously monitors and controls entry onto the active portion of the facility; or

(2)(i) An artificial or natural barrier or both, e.g. a fence in good repair or a cliff, which completely surrounds the active portion of the facility; and

(ii) A means to control entry at all times through the gates or other entrances to the active portion of the facility, e.g., an attendant, television monitors, locked entrance, or controlled roadway access to the facility.

The requirements of R315-7-9.5(b) are satisfied if the facility or plant within which the active portion is located itself has a surveillance system or a barrier and a means to control entry which complies with the requirements of R315-7-9.5(b)(1) and (2).

(c) Unless exempt under R315-7-9.5(a)(1) and (a)(2), a sign with the legend, "Danger -Unauthorized Personnel Keep Out", shall be posted at each entrance to the active portion of a facility and at other locations, in sufficient numbers to be seen from any approach to the active portion. The legend shall be written in English and any other language predominant in the area surrounding the facility and shall be legible from a distance of at least twenty-five feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion is potentially dangerous.

Owners or operators are encouraged to also describe on the sign the type of hazard, e.g., hazardous waste, flammable wastes, etc., contained within the active portion of the facility. See R315-7-14.7(b) for discussion of security requirements at disposal facilities during the post-closure care period.

9.6 GENERAL INSPECTION REQUIREMENTS

(a) Facility owners or operators shall inspect their facilities for malfunctions and deterioration, operator errors, and discharges, which may be causing or may lead to (1) release of hazardous waste constituents to the environment or (2) a threat to human health. These inspections shall be conducted frequently enough to identify problems in time to correct them before they harm human health or the environment.

(b) Facility owners or operators shall develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment, e.g., dikes and sump pumps, that are important to preventing, detecting, or responding to environmental or human health hazards. The schedule shall be kept at the facility, and shall identify the types of problems, i.e., malfunctions or deterioration, which are to be looked for during the inspection, for example, inoperative sump pump, leaking fitting, eroding dike, etc. The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of deterioration of the

equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas shall be inspected daily when in use. At a minimum, the inspection schedule shall include the items and frequencies called for in R315-7-16.5, R315-7-17, which incorporates by reference 40 CFR 265.190 - 265.201, R315-7-18.5, R315-7-19.12, R315-7-20.5, R315-7-21.12, R315-7-22.4, R315-7-23.4, R315-7-24.4, R315-7-26, which incorporates by reference 40 CFR 265.1033, R315-7-27, which incorporates by reference 40 CFR 265.1052, 265.1053, and 265.1058 and R315-7-30, which incorporates by reference 40 CFR [~~265.1089 and 264.1091(b)~~]265.1084 through 265.1090.

(c) The owner or operator shall remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.

(d) The owner or operator shall keep records of inspections in an inspection log or summary. These records shall be retained for at least three years. At a minimum, these records shall include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs made or remedial actions taken.

9.7 PERSONNEL TRAINING

(a)(1) Facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of R315-7, and that includes all the elements described in R315-7-9.7(d)(3).

(2) This program shall be directed by a person trained in hazardous waste management procedures, and shall include instruction supplementing the facility personnel's existing job knowledge, which teaches facility personnel hazardous waste management procedures, including contingency plan implementation, relevant to the positions in which they are employed.

(3) At a minimum, the training program shall be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including, but not necessarily limited to, the following, where applicable:

(i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(ii) Key parameters for automatic waste feed cut-off systems;

(iii) Communications or alarm systems or both;

(iv) Response to fires or explosions;

(v) Response to groundwater contamination incidents; and

(vi) Shutdown of operations.

(b) Facility personnel shall successfully complete the program required in R315-7-9.7(a) within six months after the effective date of these rules or six months after the date of employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these rules shall not work in unsupervised positions until they have completed the training requirements of R315-7-9.7(a).

(c) Facility personnel shall take part in an annual review of their initial training in R315-7-9.7(a).

(d) Owners or operators of facilities shall maintain the following documents and records at their facilities and make them available to the Board or its duly appointed representative upon request:

(1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(2) A written job description for each position listed under R315-7-9.7(d)(1). This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but shall include the requisite skill, education, or other qualifications and duties of facility personnel assigned to each position;

(3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under R315-7-9.7(d)(1); and

(4) Records that document that the training or job experience required under paragraphs R315-7-9.7(a), (b), and (c) has been given to, and completed by, facility personnel.

(e) Training records on current personnel shall be maintained until closure of the facility; training records on former employees shall be maintained for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

9.8 GENERAL REQUIREMENTS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTES

(a) The owner or operator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste shall be separated and protected from sources of ignition or reaction including but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks, static, electrical, or mechanical, spontaneous ignition, e.g., from heat-producing chemical reactions, and radiant heat. While ignitable or reactive waste is being handled, the owner or operator shall confine smoking and open flames to specially designated locations. "No Smoking" signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by R315-7, the treatment, storage, or disposal of ignitable or reactive waste and the mixture or commingling of incompatible wastes, or incompatible wastes and materials, shall be conducted so that it does not:

(1) Generate uncontrolled extreme heat or pressure, fire or explosion, or violent reaction;

(2) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosion;

(4) Damage the structural integrity of the device or facility containing the waste; or

(5) Through other like means threaten human health or the environment.

9.9 LOCATION STANDARDS

The placement of any hazardous waste in a salt dome, salt bed formation, underground mine or cave is prohibited, except for the Department of Energy Waste Isolation Pilot Project in New Mexico.

9.10 CONSTRUCTION QUALITY ASSURANCE PROGRAM

(a) CQA program. (1) A construction quality assurance, CQA, program is required for all surface impoundment, waste pile, and

landfill units that are required to comply with R315-7-18.9(a), R315-7-19.9, and R315-7-21.10(a). The program shall ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program shall be developed and implemented under the direction of a CQA officer who is a registered professional engineer.

(2) The CQA program shall address the following physical components, where applicable:

(i) Foundations;

(ii) Dikes;

(iii) Low-permeability soil liners;

(iv) Geomembranes, flexible membrane liners;

(v) Leachate collection and removal systems and leak detection systems; and

(vi) Final cover systems.

(b) Written CQA plan. Before construction begins on a unit subject to the CQA program under R315-7-9.10(a), the owner or operator shall develop a written CQA plan. The plan shall identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan shall include:

(1) Identification of applicable units, and a description of how they will be constructed.

(2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.

(3) A description of inspection and sampling activities for all unit components identified in R315-7-9.10(a)(2), including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description shall cover: Sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded and retained in the operating record under R315-7-12.4.

(c) Contents of program. (1) The CQA program shall include observations, inspections, tests, and measurements sufficient to ensure:

(i) Structural stability and integrity of all components of the unit identified in R315-7-9.10(a)(2);

(ii) Proper construction of all components of the liners, leachate collection and removal system, leak detection system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components, e.g., pipes, according to design specifications;

(iii) Conformity of all materials used with design and other material specifications under R315-8-11.2, R315-8-12.2, and R315-8-14.2.

(2) The CQA program shall include test fills for compacted soil liners, using the same compaction methods as in the full-scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of R315-8-11.2(c)(1), R315-8-12.2(c)(1), and R315-8-14.2(c)(1) in the field. Compliance with the hydraulic conductivity requirements shall be verified by using in-situ testing on the constructed test fill. The test fill requirement is waived where data are sufficient to show that a constructed soil liner meets the hydraulic conductivity requirements of R315-8-11.2(c)(1), R315-8-12.2(c)(1), and R315-8-14.2(c)(1) in the field.

(d) Certification. The owner or operator of units subject to R315-7-9.10 shall submit to the Executive Secretary by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the CQA officer that the CQA plan has been successfully carried out and that the unit meets the requirements of R315-8-11.2(a), R315-8-12.2, or R315-8-14.2(a). The owner or operator may receive waste in the unit after 30 days from the Executive Secretary's receipt of the CQA certification unless the Executive Secretary determines in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the CQA officer's certification shall be furnished to the Executive Secretary upon request.

R315-7-12. Manifest System, Recordkeeping, and Reporting.

12.1 APPLICABILITY

The rules in this section apply to owners and operators of both on-site and off-site facilities, except as provided otherwise in R315-7-8.1. R315-7-12.2, R315-7-12.3, and R315-7-12.7 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources.

12.2 USE OF MANIFEST SYSTEM

(a) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his agent, shall:

(1) Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;

(2) Note any significant discrepancies in the manifest, as defined in R315-7-12.3, on each copy of the manifest;

The Board does not intend that the owner or operator of a facility whose procedures under R315-7-9.4(c) include waste analysis shall perform that analysis before signing the manifest and giving it to the transporter. R315-7-12.3(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(3) Immediately give the transporter at least one copy of the signed manifest;

(4) Within 30 days after the delivery, send a copy of the manifest to the generator; and

(5) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(b) If a facility receives, from a rail or water, bulk shipment, transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest, excluding the EPA Identification Numbers, generator's certification, and signatures, the owner or operator, or his agent, shall:

(1) Sign and date each copy of the manifest or shipping paper, if the manifest has not been received, to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies, as defined in R315-7-12.3(a), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper;

(3) Immediately give the rail or water, bulk shipment, transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or

operator, or his agent, shall send a copy of the signed and dated shipping paper to the generator; and

(5) Retain at the facility a copy of the manifest and shipping paper, if signed in lieu of the manifest at the time of delivery for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of R315-5.

The provisions of R315-5-9.1 are applicable to the on-site accumulation of hazardous wastes by generators and only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

(d) Within three working days of the receipt of a shipment subject to R315-5-15, which incorporates by reference 40 CFR 262 Subpart H, the owner or operator of the facility shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Division of Solid and Hazardous Waste, P.O. Box 144880, Salt Lake City, Utah, 84114-4880; Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to competent authorities of all other concerned countries. The original copy of the tracking document shall be maintained at the facility for at least three years from the date of signature.

12.3 MANIFEST DISCREPANCIES

(a) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are: (1) for bulk waste, variations greater than ten percent in weight, and (2) for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies 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.

(b) Upon discovering a significant discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter, e.g., with telephone conversations. If the discrepancy is not resolved within 15 days of receipt of the waste, the owner or operator shall immediately submit a letter describing the discrepancy, and attempts to reconcile it, including a copy of the manifest at issue, to the Board.

12.4 OPERATING RECORD

The requirements as found in 40 CFR 265.73, [~~1996~~]1997 ed., as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference.

12.5 AVAILABILITY, RETENTION, AND DISPOSITION OF RECORDS

(a) All records, including plans, required under R315-7 shall be furnished upon written request, and made available at all reasonable times for inspection.

(b) The retention period for all records required under R315-7 is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the Board.

(c) A copy of records of waste disposal locations required to be maintained under R315-7-12.4, which incorporates by reference 40 CFR 265.73, shall be turned over to the Board and the local land authority upon closure of the facility, see R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120.

12.6 BIENNIAL REPORT

Owners or operators of facilities that treat, store, or dispose of hazardous waste shall prepare and submit a single copy of a biennial report to the Board by March 1 of each even numbered year. The biennial report shall be submitted on EPA form 8700-13B. The biennial report shall cover facility activities during the previous calendar year and shall include the following information:

(a) The EPA Identification Number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA Identification Number of each hazardous waste generator from which a hazardous waste was received during the year; for imported shipments, the name and address of the foreign generator shall be given;

(d) A description and the quantity of each hazardous waste received by the facility during the year. For off-site facilities, this information shall be listed by EPA Identification Number of each generator;

(e) The method(s) of treatment, storage, or disposal for each hazardous waste;

(f) Monitoring data, where required under R315-7-13.5(a)(2)(ii) and (iii) and (b)(2) where required;

(g) The most recent closure cost estimate under R315-7-15, which incorporates by reference 40 CFR 265.140 - 265.150;

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(i) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent the information is available for the years prior to 1984;

(j) The certification signed by the owner or operator of the facility or his authorized representative.

12.7 UNMAINFESTED WASTE REPORT

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in R315-4-3(e)(2) of these rules, and if the waste is not excluded from the manifest requirements by R315-2-2, then the owner or operator shall prepare and submit a single copy of a report to the Board within 15 days after receiving the waste. These reports shall be designated "Unmanifested Waste Report" and include the following information:

(a) The EPA Identification Number, name, and address of the facility;

(b) The date the facility received the waste;

(c) The EPA Identification Number, name, and address of the generator and the transporter, if available;

(d) A description and the quantity of each unmanifested hazardous waste the facility received;

(e) The method of treatment, storage, or disposal for each hazardous waste;

(f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

Small quantities of hazardous waste are excluded from regulation under R315-7 and do not require a manifest. Where a facility receives unmanifested hazardous wastes, the owner or operator should obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, the owner or operator should file an unmanifested waste report for the hazardous waste movement.

12.8 ADDITIONAL REPORTS

In addition to the biennial and unmanifested waste reporting requirements described in R315-7-12.6, and R315-7-12.7, a facility owner or operator shall also report to the Board:

(a) Discharges, fires, and explosions as specified in R315-7-11.7(j);

(b) Groundwater contamination and monitoring data as specified in R315-7-13.4 and R315-7-13.5;

(c) Facility closure as specified in R315-7-14, which incorporates by reference 40 CFR 265.110 - 265.120;

(d) Upon its request, all information as the Board may deem necessary to determine compliance with the requirements of R315-7;

(e) As otherwise required by R315-7-26, which incorporates by reference 40 CFR 265.1030 - 265.1035, R315-7-27, which incorporate by reference 40 CFR 265 265.1050 - 265.1064 and R315-7-30, which incorporates by reference 40 CFR 265.1080 - 265.1091.

R315-7-26. Air Emission Standards for Process Vents.

The requirements of 40 CFR Subpart AA Sections 265.1030 through 265.1035, 1997 ed., as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference with the following exception:

(1) substitute "Board" for all federal regulation references made to "Regional Administrator".

R315-7-27. Air Emission Standards for Equipment Leaks.

The requirements of 40 CFR Subpart BB Sections 265.1050 through 265.1064, 1997 ed., as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference with the following exception:

(1) substitute "Board" for all federal regulation references made to "Regional Administrator".

R315-7-30. Air Emission Standards for Tanks, Surface Impoundments, and Containers.

The requirements as found in 40 CFR Subpart CC, Sections 265.1080 through 265.1091, [~~1996~~]1997 ed., as amended by [~~61 FR 59931, November 25, 1996~~]as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference with the following exception:

(1) substitute "Executive Secretary" for all federal regulation references made to "Regional Administrator."

KEY: hazardous waste
[~~February 20,~~]1998 **19-6-105**
19-6-106

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Environmental Quality, Solid and Hazardous Waste

R315-8

Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21462
FILED: 09/15/1998, 12:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This proposed rule change promulgates standards to reduce organic air emissions from certain hazardous waste management activities to levels that are protective of human health and the environment.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 264.73, 1997 ed.; 40 CFR 264.1030-1036, 1997 ed.; 62 FR 64636, December 8, 1997; 40 CFR 264.1050-1065, 1997 ed.; and 40 CFR 264.1080-1091, 1997 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the changes in the rule do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or savings impact.
❖OTHER PERSONS: Since the changes in the rule do not affect other persons and the enforcement of the rule will not change, there will be no cost or savings impact.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs beyond that which is already required by adherence to equivalent federal regulations.

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

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

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-8. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-8-2. General Facility Standards.

2.1 APPLICABILITY

(a) The rules in this section apply to the owners or operators of all hazardous waste management facilities, except as provided otherwise in R315-8-1(e).

(b) R315-8-2.9(b) applies only to facilities subject to regulation under R315-8-9 through R315-8-15 and R315-8-16, which incorporates by reference 40 CFR 264.600 - 264.603.

2.2 IDENTIFICATION NUMBER

Every facility owner or operator shall apply for an EPA Identification Number. Facility owners or operators who did not obtain an EPA Identification Number for their facilities through the notification process shall obtain one. Information on obtaining this number can be acquired by contacting the Utah Bureau of Solid and Hazardous Waste Management.

2.3 REQUIRED NOTICES

(a)(1) An owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall notify the Board in writing at least four weeks in advance of the expected date of arrival of these shipments at the facility. A notice of subsequent shipments of the same waste from the same foreign source is not required.

(2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to R315-5-15, which incorporates by reference 40 CFR 262, Subpart H, shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Division of Solid and Hazardous Waste, P.O. Box 144880, Salt Lake City, Utah, 84114-4880; Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document must be maintained at the facility for at least three years.

(b) An owner or operator of a facility that receives hazardous waste from off-site, except when the owner or operator is also the generator, shall inform the generator in writing that he has the appropriate plan approval(s) for, and will accept, the waste the generator is shipping. A copy of this written notice shall be retained by the owner or operator as part of the operating record of waste received.

(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 R315-8 and R315-3. An owner's or operator's failure to notify the new owner or operator of the requirements of R315-8 in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

2.4 GENERAL WASTE ANALYSIS

The requirements as found in 40 CFR 264.13, 1996 ed., are adopted and incorporated by reference.

2.5 SECURITY

(a) A facility owner or operator shall prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of his facility, unless he can demonstrate to the Board that:

(1) Physical contact with the waste structures, or equipment within the active portion of the facility will not injure unknowing or unauthorized persons or livestock which may enter the active portion of a facility; and

(2) Disturbance of the waste or equipment, by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility, will not cause a violation of the requirements of R315-8-2.5.

An owner or operator who wishes to make the demonstration referred to above shall do so with the Part B Plan Approval Application.

(b) Unless the owner or operator has made a successful demonstration under R315-8-2.5(a)(1) and (a)(2), a facility shall have:

(1) A 24-hour surveillance system, e.g., television monitoring or surveillance by guards or facility personnel, which continuously monitors and controls entry onto the active portion of the facility; or

(2)(i) An artificial or natural barrier, e.g., 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 gates or other entrances to the active portion of the facility, e.g., an attendant, television monitors, locked entrance, or controlled roadway access to the facility. The requirements of R315-8-2.5(b) are satisfied if the facility or plant within which the active portion is located itself has a surveillance system, or a barrier and a means to control entry, which complies with the requirements of R315-8-2.5(b)(1) or (2).

(c) Unless the owner or operator has made a successful demonstration under R315-8-2.5(a)(1) and (a)(2), a sign with the legend, "Danger - Unauthorized Personnel Keep Out", shall be posted at each entrance to the active portion of a facility, and at other locations, in sufficient numbers to be seen from any approach

to the active portion. The legend shall be written in English and in any other language predominant in the area surrounding the facility 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 is potentially dangerous. Owners or operators are encouraged to also describe in the sign the type of hazard, e.g., hazardous waste, flammable wastes, etc. contained within the active portion of the facility. See R315-8-7, which incorporates by reference 40 CFR 264.110 - 264.120, for discussion of security requirements during the post-closure care period.

2.6 GENERAL INSPECTION REQUIREMENTS

(a) Facility owners or operators shall inspect their facilities for malfunctions and deterioration, operator errors, and discharges, which may be causing or may lead to release of hazardous waste constituents to the environment or pose a threat to human health. These inspections shall be conducted frequently enough to identify problems in time to take corrective action before they harm human health or the environment.

(b)(1) Facility owners or operators shall develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment, such as dikes and sump pumps, that are important to preventing, detecting, or responding to environmental or human health hazards.

(2) The schedule shall be kept at the facility.

(3) The schedule shall identify the types of problems, e.g., malfunctions or deterioration, which are to be looked for during the inspection, for example, inoperative sump pump, leaking fitting, eroding dike, etc.

(4) The frequency of the inspection may vary for the items on the schedule. However, it should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, shall be inspected daily when they are in use. At a minimum, the inspection schedule shall include the items and frequencies called for in R315-8-9.5, R315-8-10, which incorporates by reference 40 CFR 264.190 - 264.199, R315-8-11.3, R315-8-12.3, R315-8-13.6, R315-8-14.3, R315-8-15.7, R315-8-16, which incorporates by reference 40 CFR 264.600 - 264.603, R315-8-17, which incorporates by reference 40 CFR 264.1030 - 264,1036, R315-8-18, which incorporates by reference 40 CFR 264.1050 - 264.1065, and R315-8-22, which incorporates by reference 40 CFR [~~264.1088 and 264.1091(b)~~]264.1083 through 264.1089.

(c) The owner or operator shall make any repairs, or take other remedial action, on a time schedule which ensures that any deterioration or malfunction discovered does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.

(d) The owner or operator shall keep records of inspections in an inspection log or summary. These records shall be retained for at least three years. At a minimum, these records shall include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs made or remedial actions taken.

2.7 PERSONNEL TRAINING

(a)(1) Facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this section and that includes all the elements described in the document required under R315-8-2.7(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 position in which they are employed.

(3) At a minimum, the training program shall be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including, but not necessarily limited to, the following, where applicable:

(i) Procedures for inspection, use, repair, and replacement of facility emergency and monitoring equipment;

(ii) Communications or alarm systems;

(iii) Key parameters for automatic waste feed cut-off systems;

(iv) Response to fires or explosions;

(v) Response to groundwater contamination incidents; and

(vi) Shutdown of operations.

(b) Facility personnel shall successfully complete the program required in R315-8-2.7(a) within six months after the effective date of these rules or six months after the date of employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these rules shall not work in unsupervised positions until they have completed the training requirements of R315-8-2.7(a).

(c) Facility personnel shall take part in an annual review of their initial training in both contingency procedures and the hazardous waste management procedures relevant to the positions in which they are employed.

(d) Owners or operators of facilities shall maintain the following documents and records and make them available upon request:

(1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(2) A written job description for each position listed under R315-8-2.7(d)(1). This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but shall include the requisite skill, education, or other qualifications and duties of employees assigned to each position;

(3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under R315-8-2.7(d)(1);

(4) Records that document that the training or job experience required under R315-8-2.7(a), (b), and (c) has been given to, and completed by, facility personnel.

(e) Training records on current employees shall be maintained until closure of the facility; training records on former employees shall be retained for at least three years from the date the employee last worked at the facility. Employee training records may accompany personnel transferred within the same company.

2.8 GENERAL REQUIREMENTS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTES

(a) The owner or operator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive wastes. These waste shall be separated and protected from sources of ignition or reaction including but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks, static, electrical, or mechanical, spontaneous ignition, e.g., from heat-producing chemical reactions, and radiant heat. While ignitable or reactive waste is being handled, the owner or operator shall confine smoking and open 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 this Part, the owner or operator of a facility that treats, stores or disposes ignitable or reactive waste, or mixes incompatible waste or incompatible wastes and other materials, shall take precautions to prevent reactions which:

(1) Generate extreme heat or pressure, fire or explosion, or violent reactions;

(2) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(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;

(5) Through other like means threaten human health or the environment.

(c) When required to comply with R315-8-2.8, the owner or operator shall document that compliance. This documentation may be based on references to published scientific or engineering literature, date from trial tests, e.g., bench scale or pilot scale tests, waste analyses as specified in R315-8-2.4, which incorporates by reference 40 CFR 264.13, or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

2.9 LOCATION STANDARDS

(a) Seismic considerations.

(1) Portions of new facilities where treatment, storage, or disposal of hazardous waste will be conducted shall not be located within 61 meters (200 feet) of a fault which has had displacement in Holocene time. For definition of terms used in this section see R315-1. Procedures for demonstrating compliance with this standard in Part B of the plan approval application are specified in R315-3 specifically in R315-3-5. Facilities which are located in political jurisdictions other than those listed in R315-50-11 are assumed to be in compliance with this requirement.

(b) Floodplains.

(1) A facility located in a 100-year floodplain shall be designed, constructed, operated and maintained to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can demonstrate to the Executive Secretary's satisfaction that:

(i) Procedures are in effect which will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to flood waters; or

(ii) For existing surface impoundments, waste piles, land treatment units, landfills, and miscellaneous units, no adverse effects on human health or the environment will result if washout occurs, considering:

(A) The volume and physical and chemical characteristics of the waste in the facility;

(B) The concentration of hazardous constituents that would potentially affect surface waters as a result of washout;

(C) The impact of such concentrations on the current or potential uses of and water quality standards established for the affected surface waters; and

(D) The impact of hazardous constituents on the sediments of affected surface waters or the soils of the 100-year floodplain that could result from washout. The location where wastes are moved shall be a facility which is either permitted by EPA or has a plan approval in accordance with R315-3.

(2) As used in R315-8-2.9(b)(1):

(i) "100-year floodplain" means any land area which is subject to a one percent or greater chance of flooding in any given year from any source;

(ii) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding;

(iii) "100-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

(c) Salt dome formations, salt bed formations, underground mines and caves.

The placement of any non-containerized or bulk liquid hazardous wastes in any salt dome formation, salt bed formation, underground mine or cave is prohibited, except for the Department of Energy Waste Isolation Pilot Project in New Mexico.

2.10 CONSTRUCTION QUALITY ASSURANCE PROGRAM

(a) CQA program. (1) A construction quality assurance (CQA) program is required for all surface impoundment, waste pile, and landfill units that are required to comply with R315-8-11.2(c) and (d), R315-8-12.2(c) and (d), and R315-8-14.2(c) and (d). The program must ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program must be developed and implemented under the direction of a CQA officer who is a registered professional engineer.

(2) The CQA program must 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. The owner or operator of units subject to the CQA program under R315-8-2.10(a) must develop and implement a written CQA plan. The plan must 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 must include:

(1) Identification of applicable units, and a description of how they will be constructed.

(2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.

(3) A description of inspection and sampling activities for all unit components identified in R315-8-2.10(a)(2), including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the

installed unit components meet the design specifications. The description must cover: Sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded and retained in the operating record under R315-8-5.3.

(c) Contents of program. (1) The CQA program must include observations, inspections, tests, and measurements sufficient to ensure:

(i) Structural stability and integrity of all components of the unit identified in R315-8-2.10(a)(2);

(ii) Proper construction of all components of the liners, leachate collection and removal system, leak detection system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components, e.g., pipes, according to design specifications;

(iii) Conformity of all materials used with design and other material specifications under R315-8-11.2, R315-8-12.2, and R315-8-14.2.

(2) The CQA program shall include test fills for compacted soil liners, using the same compaction methods as in the full scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of R315-8-11.2(c)(1)(i)(B), R315-8-12.2(c)(1)(i)(B), and R315-8-14.2(c)(1)(i)(B) in the field. Compliance with the hydraulic conductivity requirements must be verified by using in-situ testing on the constructed test fill. The Executive Secretary may accept an alternative demonstration, in lieu of a test fill, where data are sufficient to show that a constructed soil liner will meet the hydraulic conductivity requirements of R315-8-11.2(c)(1)(i)(B), R315-8-12.2(c)(1)(i)(B), and R315-8-14.2(c)(1)(i)(B) in the field.

(d) Certification. Waste shall not be received in a unit subject to R315-8-2.10 until the owner or operator has submitted to the Executive Secretary by certified mail or hand delivery a certification signed by the CQA officer that the approved CQA plan has been successfully carried out and that the unit meets the requirements of R315-8-11.2(c) or (d), R315-8-12.2(c) or (d), or R315-8-14.2(c) or (d); and the procedure in R315-3-10(l)(2)(ii) has been completed. Documentation supporting the CQA officer's certification must be furnished to the Executive Secretary upon request.

R315-8-5. Manifest System, Recordkeeping, and Reporting.

5.1 APPLICABILITY

The rules in this section apply to owners and operators of both on-site and off-site facilities, except as provided otherwise in R315-8-1. R315-8-5.2, R315-8-5.4, and R315-8-5.7 do not apply to owners and operators of on-site facilities that do not receive hazardous waste from off-site sources.

R315-8-5.3, incorporates by reference 40 CFR 264.73, July 1, 1992. However, 264.73(b) only applies to permittees who treat, store, or dispose of hazardous wastes on-site where the wastes were generated.

5.2 USE OF MANIFEST SYSTEM

An owner or operator, or his agent, of a facility that receives hazardous waste accompanied by a manifest shall comply with section R315-4-4. Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of R315-5.

5.3 OPERATING RECORD

The requirements as found in 40 CFR 264.73, [~~1996~~]1997 ed., as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference.

5.4 MANIFEST DISCREPANCIES

(a) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are: (1) for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload, and (2) for bulk waste, variations greater than 10 percent in weight. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(b) Upon discovering a significant discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter, e.g., with telephone conversations. If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the Executive Secretary a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. The Executive Secretary does not intend that the owner or operator of a facility whose procedures under R315-8-2.4 which incorporates by reference 40 CFR 264.13, include waste analysis shall perform that analysis before signing the manifest and giving it to the transporter. However, unreconciled discrepancies discovered during later analysis shall be reported.

5.5 AVAILABILITY, RETENTION, AND DISPOSITION OF RECORDS

(a) Records of waste disposal locations and quantities required to be maintained under R315-5-6.3(b)(2) shall be submitted to the Board and local land authority upon closure of the facility.

(b) The retention period for all records required under this section is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the Executive Secretary.

(c) All records, including plans, required under R315-8 shall be furnished upon request, and made available at all reasonable times for inspection.

5.6 BIENNIAL REPORT

Owners or operators of facilities that treat, store, or dispose of hazardous waste shall prepare and submit a single copy of an biennial report to the Board by March 1 of each even numbered year. The biennial report shall be submitted on EPA form 8700-13B. The biennial report shall cover facility activities during the previous calendar year and shall include the following information:

(a) The EPA Identification Number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA identification number of each hazardous waste generator from which a hazardous waste was received during the year; for imported shipments, the name and address of the foreign generator shall be given in the report;

(d) A description and the quantity of each hazardous waste received by the facility during the year. For off-site facilities, this information shall be listed by EPA identification number of each generator;

(e) The method(s) of treatment, storage, or disposal for each hazardous waste; and

(f) The most recent closure cost estimate under R315-8-8, which incorporates by reference 40 CFR 264. 140 - 264.151, and for disposal facilities, the most recent post-closure cost estimate under R315-8-8, which incorporates by reference 40 CFR 264.140 - 264.151; and

(g) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent the information is available for the years prior to 1984;

(i) The certification signed by the owner or operator of the facility or his authorized representative.

5.7 UNMANIFESTED WASTE REPORT

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest as described in R315-4-3(e)(2), except for shipments that do not require a manifest because of the exclusions in R315-2, the owner or operator shall prepare and submit a single copy of a report to the Board within 15 days of the receipt of the waste. The report shall include the following information:

(a) The EPA identification number, name, and address of the facility;

(b) The date of receipt of the waste;

(c) The word "unmanifested" under the comments section, or check appropriate box of the report form;

(d) The EPA identification number, name, and address of the generator and the transporter, if available;

(e) A description and the quantity of each unmanifested hazardous waste received by the facility;

(f) The method(s) of treatment, storage, or disposal for each hazardous waste;

(g) A certification signed by the owner or operator of the facility or his authorized representative; and

(h) A brief explanation of why the shipment was unmanifested, in the comments section of the report form. If a facility owner or operator accepts unmanifested hazardous waste, believing it to be excluded under R315-2, he should obtain from the generator a certification that the waste qualifies for exclusion, otherwise he should file an unmanifested waste report for the hazardous waste movement.

5.8 ADDITIONAL REPORTS

In addition to the biennial and unmanifested waste reporting requirements described in R315-8-5.6 and R315-8, a facility owner operator shall also report the following to the Board:

(a) Discharges, fires, and explosions as specified in R315-8-4.7(j);

(b) Upon its request, all information as the Board may deem necessary to determine compliance with the requirements of R315-8;

(c) Facility closure as specified in R315-8-7, which incorporates by reference 40 CFR 264.110 - 264.120; and

(d) As otherwise required in R315-8-6, R315-8-11, R315-8-12, R315-8-13, R315-8-14, R315-8-17, which incorporates by reference 40 CFR 264-1030 - 264.1036, R315-8-18, which incorporates by reference 40 CFR 264.1050 - 264.1065, and R315-8-22, which incorporates by reference 40 CFR 264.1080 - 264.1090.

R315-8-17. Air Emission Standards for Process Vents.

The requirements as found in 40 CFR Subpart AA Sections 264.1030 through 264.1036, 1997 ed., as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference with the following exception:

(1) substitute "Board" for all federal regulation references made to "Regional Administrator".

R315-8-18. Air Emission Standards for Equipment Leaks.

The requirements as found in 40 CFR Subpart BB Sections 264.1050 through 264.1065, 1997 ed., as amended by 62 FR 64636, December 8, 1997, are adopted and incorporated by reference with the following exception:

(1) substitute "Board" for all federal regulation references made to "Regional Administrator".

R315-8-22. Air Emission Standards for Tanks, Surface Impoundments, and Containers.

The requirements as found in 40 CFR Subpart CC, Sections 264.1080 through 264.1091, [~~1996~~]1997 ed., as amended by [~~61 FR 59931, November 25, 1996~~]62 FR 64636, December 8, 1997, are adopted and incorporated by reference with the following exception:

(1) substitute "Executive Secretary" for all federal regulation references made to "Regional Administrator."

KEY: hazardous waste
[~~February 20,~~]1998 **19-6-105**
19-6-106

◆ ◆

Environmental Quality, Solid and Hazardous Waste
R315-13
Land Disposal Restrictions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21463
FILED: 09/15/1998, 12:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Adopt equivalent federal regulations to maintain equivalency with the (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This proposed rule change finalizes clarifying amendments to the rule authorizing treatment variances from the national Land Disposal Restrictions treatment standards, adopting the

Environmental Protection Agency's (EPA's) interpretation that a treatment variance may be granted when treatment of any given waste to the level or by the method specified in the regulations is not appropriate, under either technical or environmental circumstances; requires public participation for site-specific variances; modifies the land disposal treatment standards for hazardous waste to include the listed wastes K140 and U408; and promulgates Land Disposal Restrictions for metal-bearing wastes, including toxicity characteristic metal wastes, and hazardous wastes from mineral processing.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 268, 1997 ed.; 62 FR 37694, July 14, 1997; 62 FR 45568, August 28, 1997; 62 FR 64504, December 5, 1997; 63 FR 24596, May 4, 1998; and 63 FR 28555, May 26, 1998

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the changes in the rule do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or savings impact.
❖OTHER PERSONS: There will be no additional costs or savings impacts beyond that which is already required by adherence to equivalent federal regulations.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs beyond that which is already required by adherence to equivalent federal regulations.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-13. Land Disposal Restrictions.
R315-13-1. Land Disposal Restrictions.

The requirements as found in 40 CFR 268, 1997 ed., are adopted and incorporated by reference including Appendices IV, VI, VII, VIII, IX, and X as amended by 62 FR 37694, July 14, 1997,[~~and~~] 62 FR 45568, August 28, 1997, 62 FR 64504, December 5, 1997, 63 FR 24596, May 4, 1998, and 63 FR 28555, May 26, 1998, with the exclusion of Sections 268.5, 268.6, 268.42(b), and 268.44(a) - (g) and with the following exceptions:

(a) Substitute "Board" for all federal regulation references made to "Administrator" or "Regional Administrator" except for 40 CFR 268.40(b).

(b) Substitute the words "plan approval" for all federal references made to "permit".

(c) All references made to "EPA Hazardous Waste Number" will include P999, and F999.

(d) Substitute Utah Code Annotated, Title 19, Chapter 6 for all references to RCRA.

(e) The universal wastes listed at 40 CFR 268.1(f) are exempted from the requirements under 40 CFR 268.7 and 268.50, including mercury-containing wastes, as described in R315-16-1.6.

KEY: hazardous waste
[~~February 20,~~]1998 **19-6-106**
19-6-105

Environmental Quality, Solid and Hazardous Waste
R315-50
Appendices

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21464
FILED: 09/15/1998, 12:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Adopt equivalent federal regulations to maintain equivalency with Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY OF THE RULE OR CHANGE: This proposed rule change promulgates standards to reduce organic air emissions from certain hazardous waste management activities to levels that are protective of human health and the environment and adds K140 and U408 hazardous waste codes to the current lists of hazardous wastes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-106, and 19-6-108
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 261, Appendices VII and VIII, 1997 ed.; 40 CFR 265, Appendix VI, 1997 ed.; 62 FR 64636, December 8, 1997; and 63 FR 24586, May 4, 1998

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the changes in the rule do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or savings impact.
❖OTHER PERSONS: Since the changes in the rule do not affect other persons and the enforcement of the rule will not change, there will be no cost or savings impact.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs beyond that which is already required by adherence to equivalent federal regulations.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-50. Appendices.
R315-50-9. Basis for Listing Hazardous Wastes.

The requirements of 40 CFR 261, Appendix VII, 1997 ed., as amended by 63 FR 24596, May 4, 1998, are adopted and incorporated by reference, with the following additions, excluding the constituents for which K064, K065, K066, K090, K091, and K160 are listed:

1. F999 - CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX.

R315-50-10. Hazardous Constituents.

The requirements of 40 CFR 261, Appendix VIII, 1997 ed., as amended by 63 FR 24596, May 4, 1998, are adopted and incorporated by reference.

R315-50-17. Compounds With Henry's Law Constant.

The requirements of Appendix VI of 40 CFR 265, Compounds with Henry's Law Constant, [~~1996~~]1997 ed., as amended by [~~61 FR 59931, November 25, 1996~~]62 FR 64636, December 8, 1997, are adopted and incorporated by reference.

KEY: hazardous waste
[~~February 20,~~]1998 **19-6-106**
19-6-108
19-6-105

◆ ◆

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

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21436
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify and broaden the definition of the term "Industrial waste" and to clarify the general requirements of solid waste disposal facilities for the protection of human health and the environment. Also, the rule is changed with respect to the management of waste generated from single family farms or ranches to become consistent with Subsection R307-202-4(5) of the Division of Air Quality Rules.

SUMMARY OF THE RULE OR CHANGE: The following changes are made in the rule: (1) The definition of the term "Industrial waste" is broadened to include any non-hazardous waste generated at an industrial facility rather than by a given industrial process; (2) the recycling of asphalt is clarified; (3) waste generated on a single family farm or ranch may be disposed on-site without a permit only in areas where no public or duly licensed disposal service is available; (4) a paragraph is added to the section that requires a solid waste disposal facility to obtain a permit which requires the facility to operate in accordance with the permit; (5) a new section is added that requires solid waste to be managed in a manner

that will not present a threat to human health or the environment and that if contamination of the ground water, surface water, air, or soil results from the management or of solid waste which may present a threat to human health or the environment, the contamination must be remediated through appropriate means; and (6) some minor language changes have been made for clarification of other portions of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-108, and 19-6-109
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258, 1997 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the changes in the rule do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments, there will be no cost or savings impact.
❖OTHER PERSONS: The waste management requirements for single family farms or ranches is changed and in some cases may cause an increase in costs for these people. Other requirements of the rule are clarified and not changed, therefore, there will be no cost or savings impact as a result of these changes.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons living on single family farms and ranches where waste disposal service is available, but not used, may experience an increase in compliance costs. These persons will be required to use a waste disposal service, if it is available, which would increase their costs an estimated $8 to $12 per month. In many areas where the disposal service is available, the service is mandatory and the citizens are required to pay for the service even if it is not used. In these cases, there would be no increase in costs. There will be no change in compliance costs for other affected persons beyond the current statutory and regulatory impact.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-301. Solid Waste Authority, Definitions, and General Requirements.
R315-301-2. Definitions.

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

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

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

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

(4) "Areas susceptible to mass movement" means those areas of influence, characterized as having an active or substantial possibility of mass movement, where the movement of earth material at, beneath, or adjacent to the landfill unit, because of natural or human-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include landslides, avalanches, debris slides and flows, soil fluction, block sliding, and rock falls.

(5) "Asbestos Waste" means friable asbestos, which is any material containing more than 1% asbestos as determined using the method specified in Appendix A, 40 CFR Part 763.1, 1991 ed., which is adopted and incorporated by reference, that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

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

(7) "Class I landfill" means a municipal landfill or a commercial landfill solely under contract with a local government taking municipal waste generated within the boundaries of the local government and receiving, on a yearly average, over 20 tons of solid waste per day.

(8) "Class II landfill" means a municipal landfill or a commercial landfill solely under contract with a local government taking municipal waste generated within the boundaries of the local government and receiving, on a yearly average, 20 tons, or less, of solid waste per day.

(9) "Class III landfill" means a non-commercial landfill that is to receive only industrial solid waste, but excluding farms and ranches.

(10) "Class IV landfill" means a landfill that is to receive only construction/demolition waste, yard waste, inert waste, dead animals, or upon meeting the requirements of Section 26-32a-103.5

and Subsection R315-320-3(9), waste tires and materials derived from waste tires.

(11) "Class V landfill" means a commercial landfill which receives any nonhazardous solid waste for disposal. Class V landfill does not include a landfill that is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

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

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

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

(15) "Composting" means a method of solid waste management whereby the organic component of the waste stream is biologically decomposed under controlled conditions to a state in which the end product or compost can be safely handled, stored, or applied to the land without adversely affecting human health or the environment.

(16) "Construction/demolition waste" means waste from building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures. Such waste may include: bricks, concrete, other masonry materials, soil, asphalt, rock, untreated lumber, rebar, and tree stumps. It does not include asbestos, contaminated soils or tanks resulting from remediation or clean-up at any release or spill, waste paints, solvents, sealers, adhesives or similar hazardous or potentially hazardous materials.

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

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

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

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

(21) "Existing facility" means any facility that was receiving solid waste on or before July 15, 1993.

(22) "Expansion of a solid waste disposal facility" means any lateral or vertical expansion beyond or above the boundaries outlined in the initial permit application. Where no boundaries were designated in the disposal facility permit, expansion shall apply to all new land purchased or acquired after the effective date of these rules.

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

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

(25) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure or as determined by EPA test method 9095 (Paint Filter Liquids Test) as provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste" third edition, November 1986, as revised December 1987 which is adopted and incorporated by reference.

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

(27) "Ground water" means subsurface water which is in the zone of saturation including perched ground water.

(28) "Ground water quality standard" means a standard for maximum allowable contamination in ground water as set by Section R317-6-2.

(29) "Hazardous waste" means hazardous waste as defined by Subsection 19-6-102[~~(7)~~](9) and Section R315-2-3.

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

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

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

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

(34) "Industrial solid waste" means any solid waste generated [~~by~~]at a manufacturing or other industrial [~~processes~~]facility that is not a hazardous waste. Industrial solid waste includes waste

resulting from the following manufacturing processes and associated activities: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing or foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste; oil and gas waste; or other waste excluded by Sub[-]section 19-6-102[~~(16)~~](17)(b).

(35) "Industrial solid waste facility" means a facility which receives only industrial solid waste from on-site or off-site sources for disposal.

(36) "Inert waste" means noncombustible, nonhazardous solid wastes that retain its physical and chemical structure under expected conditions of disposal, including resistance to biological or chemical attack.

(37) "Landfill" means a disposal facility where solid waste is placed in or on the land and which is not a landtreatment facility or surface impoundment.

(38) "Landtreatment, landfarming, or landspreading facility" means a facility or part of a facility where solid waste is applied onto or incorporated into the soil surface for the purpose of biodegradation.

(39) "Lateral expansion of a solid waste disposal facility" means any horizontal expansion of the waste boundaries of an existing landfill cell, module, or unit or expansions not consistent with past normal operating practices.

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

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

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

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

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

(45) "Municipal landfill" means a landfill that is not for profit and is either owned and operated by a local government or a government entity such as a city, town, county, service district, or an entity created by interlocal agreement of local governments, or is solely under contract with a local government or government entity. The landfill accepts, for disposal, the nonhazardous solid waste, including municipal solid waste, generated within the jurisdictional boundaries of the local government or government entity.

(46) "Municipal solid waste" means household waste, commercial solid waste, non-hazardous sludge, and exempt small quantity generator waste.

(47) "New facility" means any facility that begins receiving solid waste after July 15, 1993.

(48) "Off-site" means any site which is not on-site.

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

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

(51) "Owner" means the person, as defined by Subsection 19-1-103(4), who owns a facility or part of a facility.

(52) "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 materials which contain such substances and is regulated under 40 CFR Part 761, 1995 ed.

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

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

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

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

(57) "Putrescible" means organic material subject to decomposition by microorganisms.

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

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

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

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

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

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

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

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

(63) "Scavenging" means the uncontrolled removal of solid waste from a facility.

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

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

(66) "Sharps" means any discarded or contaminated article or instrument from a health facility that may cause puncture or cuts. Such waste may include needles, syringes, blades, needles with attached tubing, pipettes, pasteurs, broken glass, and blood vials.

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

(a) municipal, commercial, or industrial waste water treatment plant;

(b) water supply treatment plant;

(c) car wash facility;

(d) air pollution control facility; or

(e) any other such waste having similar characteristics.

(68) "Solid waste disposal facility" means a facility or part of a facility at which solid waste is received from on-site or off-site sources and intentionally placed into or on land and at which waste, if allowed by permit, may remain after closure. Solid waste disposal facilities include landfills, incinerators, and land treatment areas.

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

(70) "Special waste" means discarded materials which may require special handling or may pose a threat to public safety, human health, or the environment. Special waste may include ash, automobile bodies, furniture and appliances, infectious waste, tires, dead animals, asbestos, industrial waste, wastes exempt from the hazardous waste classifications under the Federal Resource Conservation and Recovery Act, U.S.C., Section 6901, et seq., and sludge.

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

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

(73) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a solid waste handling or disposal facility.

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

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

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

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

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

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

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

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

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

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

(1) No person shall incinerate, burn, or otherwise dispose of any solid waste in any place except at a facility which is in compliance with the requirements of [~~these~~]Rules R315-301 through 320 and other applicable rules. This requirement does not include the deposition of inert waste used as fill material, mine

tailings and overburden,[~~ and~~] agricultural waste, or the recycling of asphalt as specified in Subsection R315-301-4(2) if the deposition or disposal does not cause a public nuisance or hazard or contribute to land, air, or water pollution.

(2) Recycling of asphalt occurs when it is used:

(a) as a feedstock in the manufacture of new hot or cold mix asphalt;

(b) as underlayment in road construction;

(c) as subgrade in road construction when the asphalt is above the historical high level of ground water;

(d) under parking lots when the asphalt is above the historical high level of ground water; or

(e) as road shoulder when the use meets engineering requirements.

R315-301-5. Permit Required.

(1) No solid waste disposal facility shall be maintained, established, or expanded until the [~~county, city, town, or other person operating or owning~~]owner or operator of such facility has obtained a permit from the Executive Secretary.

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

[~~(2)~~](3) [~~The~~]In areas where no public or duly licensed disposal service is available, the on-site disposal of on-site generated nonhazardous solid waste from a single family farm or a single family ranch does not require a permit.

R315-301-6. Protection of Human Health and the Environment.

(1) The management of solid waste shall not present a threat to human health or the environment.

(2) Any contamination of the ground water, surface water, air, or soil that results from the management of solid waste which presents a threat to human health or the environment shall be remediated through appropriate corrective action.

KEY: solid waste management, waste disposal

[~~November 15, 1997~~]1998	**19-6-105**
Notice of Continuation April 2, 1998	**19-6-108**
	19-6-109
	40 CFR 258

Environmental Quality, Solid and Hazardous Waste

R315-302

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21437

FILED: 09/11/1998, 16:23

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to: remove an effective date that has passed; to require submittal of proof of record of title filing upon closure of a landfill to the Executive Secretary; to exempt Class IIIb and IVb Landfills from the requirement to submit final closure plans signed by a professional engineer; and to clarify specific points in the rule.

SUMMARY OF THE RULE OR CHANGE: The following changes are made in the rule: (1) an effective date that has passed is removed form the rule; (2) at closure, the owner or operator of a disposal facility is required to submit proof to the Executive Secretary that the plans and a statement of fact that the property has been used as a waste disposal site have been filed with the county recorder; (3) since Class IIIb and IVb Landfills are not required to install an engineered final cover at closure, these two landfills are exempted form submitting closure plans that are signed by a professional engineer; and (4) some minor changes in punctuation or language are made to clarify specific points of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, 19-6-108, and 19-6-109

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258, 1997 ed.

ANTICIPATED COST OR SAVINGS TO:

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

❖LOCAL GOVERNMENTS: Local government owners or operators of Class IIIb or IVb Landfills will have reduced closure costs for these landfills by not requiring an engineer to prepare and review closure plans. Current rules require notes to be added to the property deed showing the land was used as a landfill. The rule change will require the owner or operator of a landfill to send a copy of the deed with the note to the Executive of the Utah Solid and Hazardous Waste Control Board. Increased cost would be for the clerical time to copy the deed and mail it to the Executive Secretary.

❖OTHER PERSONS: Owners or operators of Class IIIb or IVb Landfills will have reduced closure costs for these landfills by not requiring an engineer to prepare and review closure plans. Current rules require notes to be added to the property deed showing the land was used as a landfill. The rule change will require the owner or operator of a landfill to send a copy of the deed with the note to the Executive of the Utah Solid and Hazardous Waste Control Board. Increased cost would be for the clerical time to copy the deed and mail it to the Executive Secretary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a decreased cost for closure for persons owning or operating a Class IIIb or IVb Landfill by eliminating the need for a professional engineer to prepare and sign off on closure plans. For smaller Class IIIb or IVb Landfills, the one time cost savings is estimated to be in the range of $2,500 and $5,000. The cost savings for larger landfills would be greater. Owners or operators of all landfills will experience

the increased costs, at closure, for clerical time to copy the deed and note stating that the property had been used as a landfill and mailing it to the Executive Secretary.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As a result of a proposed change in this rule, it is expected that the closure costs for Class IIIb and IVb Landfills will decrease since the need for owners or operators to incur the costs of hiring a professional engineer to prepare and sign off on closure plans for these landfills is eliminated. The cost savings would depend on the size of the landfill. Owners or operators of smaller landfills could have a one time estimated savings of as much as $5,000 while larger landfills could experience greater savings. Also, an increased cost will be incurred at closure to copy and mail to the Executive Secretary the property deed containing the note to the county recorder that the property was used as a landfill. Other changes in the rule will have no fiscal impact beyond the current statutory and regulatory impact--Dianne R. Nielson, Ph.D.

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

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

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

(1) Applicability.

(a) These standards apply to:

(i) Class I, II, and V Landfills;

(ii) Class III Landfills as specified in Rule R315-304;

(iii) Class IV Landfills as specified in Rule R315-305; and

(iv) each new disposal facility and any existing disposal facility seeking facility expansion, including landfills, landtreatment disposal sites, and piles that are to be closed as landfills.

(b) These standards, unless otherwise noted, do not apply to:

(i) an existing facility;

(ii) transfer stations and drop box facilities;

(iii) piles used for storage;

(iv) composting or utilization of sludge or other solid waste on land; or

(v) hazardous waste disposal sites regulated by Rules R315-1 through R315-50 and Rule R315-101.

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

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

(i) one thousand feet of a national, state or county park, monument, or recreation area; designated wilderness or wilderness study area; or wild and scenic river area;

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

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

(iv) one-fourth mile of:

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

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

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

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

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

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

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

(iii) Unstable Areas. The owner or operator of an existing facility, a lateral expansion of an existing facility, or a new facility located in an unstable area must demonstrate to the satisfaction of

the Executive Secretary that engineering measures have been incorporated into the facility design to ensure that the integrity of the structural components of the facility will not be disrupted. The owner or operator must consider the following factors when determining whether an area is unstable:

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

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

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

(c) Surface Water.

(i) No new facility or lateral expansion of an existing facility shall be located on any public land that is being used by a public water system for water shed control for municipal drinking water purposes, or in a location that could cause contamination to a lake, reservoir, or pond.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Ground Water.

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

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

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

(C) If the aquifer beneath a landfill contains ground water which has a Total Dissolved Solids (TDS) of 10,000 mg/l or greater and the landfill is constructed with a composite liner, the bottom of the lowest liner may be less than five feet above the historical high level of the ground water.

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

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

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

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

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

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

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

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

~~(3) Existing Facility Exception. Any existing facility not meeting the location standards pertaining to airports, Subsection~~

~~R315-302-1(2)(a)(v), pertaining to floodplains, Subsection R315-302-1(2)(c)(i), or pertaining to unstable areas, Subsection R315-302-1(2)(b)(iii), must close by October 9, 1996 and conduct post-closure activities in accordance with the closure and post-closure requirements of Section R315-302-3 and Subsection R315-303-4(4). The Executive Secretary may approve an extension of up to two years if:~~

~~(a) there is no available alternative disposal capacity; and~~

~~(b) there is no immediate threat to human health or the environment.~~]

[~~(4)~~](3) Exemptions. Exemptions from the location standards with respect to airports, floodplains, wetlands, fault areas, seismic impact zones, and unstable areas cannot be granted. Exemptions from other location standards of this section may be granted by the Executive Secretary on a site specific basis if it is determined that the exemption will cause no adverse impacts to public health or the environment.

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

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

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

R315-302-2. General Facility Requirements.

(1) Applicability.

(a) Each new landfill, expansion of an existing landfill, energy recovery or incinerator facility, landtreatment disposal site, transfer station, and existing facility applying for a permit or permit renewal shall meet the requirements of this section.

(b) Any facility which stores waste in piles shall meet the applicable requirements of this section.

(c) Any recycling facility or composting facility subject to the standards of Rule R315-312 shall submit a plan that demonstrates compliance with the applicable standards of Section R315-302-2. This plan does not require Executive Secretary approval.

(d) The requirements of Section R315-302-2 apply to industrial solid waste facilities as specified in Rule R315-304.

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

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

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

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

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

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

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

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

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

(i) procedures for excluding the receipt of regulated hazardous waste or regulated waste containing PCBs;

(j) procedures for controlling disease vectors;

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

(l) closure and post-closure care plans;

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

(n) a general training and safety plan for site operators; and

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

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

(a) an operating record that shall contain:

(i) the weights or volumes, number of vehicles entering, and if available, the types of wastes received each day;

(ii) deviations from the approved plan of operation;

(iii) training and notification procedures;

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

(v) an inspection log or summary; and

(b) other records to include:

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

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

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

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

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

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

(4) Reporting. Each owner or operator of any facility, including a facility performing post-closure care, shall prepare an annual report and place the report in the facility's operating record. The owner or operator of the facility shall submit a copy of the annual report to the Executive Secretary by March 1 of each year for the most recent calendar year or fiscal year of facility operation. The annual report shall cover facility activities during the previous year and must include, at a minimum, the following information:

(a) name and address of the facility;

(b) calendar year covered by the report;

(c) annual quantity, in tons or volume, in cubic yards, and estimated in-place density in pounds per cubic yard of solid waste handled for each type of treatment, storage, or disposal facility, including applicable recycling facilities;

(d) the annual update of the required financial assurances mechanism pursuant to Subsection R315-309-3(2);

(e) results of ground water monitoring and gas monitoring; and

(f) training programs or procedures completed.

(5) Inspections.

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

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

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

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

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

(6) Recording with the County Recorder.

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

(i) submit [~~Plats~~]plats and a statement of fact concerning the location of any disposal site [~~shall~~]to the county recorder to be recorded as part of the record of title[~~with the county recorder not later than 60 days after certification of closure~~]; and

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

(b) Records and plans specifying solid waste amounts, location, and periods of operation may be required by the local zoning authority with jurisdiction over land use and be made available for public inspection.

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

(1) Applicability.

(a) An existing facility, a new facility, or an existing facility seeking lateral expansion shall meet the applicable standards of Section R315-302-3 and shall provide financial assurance for closure and post-closure care costs that meets the requirements of Rule R315-309.

(b) The requirements of Subsections (2), (3), and (4) of this section apply to any solid waste management facility as defined by Subsection 19-6-502(9). The requirements of Subsections (5), (6), and (7)[~~, and (8)~~] of this section apply to:

(i) Class I, II, IV and V Landfills;

(ii) Class III Landfills as specified in Rule R315-304: and

(iii) any landtreatment disposal facility.

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

(a) minimizes the need for further maintenance;

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

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

(3) Closure Plan and Amendment.

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

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

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

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

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

(4) Closure Procedures.

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

(b) The owner or operator shall commence implementation of the closure plan, in part or whole, within 30 days after receipt of the final volume of waste, or for landfills, when the final elevation is attained in part or all of the facility cell or unit as identified in the

approved facility closure plan unless otherwise specified in the approved closure plan. Closure activities shall be completed within 180 days from their starting time. Extensions of the closure period may be granted by the Executive Secretary if justification for the extension is documented by the owner or operator.

(c) When facility closure is completed, each owner and operator shall, within 90 days or as required by the Executive Secretary, submit to the Executive Secretary:

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

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

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

(6) Post-Closure Plan and Amendment.

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

(i) ground water and surface water monitoring;

(ii) leachate collection and treatment;

(iii) gas monitoring;

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

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

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

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

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

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

(7) Post-Closure Procedures.

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

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

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

KEY: solid waste management, waste disposal

[~~November 15, 1997~~]1998	**19-6-104**
Notice of Continuation April 2, 1998	**19-6-105**
	19-6-108
	19-6-109
	40 CFR 258

Environmental Quality, Solid and Hazardous Waste

R315-303

Landfilling Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21438

FILED: 09/11/1998, 16:23

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to: exempt facilities that have a storm water permit from run-on/run-off control requirements; to set a time limit for the owner or operator of a landfill to notify the Executive Secretary in the case of explosive gas generation in excess of the established standard; to exempt landfills that accept no municipal waste for the requirement to monitor explosive gases; to clarify the requirement to weigh or estimate the tonnage of waste received at a landfill; to require that the landfill personnel be trained in landfill operations; and to clarify the prohibition of disposing of hazardous waste at a landfill.

SUMMARY OF THE RULE OR CHANGE: The following changes are made in the rule: (1) if a landfill has received a storm water permit from the Utah Division of Water Quality, and is meeting the requirements of the permit, the landfill may be exempt from the run-on/run-off control requirements of Subsections R315-303-3(1)(c) and (d); (2) if the generation of explosive gases at a landfill exceeds the established

standard, the owner or operator of the landfill must notify the Executive Secretary within 24 hours or the next business day; (3) a landfill that accepts no municipal waste is exempted from monitoring explosive gases; (4) the requirement to weigh or estimate the tonnage of waste received at a landfill is clarified; (5) the trained personnel employed by the owner or operator of a landfill as the landfill operator must be trained in landfill operations; and (6) the requirement to prevent the disposal of regulated hazardous waste or regulated waste containing Polychlorinated Biphenols (PCBs) at a landfill is clarified.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258, 1997 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the rule changes do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact on the state budget.
❖LOCAL GOVERNMENTS: The exemption from explosive gas monitoring at landfills that accept no municipal waste may decrease operation costs for owners or operators of these landfills.
❖OTHER PERSONS: The exemption from explosive gas monitoring at landfills that accept no municipal waste may decrease operation costs for owners or operators of these landfills.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a decrease in compliance costs for owners or operators of landfills that accept no municipal waste. The decreased costs would be associated with the elimination of the need to purchase monitoring equipment, complete the monitoring activities, and keep the required records. Estimated cost savings are as follows: (1) purchase of explosive gas detector--$1,000 to 2,500; (2) completion of quarterly monitoring activities, including required records--$250 per event ($1,000 each year); and (3) maintenance and supplies for gas detector--$250 each year. Other affected persons should experience no change in compliance costs beyond that currently required by other sections of existing rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As a result of a proposed rule change, it is expected that businesses who own or operate landfills which accept no municipal waste will experience a decrease in operating costs since they will not be required to purchase explosive gas monitoring equipment, complete gas monitoring, or keep the required records. The annual cost savings for these landfills is estimated to be approximately $1,500. Other proposed changes in the rule will have no fiscal impact on businesses beyond that currently required by other sections of existing rules. For example, other existing rules require trained personnel to be present at a landfill and the proposed change specifies that the personnel are to be trained in landfill operations--Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-303. Landfilling Standards.
R315-303-3. Standards for Design.

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

(a) covering according to Subsection R315-303-4(4);

(b) prohibiting the disposal of containerized liquids larger than household size, noncontainerized liquids, sludge containing free liquids, or any waste containing free liquids in containers larger than household size;

(c) designing the landfill to prevent run-on of all surface waters resulting from a maximum flow of a 25-year storm into the active area of the landfill; and

(d) designing the landfill to collect and treat the run-off of surface waters and other liquids resulting from a 25-year storm from the active area of the landfill.

(e) If the owner or operator of a landfill has received a storm water permit as issued by the Utah Division of Water Quality and is meeting the requirements of the permit, the landfill may be exempt, upon approval of the Executive Secretary, from the run-on and run-off control requirements of Subsections R315-303-3(1)(c) and (d).

(2) Leachate Collection Systems.

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

(i) install a leachate collection system sized according to water balance calculations or using other accepted engineering methods either of which shall be approved by the Executive Secretary;

(ii) install a leachate collection system so as to prevent no more than one foot depth of leachate developing at any point in the bottom of the landfill unit; and

(iii) install a leachate treatment system or a pretreatment system, if necessary, in the case of discharge to a municipal water treatment plant.

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

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

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

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

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

(b) Alternative Design.

(i) The Executive Secretary may approve an alternative liner design, on a site specific basis, if it can be documented that, under the conditions of location and hydrogeology, the performance standard of Subsection R315-303-2(1) can be met. When approving an alternative liner design, the Executive Secretary shall consider the following factors:

(A) the hydrogeologic characteristics of the facility and surrounding land;

(B) the climatic factors of the area; and

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

(ii) The liner shall be constructed of at least a three feet thick layer of recompacted clay or other material with a permeability of no greater than 1 x 10^{-7} cm/sec having the bottom liner sloped no less than 2% and the side liners sloped no more than 33%, except where construction and operational integrity can be demonstrated at steeper slopes; or

(c) Equivalent Design.

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

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

(A) the hydrogeologic characteristics of the facility and the surrounding land;

(B) the climatic factors of the area;

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

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

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

(e) Small Landfill Design. Subject to the location standards of Section R315-302-1 and the performance standards of Section R315-303-2, a Class II Landfill may be exempt from the liner, leachate collection system, and ground water monitoring requirements of Rule R315-303.

(i) A Class II Landfill will be approved only if:

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

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

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

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

(f) Design of a Landfill that Accepts No Municipal Waste. Subject to the performance standards of Section R315-303-2:

(i) a landfill that accepts no municipal waste, no conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5, or no other hazardous waste that is exempt from Section R315-2-4, may be exempt from the liner, leachate collection system, ground water monitoring, and closure requirements of Rule R315-303; or

(ii) a landfill that accepts no municipal waste but accepts conditionally exempt small quantity generator hazardous waste or other exempt hazardous waste, may be exempt from the liner and the leachate collection system requirements of Rule 315-303.

(4) Closure. An owner or operator shall design the landfill so, that at closure, the final cover shall be:

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

(i) synthetic liners may cover the compacted soil layer, provided that a minimum of either 20 mils reinforced or 40 mils non-reinforced thickness is used;

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

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

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

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

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

(c) The Executive Secretary may approve an alternative final cover design, on a site specific basis, if it can be documented that:

(i) the infiltration layer achieves an equivalent reduction in infiltration as the infiltration layer specified in Subsection R315-303-3(4)(a): and

(ii) the erosion layer provides equivalent protection from wind and water erosion as the erosion layer specified in Subsection R315-303-3(4)(b).

(5) Gas Control.

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

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

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

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

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

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

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

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

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

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

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

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

(e) A landfill that accepts no municipal waste is exempt from monitoring explosive gases.

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

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

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

(i) surface waters, including run-off;

(ii) leachate; and

(iii) subsurface landfill gas movement and ambient air;

(c) weighing or estimating the tonnage of all incoming waste and recording the tonnage in the facility's operation record;[~~on scales for a landfill that receives, on an average annual basis, more than 8,000 tons per year or provide an equivalent method of measuring waste tonnage capable of estimating total annual solid waste tonnage to within plus or minus 5%;~~]

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

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

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

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

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

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

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

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

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

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

(b) allow no open burning;

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

(d) prohibit scavenging;

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

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

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

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

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

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

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

(4) Daily Cover.

(a) An owner or operator of a landfill shall, at the close of each day of operation, completely cover the waste with at least six inches of soil or other suitable material approved by the Executive Secretary that will control vectors, fires, odor, blowing litter, and scavenging without presenting a threat to human health or the environment.

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

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

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

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

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

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

(vi) The Executive Secretary may revoke any waiver from the daily cover requirement if any condition is not met or if the alternative schedule for covering the waste presents a threat to human health or the environment.

(5) Monitoring Systems. An owner or operator of a landfill shall maintain the monitoring systems required in Subsection R315-303-3(6)(b).

(6) Recycling Required.

(a) An owner or operator of a landfill at which the general public delivers household solid waste shall provide containers in which the general public may place recyclable materials for which a market exists that are brought to the site:

(i) during the normal hours of operation; and

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

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

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

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

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

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

(iii) if the waste meets the conditions specified in 40 CFR 761.60 (1996) for disposal other than incineration, specified in 40 CFR 761.70 (1996), or chemical landfill, specified in 40 CFR 761.75 (1996).

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

(i) inspection frequency and inspection of loads suspected of containing regulated hazardous waste or regulated waste containing PCBs;

(ii) inspection in a designated area or at a designated point in the disposal process;

(iii) a training program for the facility employees in identification of regulated hazardous waste and regulated waste containing PCBs; and

(iv) maintaining written records of all inspections, signed by the inspector.

(c) If the receipt of regulated hazardous waste or regulated waste containing PCBs is discovered, the owner or operator of the landfill shall:

(i) notify the Executive Secretary, the hauler, and the generator within 24 hours;

(ii) restrict the inspection area from public access and from facility personnel; and

(iii) assure proper cleanup, transport, and disposal of the waste.

(d) A landfill that is permitted to accept waste containing PCBs under the Toxic Substances Control Act may receive waste containing PCBs but shall exclude hazardous waste.

KEY: solid waste management, waste disposal

[~~November 15, 1997~~]1998	**19-6-104**
Notice of Continuation April 2, 1998	**19-6-105**
	19-6-108
	40 CFR 258

Environmental Quality, Solid and Hazardous Waste

R315-304

Industrial Solid Waste Landfill Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21439

FILED: 09/11/1998, 16:23

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to apply to non-hazardous solid waste industrial landfills that receive waste exclusively from on-site.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to apply to non-hazardous solid waste industrial landfills that receive waste exclusively from on-site and the requirements for these landfills are specified.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-108

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 257, 1997 ed.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The rule changes do not affect state entities. Current staff will process the increased number of permits and perform enforcement activities. Therefore, there will be no cost or savings impact on the state budget.

❖LOCAL GOVERNMENTS: Since the rule changes do not affect local governments, there will be no cost or savings impact on local governments.

❖OTHER PERSONS: Industries that own or operate industrial landfills that receive waste exclusively from on-site will experience an increase in operating costs for these landfills. COMPLIANCE COSTS FOR AFFECTED PERSONS: Prior to the current rule change, industrial landfills that receive waste exclusively from on-site have not been regulated. Therefore, compliance costs for affected persons may increase. On-site landfills that have been operated at a lower standard than required by this rule will see an increase in the cost of operation. The increased costs will be associated with the preparation of a permit application, completion of the permitting process, keeping the required records, the preparation and submittal of an annual report, and providing financial assurance for closure and post-closure care at the landfill. The estimated increase in costs are as follows: (1) preparation of a permit application and completion of the permitting process--if done in house, the cost could be as low as $5,000. If a consultant is hired this cost could be much higher. Permitting costs occur once every five years and a permit renewal should be less than $5,000; (2) keeping the required records--most landfills may currently be keeping a daily landfill record of the amount of waste received and other landfill activities. If no records are being kept, these activities could increase the landfill operator's time to equal an estimated $1,000 in a year; (3) the annual landfill report could be completed for an estimated $250 each year; and (4) we are unable to estimate the cost of providing financial assurance since these costs would depend upon the mechanism used. For example, if the Corporate Financial Test was used as the mechanism, the costs would be minimal while other methods such as a bond, insurance, or letter of credit could be somewhat expensive.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any industry that is currently operating a landfill that accepts waste generated from on-site sources, which is being operated at a lower standard than required by this rule, will see an increase in operating costs. The increased costs will be associated with: the preparation of a permit application; completion of the permitting process; keeping the required records; the preparation and submittal of an annual report; and providing financial assurance. However, some existing industrial landfills may currently be operated in a manner which meets or nearly meets the requirements of the rule so their increased cost may not be great. The cost estimates for keeping records, reporting, and financial assurance presented under "Compliance costs for affected persons" are annual costs while the estimate for the permitting process is for the costs that would be incurred at the time of the initial permit. A landfill permit is required to be renewed every five years and the cost for the renewal process is expected to be less than for the initial permit--Dianne R. Nielson, Ph.D.

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

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-304. Industrial Solid Waste Landfill Requirements.
R315-304-1. Applicability.

(1) Except for a Class IIIb Landfill that receives waste exclusively from on-site, the requirements of Rule R315-304 apply to each Class III Landfill as specified.[~~The location, design, and operation, standards of Rule R315-304 become effective January 1, 1998 on each Class III Landfill or each landfill that receives only industrial solid waste.~~

~~(2) The ground water monitoring standards of Rule R315-304 become effective July 1, 1998 on each Class III Landfill required to monitor the ground water.~~

~~(3) The requirements of Rule R315-304 do not apply to a Class IIIb Landfill that receives waste exclusively from on-site.~~]

(2) For a Class IIIb Landfill that receives waste exclusively from on site:

(a) the requirements of Rule R315-304 become effective June 1, 1999.

(b) The owner or operator of a landfill may;

(i) apply to the Executive Secretary for an extension of time beyond June 1, 1999 to meet the requirements of Rule R315-304; and

(ii) be placed on a compliance schedule by the Executive Secretary.

(3) The requirements of Rule R315-304 do not apply to the following materials managed at an industrial facility:

(a) fly ash waste, bottom ash waste, slag waste, or flue gas emission control dust generated primarily from the combustion of coal or other fossil fuels;

(b) wastes form the extraction, beneficiation, and processing of ores and minerals;

(c) electric arc furnace slag, open hearth furnace slag, and other slags generated during carbon steel production; and

(d) cement kiln dust.

R315-304-2. Industrial Landfill Standards for Performance.

Each Class III Landfill shall meet the landfill standards for performance as specified in Section R315-303-2.

R315-304-3. Definitions.

Terms used in Rule R315-304 are defined in Section R315-301-2. In addition, for the purpose of Rule R315-304, the following definitions apply.

(1) "Class IIIa Landfill" means an industrial solid waste landfill that is not open to the general public and may accept:

(a) any nonhazardous industrial waste;

(b) waste that is exempt from hazardous waste regulations under Section R315-2-4; or

(c) conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5[~~; and~~

~~(d) is not open to the general public~~].

(2) "Class IIIb Landfill" means an industrial solid waste landfill that is not open to the general public and may accept any nonhazardous industrial solid waste except:

(a) waste that is exempt from hazardous waste regulations under Section R315-2-4, excluding Subsections R315-2-4(b)(3), (4), (5), (7), and (14), unless approved by the Executive Secretary; or

(b) conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5[~~; and~~

~~(c) is not open to the general public~~].

(3) Except for a Class IIIb Landfill that receives waste exclusively from on-site, "Existing Class III Landfill" means an industrial solid waste landfill that was receiving waste on or before January 1, 1998.

(4) Except for a Class IIIb Landfill that receives waste exclusively from on-site, "New Class III Landfill" means an industrial solid waste landfill that [~~begins~~]began receiving waste after January 1, 1998.

(5) For a Class IIIb Landfill that receives waste exclusively from on-site, "Existing Class III Landfill" means an industrial solid waste landfill that was receiving waste on or before June 1, 1999.

(6) For a Class IIIb Landfill that receives waste exclusively from on-site, "New Class III Landfill" means an industrial solid waste landfill that began receiving waste after June 1, 1999.

R315-304-4. Industrial Landfill Location Standards.

(1) Class IIIa Landfills.

(a) A new Class IIIa Landfill shall meet the location standards of Subsection R315-302-1(2).

(b) A new Class IIIa Landfill that is proposed on the site of generation of the industrial solid waste or a lateral expansion of an existing Class IIIa Landfill, shall meet the location standards of Subsections R315-302-1(2)(b), (c), (d), and (e) with respect to geology, surface water, wetlands, and ground water.

(c) An existing Class IIIa Landfill shall not be subject to the location standards of Subsection R315-302-1(2).

(d) An exemption from any location standard of Subsection R315-302-1(2), except the standards for floodplains and wetlands, may be granted by the Executive Secretary on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

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

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

(2) Class IIIb Landfills.

(a) A new Class IIIb landfill or a lateral expansion of an existing Class IIIb Landfill shall be subject to the following location standards:

(i) the standards with respect to floodplains as specified in Subsection R315-302-1(2)(c)(ii);

(ii) the standards with respect to wetlands as specified in Subsection R315-302-1(2)(d); and

(iii) the landfill shall be located so that the lowest level of waste is at least five feet above the historical high level of ground water.

(b) For a lateral expansion of an existing Class IIIb Landfill, an exemption from any location standard of Subsection R315-304-4(2)(a) may be granted by the Executive Secretary on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

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

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

(c) An existing Class IIIb Landfill shall not be subject to the location standards of Subsection R315-304-4(2)(a).

R315-304-5. Industrial Landfill Requirements.

(1) Each Class III Landfill shall meet the applicable general requirements of [~~Section~~]Subsections R315-302-2(2)(a), (b), (c), (d), (g), (i), (j), (k), (l), (m), (n), and (o); and (3)(a), (b)(i), (iii), (iv), and (vi) as determined by the Executive Secretary.

(2) Each Class III Landfill shall meet the applicable general requirements for closure and post-closure care of [~~Section~~]Subsections R315-302-3(2); (3); (4)(a), and (b); (5); (6)(a)(iv) through (vi), (6)(b), and (c); and (7)(a) as determined by the Executive Secretary.

(a) Each Class IIIa Landfill shall meet the closure requirements of Subsection R315-303-3(4).

(b) Each Class IIIb Landfill shall meet the closure requirements of Subsection R315-305-5(5)(b).

(c) If a Class III Landfill is already subject to the closure and post-closure requirements of another Federal or state agency which are as stringent as specified in Subsections R315-304-5(2)(a) or (b), the landfill may be exempt, upon approval of the Executive Secretary, from the closure requirements of Subsections R315-304-5(2)(a) or (b).

(3) Standards for Design.

(a) The owner or operator of a Class III Landfill shall design the landfill to minimize the acceptance of liquids and control storm water run-on/run-off as specified in Subsections R315-303-3(1)(b), (c), and (d).

(b) The owner or operator of a Class III Landfill shall design the landfill to meet the requirements of Subsections R315-303-3(6)(a), (c),[~~(d)~~], (e), (f), (g), (h), and (i) as determined by the Executive Secretary.

(4) Ground Water Monitoring.

(a) The owner or operator of a Class IIIa Landfill shall monitor the ground water beneath the landfill as specified in Rule R315-308.

(b) Subject to the performance standard of Subsection R315-303-2(1), if the owner or operator of a Class IIIa Landfill is monitoring the ground water beneath the landfill and otherwise

meeting the requirements of a discharge permit as issued by the Utah Division of Water Quality, the landfill may be exempt, upon approval of the Executive Secretary, from the ground water monitoring requirements of Rule R315-308.

(c) A Class IIIb Landfill is exempt from the ground water monitoring requirements of Rule R315-308.

(5) Standards for Operation.

(a) Each Class IIIa Landfill shall meet the standards of Section R315-303-4 except:

(i) for the requirements of Subsections R315-303-4(2)(f) and R315-303-4(6); and

(ii) may be exempt from the daily cover requirements of Subsection R315-303-4(4) upon the demonstration that an alternate schedule for the covering of waste at the landfill will not present a threat to human health or the environment.

(b) Each Class IIIb Landfill shall meet the requirements for operation in Subsections R315-305-4(7) and R315-305-5(2) through (4) as determined by the Executive Secretary.

(6) Financial Assurance.

(a) The owner or operator of [~~E~~]each Class III Landfill shall establish financial assurance as required by Rule R315-309.

(b) If the owner or operator of a Class III Landfill has financial assurance, in effect and active, that covers the costs of closure and post-closure care of the landfill as required by another Federal or state agency which is as stringent as the requirements of Rule R315-309, the landfill may be exempt, upon approval of the Executive Secretary, from the financial assurance requirements of Rule R315-309.

(7) Permit Requirements.

(a) Each Class III Landfill shall apply for and obtain a permit to operate by meeting the requirements of Rule R315-310.

(b) The contents of a permit application for a Class IIIa Landfill shall be the information required in Section R315-310-4.

(c) The contents of a permit application for a Class IIIb Landfill shall be the information required in Section R315-310-5.

KEY: solid waste management, waste disposal
[~~November 15, 1997~~]1998 **19-6-105**
Notice of Continuation May 2, 1997 **19-6-108**
40 CFR 257

◆ ◆

Environmental Quality, Solid and Hazardous Waste
R315-305-5
Requirements for Operation

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21440
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Since a Class IVa Landfill may accept, as an incidental component of construction/demolition waste, conditionally exempt small quantity generator hazardous waste, the installation of an engineered low permeability final cover for the protection of human health and the environment is indicated. Therefore, the rule is changed to implement this requirement.

SUMMARY OF THE RULE OR CHANGE: At closure, a Class IVa Landfill is required to install an engineered, low permeability final cover for the protection of human health and the environment.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, 19-6-108, and 19-6-109
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 257, 1997 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the rule changes do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact to the state budget.
❖LOCAL GOVERNMENTS: A local government that owns or operates a Class IVa Landfill will experience increased closure costs.
❖OTHER PERSONS: Other persons who own or operate a Class IVa Landfill will experience increased closure costs.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will increase. The increase in costs will be associated with the design and installation of a low permeability final cover at Class IVa Landfills. It is estimated that the design of the final cover will cost between $2,500 and $5,000. The cost to install the final cover will depend on the availability of materials. If the soils used for the final cover are available on-site, the installation of the cover could be completed for an estimated cost of $3 per yard of soil used. If the soils used for the final cover are purchased from off-site sources, the installation of the cover could cost as much as $15 per yard of soil used.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A business that owns or operates Class IVa Landfill will experience increased closure costs associated with the design and installation of a low permeability final cover at the landfill. Cost estimates for the design and installation of the final cover are presented under "Compliance costs for affected persons." It is expected that very few Class IVa Landfills will be permitted. The owners or operators of most Class IV Landfills have initiated programs to prevent the disposal of conditionally exempt small quantity generator hazardous waste so that the landfills can be permitted as less expensive Class IVb Landfills. Class IVb Landfills are not required to incur the expense of ground water monitoring nor close with an engineered low permeability final cover--Dianne R. Nielson, Ph.D.

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

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-305. Class IV Landfill Requirements.
R315-305-5. Requirements for Operation.

(1) An owner or operator of a Class IV Landfill shall not accept any other form of waste except construction/demolition waste, yard waste, inert waste, dead animals, or upon meeting the requirements of Section 26-32a-103.5 and Subsections R315-320-3(1) or (2), waste tires and material derived from waste tires.

(2) An owner or operator of a Class IV Landfill shall prevent the disposal of unauthorized waste by ensuring that at least one person is on site during hours of operation and shall prevent unauthorized disposal during off-hours by controlling entry, i.e., lockable gate or barrier, when the facility is not open.

(3) An owner or operator of a Class IV Landfill shall employ measures to prevent emission of fugitive dusts, when weather conditions or climate indicate that transport of dust off-site is liable to create a nuisance. Preventative measures include watering of roads and covering the waste with soil.

(4) Timbers, wood, and other combustible waste shall be covered with a minimum of six inches of soil, or equivalent, as needed to avoid a fire hazard.

(5) The owner or operator of a Class IV Landfill shall meet the applicable general requirements of closure and post-closure care of Section R315-302-3 as determined by the Executive Secretary.

(a) The owner or operator of a Class IVa Landfill shall meet the specific closure requirements of Subsection R315-303-3(4).

(b) [~~An~~]The owner or operator of a Class IVb Landfill shall close the facility by:

(a) leveling the waste to the extent practicable;

(b) covering the waste with a minimum of two feet of soil, including six inches of topsoil;

(c) contouring the cover as specified in R315-303-3(4)(a)(iii); and

(d) seeding the cover with grass, other shallow rooted vegetation, or other native vegetation or covering in another manner approved by the Executive Secretary to minimize erosion.

KEY: solid waste management, waste disposal
[~~November 15, 1997~~]1998 **19-6-104**
Notice of Continuation April 2, 1998 **19-6-105**
19-6-108
19-6-109
40 CFR 257

Environmental Quality, Solid and Hazardous Waste
R315-306
Energy Recovery and Incinerator Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21441
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify the requirement to inspect loads received at a facility to prevent the disposal of hazardous waste, to allow non-hazardous ash generated by an incinerator facility to be recycled, and to clarify other specific points of the rule.

SUMMARY OF THE RULE OR CHANGE: The following changes are made in the rule: (1) the rule is changed to require an incinerator facility to inspect loads received at the facility to prevent the disposal of regulated hazardous waste and regulated waste containing Polychlorinated Biphenols (PCBs); (2) the rule is changed to allow the recycling of non-hazardous ash and residue generated by an incinerator or energy recovery facility; and (3) other minor changes are made in punctuation or language for clarification of specific points.

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

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the requirements of the rule do not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the requirements of the rule are clarified and not changed, there will be no cost or savings impact.
❖OTHER PERSONS: Since the requirements of the rule are clarified and not changed, there will be no cost or savings impact.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in compliance costs for affected persons since the requirements of the rule are not changed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since requirements are clarified and not changed, there will be no fiscal impact to businesses--Dianne R. Nielson, Ph.D.

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

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

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Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-306. Energy Recovery and Incinerator Standards.
R315-306-2. Requirements for Energy Recovery Facilities and Incinerators.

(1) These standards apply to any energy recovery and incinerator facility designed to incinerate more than ten tons of solid waste per day.

(2) An energy recovery and incinerator facility shall be subject to the location standards of Section R315-302-1 with the exception of the following Subsections: R315-302-1(2)(a)(iv) and (v), R315-302-1(2)(e), and R315-302-1(3).

(3) Each owner or operator of an energy recovery facility or incinerator facility shall comply with Section R315-302-2. The submitted plan of operation shall also address alternative storage, or disposal plans for all breakdowns that would result in overfilling the storage facility.

(4) The submitted plan of operation shall also contain a written waste identification plan which shall include identification of the specific waste streams to be handled by the facility, generator waste analysis requirements and procedures, waste verification procedures at the facility, generator certification of wastes shipped as being non-hazardous, and record keeping procedures, including a detailed operating record.

(5) Each energy recovery or incinerator facility shall be surrounded by a fence, trees, shrubbery, or natural features so as to control access and be screened from the view of immediately adjacent neighbors, unless the tipping floor is fully enclosed by a building. Each site shall also have an adequate buffer zone of at least 50 feet from the operating area to the nearest property line in areas zoned residential to minimize noise and dust nuisances.

(6) Solid waste shall be stored temporarily in storage compartments, containers or areas specifically designed to store wastes. Storage of wastes other than in specifically designed compartments, containers or areas is prohibited. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as may be required to maintain the plant in a sanitary and clean condition.

(7) A composite sample of the ash and residues from each energy recovery or incinerator facility shall be taken according to a sampling plan approved by the Executive Secretary.

(a) The sample shall be analyzed by the U.S. EPA Test Method 1311 as provided in 40 CFR Part 261, Appendix II, 1991 ed., Toxic Characteristics Leaching Procedure (TCLP) to determine if it is hazardous.

(b) If the ash and residues are found to be nonhazardous, they shall be disposed at a permitted landfill or recycled.

(c) If the ash and residues are found to be hazardous, they shall be disposed in a permitted hazardous waste disposal site.

(8) Each energy recovery facility or incinerator must be located, designed, constructed and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

(9) An energy recovery facility or incinerator must collect and treat all run-off from the active areas of the site that may result from a 25-year storm event, and divert all run-on for the maximum flow of a 25-year storm around the site.

(10) All-weather roads shall be provided from the public highways or roads, to and within the disposal site and shall be designed and maintained to prevent traffic congestion hazards, dust, and noise pollution.

(11) Access to the energy recovery or incinerator site shall be controlled by means of a complete perimeter fence or other features and gates which shall be locked when an attendant is not at the gate to prevent unauthorized entry of persons or livestock to the facility.

(12) The plan of operation shall include a training program for new employees and annual review training for all employees to ensure safe handling of waste and proper operation of the equipment.

(13) Each owner or operator shall post signs at the facility which indicate the name, hours of operation, necessary safety precautions, types of wastes that are prohibited, and any other pertinent information.

(14) Each owner or operator of an energy recovery or incinerator facility shall be required to provide recycling facilities in a manner equivalent to those specified for landfills in Subsection R315-303-4(6).

(15) Each owner or operator of an energy recovery or incinerator facility shall implement a plan that will inspect loads or take other steps as approved by the Executive Secretary to prevent the disposal of regulated hazardous waste or regulated waste containing PCB's in a manner equivalent to those specified for landfills in Subsection R315-303-4(7).

(16) Each owner or operator shall close its energy recovery facility or incinerator by removing all ash, solid waste and other residues to a permitted facility.

R315-306-3. Requirements for Small Incinerators.

(1) Applicability.

(a) These requirements apply to any incinerator designed to incinerate[~~less than~~] ten tons, or less, of solid waste per day and incinerator facilities that incinerate solid waste only from on-site sources.

(b) If an incinerator processes 250 pounds, or less, of solid waste per week, the requirements of [~~this section~~]Section R315-306-3 do not apply and a permit from the Executive Secretary is not required but the facility may be regulated by other local, state, or federal [~~air quality~~]requirements.

(2) Requirements.

(a) Each owner and operator of an incinerator facility shall comply with Section R315-302-2.

(b) Solid waste shall be stored temporarily only in storage compartments, containers, or areas specifically designed to store wastes. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as necessary to maintain the plant in a sanitary and clean condition.

(c) Incinerator ash and residues from any incinerator shall be sampled, analyzed, and disposed as specified in Subsection R315-306-2(7).

(d) The owner or operator of the incinerator shall prevent the disposal of regulated hazardous waste or regulated waste containing PCB's as specified in Subsection R315-306-2(15).

(e) The incinerator must be designed, constructed and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

(f) The plan of operation shall include a training program for new employees and annual review training for all applicable employees to ensure safe handling of waste and proper operation of the equipment.

KEY: solid waste management, waste disposal
[~~February 15, 1996~~]1998 **19-6-104**
Notice of Continutation April 2, 1998 **19-6-105**
19-6-108

Environmental Quality, Solid and Hazardous Waste
R315-308
Ground Water Monitoring Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21442
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: R315-304 specifies that certain industrial landfills are required to monitor the ground water beneath the landfill. It is unnecessary to repeat the requirement in this rule. Also, changes are made in the rule to clarify specific points.

SUMMARY OF THE RULE OR CHANGE: The following changes are made in the rule: (1) the statement, "The ground water monitoring requirements of this rule apply to industrial solid waste facilities as specified in Rule R315-304," is removed from the rule to eliminate redundancy; (2) the setting of a ground water quality protection standard by the Executive Secretary is clarified; (3) the term "permit" is changed to "ground water monitoring plan"; and (4) a time limit is specified for the starting of assessment monitoring if this monitoring is necessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258, 1997 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the requirements of the rule are not changed, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the requirements of the rule are not changed, there will be no cost or savings impact.
❖OTHER PERSONS: Since the requirements of the rule are not changed, there will be no cost or savings impact.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements of the rule are not changed, there will be no change in compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the requirements of the rule are not changed, there will be no change in the fiscal impact to businesses--Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-308. Ground Water Monitoring Requirements.
R315-308-1. Applicability.

(1) Each existing landfill, pile, or landtreatment disposal facility that is required to perform ground water monitoring shall comply with the ground water monitoring requirements according

to the compliance schedule as established by the Executive Secretary during the permitting or the permit renewal process.

(2) Each new landfill, pile, or landtreatment disposal facility that is required to perform ground water monitoring shall have the ground water monitoring system complete and operational before waste may be accepted at the facility.

(3) Ground water monitoring requirements may be suspended by the Executive Secretary if the owner or operator of a solid waste disposal facility can demonstrate that there is no potential for migration of hazardous constituents from the facility to the ground water during the active life of the facility and the post-closure care period. This demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary, and must be based upon:

(a) site-specific field collected measurements, sampling, and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and

(b) contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and the environment.

(4) Once a ground water monitoring system and program has been established at a disposal facility, ground water monitoring shall continue to be conducted throughout the active life, closure, and post-closure care periods as specified by the Executive Secretary.[

~~(5) The ground water monitoring requirements of this rule apply to industrial solid waste facilities as specified in Rule R315-304.~~]

R315-308-2. Ground Water Monitoring Requirements.

(1) The ground water monitoring system must consist of at least one background or upgradient well and two downgradient wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer and all hydraulically connected aquifers below the facility, cell, or unit. The downgradient wells shall be designated as the point of compliance and must be installed at the closest practicable distance hydraulically down gradient from the unit boundary not to exceed 150 meters (500 feet) and must also be on the property of the owner or operator:

(a) the upgradient well must represent the quality of background water that has not been affected by leakage from the active area; and

(b) the downgradient wells must represent the quality of ground water passing the point of compliance. Additional wells may be required by the Executive Secretary in complicated hydrogeological settings or to define the extent of contamination detected.

(2) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. All monitoring wells and all other devices and equipment used in the monitoring program must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

(3) The ground water monitoring program must include at a minimum, procedures and techniques for:

(a) well construction and completion;

(b) decontamination of drilling and sampling equipment;

(c) sample collection;

(d) sample preservation and shipment;

(e) analytical procedures and quality assurance;

(f) chain of custody control; and

(g) procedures to ensure employee health and safety during well installation and monitoring.

(4) Each facility shall have a state certified laboratory complete tests, using methods with appropriate detection levels, as specified in the approved ground water monitoring plan, on samples for the following:

(a) during the first year of facility operation after wells are installed, a minimum of eight independent samples from the upgradient and four independent samples from each downgradient well for all parameters listed in Section R315-308-4 to establish background concentrations;

(b) after background levels have been established, a minimum of one sample, semiannually, from each well, background and downgradient, for all parameters listed in Section R315-308-4 as a detection monitoring program;

(i) In the detection monitoring program, the owner or operator must determine ground water quality at each monitoring well on a semiannual basis during the life of an active area, including the closure period, and the post-closure care period.

(ii) The owner or operator must express the ground water quality at each monitoring well in a form appropriate for the determination of statistically significant changes;

(c) field measured pH, water temperature, and water conductivity must accompany each sample collected;

(d) analysis for the heavy metals and the organic constituents from Section R315-308-4 shall be completed on unfiltered samples; and

(e) the Executive Secretary may specify additional or fewer constituents depending upon the nature of the ground water or the waste on a site specific basis considering:

(i) the types, quantities, and concentrations of constituents in wastes managed at the landfill;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the landfill;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the ground water; and

(iv) the background concentration or values and coefficients of variation of monitoring parameters or constituents in the ground water.

(5) After background constituent levels have been established, a ground water quality protection standard shall be set by the Executive Secretary which shall become part of the [~~permit~~]ground water monitoring plan. The ground water quality protection standard will be set as follows.

(a) For constituents with background levels below the standards listed in Section R315-308-4, the ground water quality standards of Section R315-308-4 shall be the ground water quality protection standard.

(b) If a constituent is detected and a background level is established but the ground water quality standard for the constituent is not included in Section R315-308-4 or the constituent has a background level that is higher than the value listed in Section

R315-308-4 for that constituent, the ground water quality protection standard for that constituent shall be set according to health risk standards.

(6) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(7) The owner or operator shall use a statistical method for determining whether a significant change has occurred as compared to background. The Executive Secretary will approve such a method as part of the [~~permit~~]ground water monitoring plan. Possible statistical methods include:

(a) a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent;

(b) an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent;

(c) a tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit;

(d) a control chart approach that gives control limits for each constituent; or

(e) another statistical test method approved by the Executive Secretary.

(8) The Executive Secretary may specify additional or fewer sampling and analysis events, no less than annually, depending upon the nature of the ground water or the waste on a site specific basis considering:

(a) lithology of the aquifer and unsaturated zone;

(b) hydraulic conductivity of the aquifer and unsaturated zone;

(c) ground water flow rates;

(d) minimum distance between upgradient edge of the landfill unit and downgradient monitoring well screen (minimum distance of travel); and

(e) resource value of the aquifer.

(9) The owner or operator must determine and report the ground water flow rate and direction in the upper most aquifer each time the ground water is sampled.

(10) If the owner or operator determines that there is a statistically significant change in any parameter or constituent at any monitoring well at the compliance point, the owner or operator must:

(a) within 14 days of receipt of the sample analysis results, enter the information in the operating record and notify the Executive Secretary of this finding in writing. The notification must indicate what parameters or constituents have shown statistically significant changes; and

(b) immediately resample the ground water in all monitoring wells, both background and downgradient, or in a subset of wells specified by the Executive Secretary, and determine:

(i) the concentration of all constituents listed in Section R315-308-4, including additional constituents that may have been identified in the approved ground water monitoring plan;

(ii) if there is a statistically significant change such that the established ground water quality protection level has been exceeded; and

(iii) notify the Executive Secretary in writing within seven days of receipt of the sample analysis results.

(c) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary and entered in the operating record. If a successful demonstration is made and documented, the owner or operator may continue monitoring as specified in Subsection R315-308-2(4)(b).

(11) If, after 90 days, a successful demonstration as stipulated in Subsection R315-308-2(10)(c) is not made, the owner or operator must initiate the assessment monitoring program required as follows:

(a) within 14 days of the determination that a successful demonstration is not made, take one sample from each downgradient well and analyze for all constituents listed as Appendix II in 40 CFR Part 258, 1991 ed., which is adopted and incorporated by reference.

(b) for any constituent detected from Appendix II, 40 CFR Part 258, in the downgradient wells a minimum of eight independent samples from the upgradient and four independent samples from each downgradient well must be collected and analyzed to establish background concentration levels for the constituents; and

(c) within 14 days of the receipt of the results of the analysis of the samples, place a notice in the operation record and notify the Executive Secretary in writing identifying the Appendix II, 40 CFR Part 258, constituents and their concentrations that have been detected as well as background levels. The Executive Secretary shall establish a ground water quality protection standard pursuant to Subsection R315-308-2(5) for any Appendix II, 40 CFR Part 258, constituent detected in the downgradient wells.

(d) The owner or operator shall thereafter resample:

(i) all wells on a quarterly basis for all constituents in Section R315-308-4, or the alternative list that may have been approved as part of the permit, and for those constituents detected from Appendix II, 40 CFR Part 258; and

(ii) the downgradient wells on an annual basis for all constituents in Appendix II, 40 CFR Part 258.

(e) If after two consecutive sampling events, the concentrations of all constituents being analyzed in Subsection R315-308-2(11)(d)(i) are shown to be at or below established background values, the owner or operator must notify the Executive Secretary of this finding and may, upon the approval of the Executive Secretary, return to the monitoring schedule and constituents as specified in Subsection R315-308-2(4)(b).

(12) If one or more constituents from Section R315-308-4 or the approved alternative list, or from those detected from Appendix II, 40 CFR Part 258, are detected at statistically significant levels above the ground water quality protection standard as established pursuant to Subsection R315-308-2(5) in any sampling event, the owner or operator must:

(a) within 14 days of the receipt of this finding, place a notice in the operating record identifying the constituents and concentrations that have exceeded the ground water quality standard. Within the same time period, the owner or operator must also notify the Executive Secretary and all appropriate local governmental and local health officials that the ground water quality standard has been exceeded;

(b) characterize the nature and extent of the release by installing additional monitoring wells as necessary;

(c) install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well and analyze the sample for the constituents in Section R315-308-4 or the approved alternative list and the detected constituents from Appendix II, 40 CFR Part 258; and

(d) notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site as indicated by sampling of wells in accordance with Subsections R315-308-2(12)(b) and (12)(c).

(e) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary and entered in the operating record. If a successful demonstration is made, documented and approved, the owner or operator may continue monitoring as specified in Subsection R315-308-2(11)(d) or Subsection R315-308-2(11)(e) when applicable.

KEY: solid waste management, waste disposal
[~~November 15, 1997~~]1998 **19-6-105**
Notice of Continuation April 20, 1998 **40 CFR 258**

Environmental Quality, Solid and Hazardous Waste

R315-309

Financial Assurance

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21443
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to implement a recent change in the Environmental Protection Agency (EPA) rules which allows a Corporate Financial Test or a Corporate Guarantee to be used as financial assurance mechanisms to cover the closure and post-closure care costs at a solid waste disposal facility that is owned by a corporation. The use of a Surety Bond as a financial assurance mechanism is clarified. Also, minor changes in punctuation, language, and numbering are made to clarify some points of the rule.

SUMMARY OF THE RULE OR CHANGE: The following rule changes are made: (1) since Rule R315-304 clearly specifies how the financial assurance requirements apply to industrial landfills, the reference to industrial landfills is removed to eliminate redundancy; (2) a Corporate Financial Test and a Corporate Guarantee are added as financial assurance mechanism options to cover the closure and post-closure care costs at solid waste disposal facilities owned or operated by a corporation; (3) the differences between a payment bond and a performance bond as financial assurance mechanisms are clarified; and (4) minor changes in language, numbering, and punctuation are made to clarify specific points of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258, 1997 ed.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the changes in the rule do not affect state entities and enforcement will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Changes in the rule either do not affect local governments or do not change actual requirements, therefore there will be no cost or savings impact.
❖OTHER PERSONS: The rule changes may decrease financial assurance costs for closure and post-closure care at corporate owned solid waste disposal facilities.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a decrease in financial assurance costs for corporate owners of solid waste disposal facilities since passing the Corporate Financial Test or the Corporate Guarantee will be less expensive than other available mechanisms. We cannot estimate the cost savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses that own or operate a landfill may experience lower operating costs associated with being allowed to use the less expensive financial assurance mechanisms to cover the costs of closure and post-closure care at their landfill. The Corporate Financial Test or the Corporate Guarantee will be less expensive than other financial assurance mechanisms such as insurance, bonds, or a letter of credit--Dianne R. Nielson, Ph.D.

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

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-309. Financial Assurance.
R315-309-1. Applicability.

(1) The owner or operator of any solid waste disposal facility requiring a permit shall establish financial assurance sufficient to assure adequate closure, post-closure care, and corrective action, if required, of the facility by compliance with one or more financial assurance mechanisms acceptable to and approved by the Executive Secretary.

(2) Financial assurance is not required for a solid waste disposal facility that is owned or operated by the State of Utah or the Federal government.

(3) Existing Disposal Facilities.

(a) An existing disposal facility shall have the financial assurance mechanism in place and effective according to the compliance schedule as established for the facility by the Executive Secretary.

(b) In the case of corrective action, the financial assurance mechanism shall be in place and effective no later than 120 days after the corrective action remedy has been selected.

(4) A new disposal facility or an existing disposal facility seeking lateral expansion shall have the financial assurance mechanism in place and effective before the initial receipt of waste at the facility or the lateral expansion.[

~~(5) The requirements of this rule apply to industrial solid waste facilities as specified in Rule R315-304.~~]

R315-309-3. Financial Assurance Mechanisms.

(1) Any financial assurance mechanism in place for a solid waste disposal facility must:

(a) be legally valid, binding, and enforceable under state and Federal law; and

(b) ensure that funds will be available in a timely fashion when needed.

(2) The owner or operator of a solid waste disposal facility that is required to provide financial assurance shall establish financial assurance by one of the following mechanisms.

(a) A solid waste disposal facility shall submit the required documentation of the financial assurance mechanism to the Executive Secretary.

(b) Prior to the financial assurance mechanism becoming effective and active for a solid waste disposal facility, the mechanism [~~which~~]must be approved by the Executive Secretary[~~as part of the permit~~].

(3) Trust Fund.

(a) The trustee must be an entity which has the authority to act as a trustee and whose operations are regulated and examined by a Federal or state agency.

(b) [~~A~~]The owner or operator shall submit a copy of the trust agreement to the Executive Secretary for approval and shall place a copy of the trust agreement[~~must be placed~~] in the operating record of the solid waste disposal facility.

(c) Payments into the trust fund must be made annually by the owner or operator according to the following schedule:

(i) for a trust fund for closure and post-closure care, annual payments that will ensure the availability of sufficient funds within five years of permit approval for the cost estimates required in Subsection R315-309-2(3). The initial payment into the trust fund must be made, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste and for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); or

(ii) for a trust fund for corrective action, annual payments that will ensure the availability of sufficient funds within one-half of the estimated length in years of the corrective action program for the cost estimate required by Subsection R315-309-2(4). The first payment shall be at least equal to one-half of the current cost estimate for the corrective action divided by one-half the estimated length of the corrective action program. The initial payment into the trust fund shall be made in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(d) The owner or operator, or other person authorized to conduct closure, post-closure, or corrective action may request reimbursement from the trustee for closure, post-closure, or corrective action costs.

(i) Prior to the release of funds by the trustee, the request for reimbursement must be approved by the Executive Secretary. The Executive Secretary shall act upon the reimbursement request within 30 days of receiving the request.

(ii) After receiving approval from the Executive Secretary, the request for reimbursement may be granted by the trustee only if sufficient funds are remaining to cover the remaining costs and if justification and documentation of the costs is placed in the operating record.

(iii) The owner or operator shall notify the Executive Secretary that documentation for the reimbursement has been placed in the operating record and that the reimbursement has been received.

(4) Surety Bond Guaranteeing Payment or Performance.

(a) The bond must be effective, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste or, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3).

(b) The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury and the owner or operator must notify the Executive Secretary that a copy of the bond has been placed in the operating record.

(c) The penal sum of the bond must be in an amount at least equal to the closure, post-closure, or corrective action cost estimates of Subsection R315-309-2(3) or Subsection R315-309-2(4), whichever is applicable.

(d) 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.

(i) In the case of a payment bond, the surety shall pay the costs of closure and post-closure care if the owner or operator fails to complete closure and post-closure care activities.

(ii) In the case of a performance bond, the surety shall perform closure and post-closure care on behalf of the owner or operator if the owner or operator fails to complete closure and post-closure care activities.

(e) In the case of a payment bond and at the time the bond is issued, the[~~The~~] owner or operator [~~must~~]shall establish a standby trust fund.

(i) The standby trust fund must meet the requirements of Subsections R315-309-3(3)(a), (b), and (d).

(ii) Payment made under the terms of the bond will be deposited by the surety directly into the standby trust fund. Payments from the trust fund must be approved by the Executive Secretary and the trustee.

(f) The surety bond guaranteeing payment or performance shall contain provisions preventing cancellation except under the following conditions:

(i) if the surety sends notice of cancellation by certified mail to the owner or operator and the Executive Secretary 120 days in advance of the cancellation date; or

(ii) if an alternative financial assurance mechanism has been obtained by the owner or operator.

(5) Insurance.

(a) The insurance must be effective, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste or, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3).

(b) At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and the owner or operator must notify the Executive Secretary that a copy of the insurance policy has been placed in the operating record.

(c) The insurance policy must guarantee that funds will be available to close the facility or unit and provide post-closure care or provide corrective action, if applicable. The policy must also guarantee that the insurer will be responsible for paying out funds to the owner or operator or other person authorized to conduct closure, post-closure, or corrective action, if applicable, up to an amount equal to the face amount of the policy.

(d) The insurance policy must be issued for a face amount at least equal to the closure, post-closure, or corrective action cost estimates required by Subsection R315-309-2(3) or Subsection R315-309-2(4), whichever is applicable.

(e) An owner or operator, or other authorized person may receive reimbursements for closure, post-closure, or corrective action, if applicable, if the remaining value of the policy is sufficient to cover the remaining costs of the work required and if justification and documentation of the cost is placed in the operating record. The owner or operator must notify the Executive Secretary that the documentation and justification for the reimbursement has been placed in the operating record and that the reimbursement has been received.

(f) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator.

(g) The insurance policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner or operator and the Executive Secretary 120 days in advance of cancellation. If the insurer cancels the policy, the owner or operator must obtain alternate financial assurance.

(6) Letter of Credit.

(a) The letter of credit must be irrevocable and issued for a period of at least one year in the amount at least equal to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care or the cost estimate as required by Subsection R315-309-2(4) for corrective action, if necessary.

(b) The institution issuing the letter of credit must be an entity which has the authority to issue a letter of credit and whose operations are regulated and examined by a Federal or state agency.

(c) The letter of credit must be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(d) The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has elected not to extend the letter of credit by sending notice by certified mail to the owner or operator and the Executive Secretary 120 days in advance of the expiration.

(e) If the letter of credit is not extended by the issuing institution, the owner or operator shall obtain alternate financial assurance which will become effective on or before the expiration date.

(7) Local Government Financial Test.

(a) The following terms used in Subsection R315-309-3(7) are defined as follows.

(i) "Total revenues" means the revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue form funds managed by local government on behalf of a specific third party.

(ii) "Total expenditures" means all expenditures excluding capital outlays and debt repayments.

(iii) "Cash plus marketable securities" means all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

(iv) "Debt service" means the amount of principal and interest due on a loan in a given time period, typically the current year.

(b) A local government owner or operator of a solid waste disposal facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate as required by Subsection R315-309-2(4) for corrective action, if required, or up to the amount specified in Subsection R315-309-3(7)(f), which ever is less, by meeting the following requirements.

(i) If the local government has outstanding, rated general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or other guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's or AAA, AA, A, or BBB, as issued by Standard and Poor's on such general obligation bonds.

(ii) If the local government has no outstanding general obligation bonds, the local government shall satisfy each of the following financial ratios based on the local government's most recent audited annual financial statement:

(A) a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

(B) a ratio of annual debt service to total expenditures less than or equal to 0.20.

(iii) The local government must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant.

(iv) The local government must place a reference to the closure and post-closure care costs assured through the financial test into the next comprehensive annual financial report and in every subsequent comprehensive annual financial report during the time in which closure and post-closure care costs are assured through the financial test. A reference to corrective action costs must be placed in the comprehensive annual financial report not later than 120 days after the corrective action remedy has been selected. The reference to the closure and post-closure care costs shall contain:

(A) the nature and source of the closure and post-closure care requirements;

(B) the reported liability at the balance sheet date;

(C) the estimated total closure and post-closure care costs remaining to be recognized;

(D) the percentage of landfill capacity used to date; and

(E) the estimated landfill life in years.

(c) A local government is not eligible to assure closure, post-closure care, or corrective action costs at its solid waste disposal facility through the financial test if it:

(i) is currently in default on any outstanding general obligation bonds, or

(ii) has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or

(iii) has operated at a deficit equal to 5%, or more, of the total annual revenue in each of the past two fiscal years; or

(iv) receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant, or appropriate state agency auditing its financial statement. The Executive Secretary may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Executive Secretary deems the qualification insufficient to warrant disallowance of use of the test.

(d) The local government owner or operator must submit the following items to the Executive Secretary for approval and place a copy of these items in the operating record of the facility:

(i) a letter signed by the local government's chief financial officer that:

(A) lists all current cost estimates covered by a financial test; and

(B) provides evidence and certifies that the local government meets the requirements of Subsections R315-309-3(7)(b) and R315-309-3(7)(f);

(ii) the local government's independently audited year-end financial statements for the latest fiscal year including the unqualified opinion of the auditor, who must be an independent certified public accountant;

(iii) a report to the local government from the local government's independent certified public accountant stating the procedures performed and the findings relative to:

(A) the requirements of Subsections R315-309-3(7)(b)(iii) and R315-309-3(7)(c)(iii) and (iv); and

(B) the financial ratios required by Subsection R315-309-3(7)(b)(ii), if applicable; and

(iv) a copy of the comprehensive annual financial report used to comply with Subsection R315-309-3(7)(b)(iv).

(v) The items required by Subsection R315-309-3(7)(d) are to be submitted to the Executive Secretary and copies placed in the facility's operating record as follows:

(A) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(B) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(C) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(e) A local government must satisfy the requirements of the financial test at the close of each fiscal year.

(i) [~~An up-date of the~~]The items required in Subsection R315-309-3(7)(d) shall be submitted as part of the facility's annual report required by Subsection R315-302-2(4).

(ii) If the local government no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the local government's fiscal year:

(A) obtain alternative financial assurance that meets the requirements of R315-309-1(1); and

(B) submit documentation of the alternative financial assurance to the Executive Secretary and place copies of the documentation in the facility's operating record.

(iii) The Executive Secretary, based on a reasonable belief that the local government may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the Executive Secretary finds that the local government no longer meets the requirements of the local government financial test, the local government shall be required to provide alternative financial assurance on a schedule established by the Executive Secretary.

(f) The portion of the closure, post-closure, and corrective action costs for which a local government owner or operator may assume under the local government financial test is determined as follows:

(i) If the local government does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.

(ii) If the local government assures any other environmental obligation through a financial test, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure by local government financial test. The total that may be assured must not exceed 43% of the local government's total annual revenue.

(iii) The local government shall obtain an alternate financial assurance mechanism for those costs that exceed 43% of the local government's total annual revenue.

(8) Local Government Guarantee.

(a) An owner or operator of a solid waste disposal facility may demonstrate financial assurance for closure, post-closure, and corrective action by obtaining a written guarantee provided by a local government. The local government shall meet the requirements of the local government financial test in Subsection R315-309-3(7) and shall comply with the terms of the written guarantee as specified in Subsections R315-309-3(8)(b) and (c).

(b) The guarantee must be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or

(ii) establish a fully funded trust fund as specified in Subsection R315-309-3(3) in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Executive Secretary. Cancellation may not occur until 120 days after the date the notice is received by the Executive Secretary.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

(i) obtain alternate financial assurance that meets the requirements of Subsection R315-309-1(1);

(ii) submit documentation of the alternate financial assurance to the Executive Secretary; and

(iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90 day period, the guarantor must provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the Executive Secretary for review and approval, and place copies of the documentation in the facility's operating record.

(9) Corporate Financial Test.

(a) A corporate owner or operator of a solid waste disposal facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate required by Subsection R315-309-2(4) for corrective action, if required, by meeting the following requirements.

(i) The owner or operator must satisfy one of the following three conditions:

(A) a current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or

(B) a ratio of less than 1.5 comparing total liabilities to net worth: or

(C) a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10 million, to total liabilities.

(ii) The tangible net worth of the owner or operator must be greater than:

(A) the sum of the current closure, post-closure care, and corrective action cost estimates and any other environmental obligation, including guarantees, covered by a financial test plus $10 million except as provided in Subsection R315-309-3(9)(a)(ii)(B);

(B) $10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Executive Secretary.

(iii) The owner or operator must have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test.

(b) The owner or operator must place the following items into the facility's operating record and submit a copy of these items to the Executive Secretary for approval:

(i) a letter signed by the owner's or operator's chief financial officer that:

(A) lists all current cost estimates for closure, post-closure care, corrective action, and any other environmental obligations covered by a financial test; and

(B) provides evidence demonstrating that the firm meets the conditions of Subsection R315-309-3(9)(a)(i)(A), or (i)(B), or (i)(C) and Subsections R315-309-3(9)(a)(ii) and (iii); and

(ii) a copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year.

(A) To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. The Executive Secretary may evaluate qualified opinions on a case-by-case basis and allow use of the financial test where the Executive Secretary deems the matters which form the basis for the qualification are insufficient to warrant disallowance of the test.

(iii) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies Subsection R315-309-3(9)(a)(i)(A) or (B) that are different from data in the audited financial statements or data filed with the Securities and Exchange Commission, then a special report from the owner's or operator's independent certified public accountant is required. The special report shall:

(A) be based upon an agreed upon procedures engagement in accordance with professional auditing standards;

(B) describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements;

(C) describe the findings of that comparison; and

(D) explain the reasons for any differences.

(iv) If the chief financial officer's letter provides a demonstration that the firm has assured environmental obligations as provided in Subsection R315-309-3(9)(a)(ii)(B), then the letter shall include a report from the independent certified public accountant that:

(A) verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements;

(B) explains how these obligations have been measured and reported; and

(C) certifies that the tangible net worth of the firm is at least $10 million plus the amount of all guarantees provided.

(v) The items required by Subsection R315-309-3(9)(b) are to be submitted to the Executive Secretary and copies placed in the facility's operating record as follows:

(A) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(B) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(C) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(e) A firm must satisfy the requirements of the financial test at the close of each fiscal year.

(i) The items required in Subsection R315-309-3(9)(b) shall be submitted as part of the facility's annual report required by Subsection R315-302-2(4).

(c) If the firm no longer meets the requirements of the corporate financial test it shall, within 120 days following the close of the firm's fiscal year:

(i) obtain alternative financial assurance that meets the requirements of R315-309-1(1); and

(ii) submit documentation of the alternative financial assurance to the Executive Secretary and place copies of the documentation in the facility's operating record.

(iii) The Executive Secretary, based on a reasonable belief that the firm may no longer meet the requirements of the corporate financial test, may require additional reports of financial condition from the firm at any time. If the Executive Secretary finds that the firm no longer meets the requirements of the corporate financial test, firm shall be required to provide alternative financial assurance on a schedule established by the Executive Secretary.

(10) Corporate Guarantee.

(a) A corporate owner or operator of a solid waste disposal facility may demonstrate financial assurance for closure, post-closure care, and corrective action by obtaining a written guarantee provided by a corporation.

(i) The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator.

(ii) The firm shall meet the requirements of the corporate financial test in Subsection R315-309-3(9) and shall comply with the terms of the written guarantee as specified in Subsections R315-309-3(10)(b) and (c).

(A) A certified copy of the guarantee along with copies of the letter from the guarantor's chief financial officer and accountant's opinions must be submitted to the Executive Secretary and placed in the facility's operating record.

(B) If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee.

(C) If the guarantor is a firm with a substantial business relationship with the owner or operator, the letter from the chief financial officer must describe this substantial business relationship and the value received in consideration of the guarantee.

(b) The guarantee must be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or

(ii) establish a fully funded trust fund as specified in Subsection R315-309-3(3) in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Executive Secretary. Cancellation may not occur until 120 days after the date the notice is received by the Executive Secretary.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

(i) obtain alternate financial assurance that meets the requirements of Subsection R315-309-1(1);

(ii) submit documentation of the alternate financial assurance to the Executive Secretary; and

(iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90 day period, the guarantor must provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the Executive Secretary for review

and approval, and place copies of the documentation in the facility's operating record.

(f) If a corporate guarantor no longer meets the requirements of the corporate financial test as specified in Subsection R315-309-3(9):

(i) the owner or operator must, within 90 days, obtain alternate financial assurance; and

(ii) submit documentation of the alternate financial assurance to the Executive Secretary and place copies of this documentation in the facility's operating record.

(iii) If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

[~~(9)~~](11) The owner or operator of a solid waste disposal facility may establish financial assurance by other mechanisms that meet the requirements of Subsection R315-309-1(1) as approved by the Executive Secretary.

[~~(10)~~](12) The owner or operator of a solid waste disposal facility may establish financial assurance by a combination of mechanisms that together meet the requirements of Subsection R315-309-1(1) as approved by the Executive Secretary. Except for the conditions specified in Subsection R315-309-3(7)(f)(iii), financial assurance mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments.

R315-309-4. Discounting.[

~~(11) Discounting.~~]

[~~(a)~~](1) The Executive Secretary may allow discounting of closure, post-closure care, or corrective action costs up to the rate of return for essentially risk free investments, net inflation.

[~~(b)~~](2) Discounting may be allowed under the following conditions:

[~~(i)~~](a) the Executive Secretary determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a professional engineer registered in the state of Utah so stating;

[~~(ii)~~](b) the Executive Secretary finds the facility in compliance with all applicable Utah Solid Waste Permitting and Management Rules and in compliance with all conditions of the facility's permit issued under the rules;

[~~(iii)~~](c) the executive Secretary determines that the closure date is certain and the owner or operator certifies that there are no foreseeable factors that will change the estimate of the facility life; and

[~~(iv)~~](d) discounted cost estimates must be adjusted annually to reflect inflation and years of remaining facility life.

R315-309-5. Termination of Financial Assurance.

[~~(12)~~]The owner or operator of a solid waste disposal facility may terminate or cancel an active financial assurance mechanism under the following conditions:

[~~(a)~~](1) if the owner or operator establishes alternate financial assurance as approved by the Executive Secretary; or

[~~(b)~~](2) if the owner or operator is released from the financial assurance requirements by the Executive Secretary after meeting the conditions and requirements of Subsections R315-302-3(8)(b) and (c) or Subsection R315-308-3(2)(c), whichever is applicable.

KEY: solid waste management, waste disposal
[~~November 15, 1997~~]1998 **19-6-105**
Notice of Continuation April 20, 1998 **40 CFR 258**

Environmental Quality, Solid and Hazardous Waste

R315-312-1

Applicability

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21444
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to allow the Executive Secretary to establish a compliance schedule for a recycling or composting facility to meet the requirements of the rule.

SUMMARY OF THE RULE OR CHANGE: The rule is changed so that each recycling or composting facility will be placed on a compliance schedule to assure compliance with the requirements of the rule on or before a date established by the Executive Secretary. Also, a spelling mistake is corrected.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-108

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The enforcement of the requirements of the rule will not change and the changes in the rule do not affect state entities, therefore, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the schedule of compliance is changed and no changes are made in the requirements of the rule, there will be no cost or savings impact.
❖OTHER PERSONS: Since the schedule of compliance is changed and no changes are made in the requirements of the rule, there will be no cost or savings impact.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in compliance costs for affected persons since only the schedule of compliance to the requirements is changed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses since only the schedule of compliance to the requirements of the rule is changed--Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-312. Recycling and Composting Facility Standards.
R315-312-1. Applicability.

(1) These standards apply to any facility engaged in recycling or utilization of solid waste on the land including:

(a) composting;

(b) utilization of sewage sludge, septage and other organic wastes on land for beneficial use; and

(c) accumulation of wastes in piles for recycling or utilization.

(2) These standards do not apply to:

(a) single family residences and single family farms engaged in composting of their own solid waste;

(b) other composting operations in which waste from on-site is composted and the finished compost is used on-site;

(c) hazardous waste; or

(d) manufacturing and industrial facilities.

(3) These standards do not apply to any facility that recycles or utilizes solid wastes [~~soley~~]solely in containers, tanks, vessels, or in any enclosed building, including buy-back recycling centers.

(4) Effective dates. An[~~y~~] existing facility recycling or composting solid waste shall be placed upon a compliance schedule to assure compliance [~~within twelve months of the effective date of this rule~~]with the requirements of Rule R315-312 on or before a date established by the Executive Secretary.

KEY: solid waste management, waste disposal
[~~1994~~]1998 **19-6-105**
Notice of Continuation April 20, 1998 **19-6-108**

Environmental Quality, Solid and Hazardous Waste
R315-314-1
Applicability

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21445
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Piles of non-inert construction/demolition waste may be a potential threat to human health or the environment and only inert construction/demolition waste is exempt from regulation by Subsection 19-6-102(17)(b)(i). Therefore, the rule is changed to also apply to construction/demolition waste stored in piles. Any inert waste stored in piles will still not be regulated. Also, references to the rule are corrected.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to become applicable to non-inert construction/demolition waste stored in piles and to correct references to the rule.

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

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the enforcement of the rule will not change and the rule change implements a statutory requirement, there will be no cost or savings impact beyond that already required.
❖LOCAL GOVERNMENTS: Since the rule change implements a statutory requirement, there will be no cost or savings impact beyond that already required.
❖OTHER PERSONS: Since the rule change implements a statutory requirement, there will be no cost or savings impact beyond that already required.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected persons beyond current statutory and regulatory impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses beyond current statutory and regulatory impact--Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-314. Facility Standards for Piles Used for Storage and Treatment.
R315-314-1. Applicability.

(1) [~~This section~~]Rule R315-314 is applicable to solid waste stored or treated in piles where the solid waste, other than garbage, is in place for more than 90 days and garbage is in place for more than seven days. These standards are also applicable to storing of garbage and sludge in piles, to material derived from waste tires stored in piles, and to tire piles where more than 1000 tires are stored at one facility. The standards for waste tire piles do not apply to permitted waste disposal facilities or municipal landfills that have tire piles.

(2) Other solid wastes stored or treated in piles prior to waste recycling including compost piles of vegetative waste and wood waste are not subject to the[~~se~~] standards of Rule R315-314.

(3) Waste piles stored in fully enclosed buildings are not subject to the[~~se~~] standards of Rule R315-314, provided that no liquids or sludge with free liquids are added to the pile.

(4) Inert waste[~~and construction/demolition~~] waste [~~are~~]is not subject to the[~~se~~] standards of Rule R315-314.

(5) The standards of [~~this rule~~]Rule R315-314 do not apply to industrial solid waste facilities.

KEY: solid waste management, waste disposal
[~~November 15, 1997~~]1998 **19-6-104**
Notice of Continuation April 28, 1998 **19-6-105**
19-6-108

◆ ◆

Environmental Quality, Solid and Hazardous Waste
R315-315
Special Waste Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21446
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to prohibit the disposal of lead acid batteries, as required by Section 19-6-602, and used oil, as required by Rule R315-15, at solid waste disposal facilities. Since Rule R315-304 clearly specifies the wastes that may be accepted at an industrial landfill, the reference to industrial landfills is removed to eliminate redundancy. Also, the rule is changed to allow increased flexibility in the management of ash.

SUMMARY OF THE RULE OR CHANGE: The following changes in the rule are made: (1) lead acid batteries may not be disposed at a solid waste disposal facility, but must be recycled and managed in accordance with Sections 19-6-601 through 19-6-607; (2) used oil may not be disposed at a solid waste disposal facility, but must be recycled and managed in accordance with Rule R315-15; (3) the statement, "The requirements of this rule do not apply to industrial solid waste facilities," is removed to eliminate redundancy; (4) increased flexibility is allowed in the management of ash in that it may also be recycled and solid waste facilities may determine the methods used to prevent fugitive dust emissions; and (5) wording changes are made for clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the rule change implements current statutory and regulatory requirements, eliminates redundancy, allows increased flexibility, and clarifies specific points but does not change the actual requirements, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the rule change implements current statutory and regulatory requirements, eliminates redundancy, allows increased flexibility, and clarifies specific points but does not change the actual requirements, there will be no cost or savings impact.
❖OTHER PERSONS: Since the rule change implements current statutory and regulatory requirements, eliminates redundancy, allows increased flexibility, and clarifies specific points but does not change the actual requirements, there will be no cost or savings impact.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the requirements of the rule are not changed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the requirements of the rule are not changed, there will be no change in the fiscal impact on businesses--Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-315. Special Waste Requirements.
R315-315-1. General Requirements.

(1) If special wastes are accepted at the facility, proper provisions shall be made for handling and disposal. These provisions shall include, where required and approved by the Executive Secretary, a separate area for disposal of the wastes, designated by appropriate signs.[

~~(2) The requirements of this rule do not apply to industrial solid waste facilities.~~]

(2) The following wastes are prohibited from disposal at a solid waste disposal facility.

(a) Lead acid batteries must be recycled and otherwise managed in accordance with Sections 19-6-601 through 607.

(b) Used oil must be recycled and otherwise managed in accordance with Rule R315-15.

R315-315-3. Ash.

(1) Ash Management.

(a) Ash may be recycled.

(b) If ash is disposed, the preferred method[~~Preferred ash management~~] is in a permitted Class III ash monofill, but ash may be disposed in a permitted Class I, II, III, or V landfill.

(2) Ash shall be transported in[~~such~~] a manner to prevent leakage or the release of fugitive dust.

(3) Ash shall be handled and disposed at the landfill in a manner to prevent fugitive dust emissions.[~~The landfill operator shall:~~

~~(a) unload the transport vehicles at the bottom of the working face and keep the ash wetted, if necessary, to prevent fugitive emissions prior to covering; and~~

~~(b) within 24 hours, completely cover the ash with a minimum of six inches of other non-ash landfill waste or a minimum of six inches of material containing no waste or use other methods or materials, if necessary, to control fugitive dust.~~]

R315-315-6. Dead Animals.

Dead animals received at the facility shall be deposited onto the working face at or near the bottom of the cell with other solid waste, or into a separate disposal trench provided they are covered daily with a minimum of six inches of earth to [~~prevent~~]minimize odors and the propagation and harborage of rodents [~~and~~]or insects.

KEY: solid waste management, waste disposal
[~~1995~~]1998 **19-6-105**
Notice of Continuation April 28, 1998

Environmental Quality, Solid and Hazardous Waste
R315-317
Other Processes, Variances, and Violations

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21447
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify references to the Solid Waste Permitting and Management Rules.

SUMMARY OF THE RULE OR CHANGE: The term "this rule" is changed to "Rules R315-301 through 320."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-108, 19-6-109, and 19-6-111

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the requirements of the rule are not changed, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the requirements of the rule are not changed, there will be no cost or savings impact.
❖OTHER PERSONS: Since the requirements of the rule are not changed, there will be no cost or savings impact.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The requirements of the rule are not changed, therefore, there will be no change in compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses since the requirements of the rule are not changed--Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-317. Other Processes, Variances, and Violations.
R315-317-1. Other Processes, Methods, and Equipment.

Processes, methods, and equipment other than those specifically addressed in [~~this rule~~]Rules R315-301 through 320 will be considered on an individual basis by the Executive Secretary upon submission of evidence of adequacy to meet the minimum standards of performance to protect human health and the environment as required in Section R315-303-2.

R315-317-2. Variances.

(1) Variances will be granted by the Board only to the extent allowed under Federal law.

(2) Any owner or operator of a solid waste facility may apply to the Board for a variance from any portion of [~~this rule~~]Rules R315-301 through 320 except as specified in Subsection R315-317-2(1). The application shall be accompanied by such information as the Executive Secretary may require. All applications for a variance shall be subject to the public comment requirements of Subsection R315-311-3. The Board may grant such variance, if it finds that:

(a) the solid waste handling practices or location do not endanger public health, safety, or the environment; and

(b) the application of, or compliance with, any requirement of this rule would cause undue or unreasonable hardship to any person; and

(c) circumstances of the solid waste disposal site location, operating procedures, or other conditions indicate that the purpose and intent of this rule as well as other state and federal regulations can be achieved without strict adherence to all of the requirements.

(3) If a variance is granted by the Board under this section for a period longer than one year, the variance shall contain a timetable for coming into compliance and shall be conditioned on adherence to that timetable.

R315-317-3. Violations, Orders, and Hearings.

(1) Whenever the Executive Secretary or his duly appointed representative, determines that any person is in violation of any applicable approved solid waste operation plan or permit or the requirements of [~~this rule~~]Rules R315-301 through 320, the Executive Secretary may cause written notice of violation to be served upon the alleged violators. The notice shall specify the provisions of the plan, permit, or rules alleged to have been violated and the facts alleged to constitute the violation. The Executive Secretary may issue an order that necessary corrective action be taken within a reasonable time or may request the attorney general or the county attorney in the county in which the violation takes place to bring a civil action for injunctive relief and enforcement of the permit requirements or this rule.

(2) Any order issued pursuant to Subsection R315-317-3(1) shall become final unless, within 30 days after the order is served, the persons specified therein request a hearing. Title 63, Chapter 46b and Rule R315-12 shall govern the conduct of hearings before the Board.

KEY: solid waste management, waste disposal
[~~1993~~]1998 **19-6-105**
Notice of Continuation April 28, 1998 **19-6-108**
19-6-109
19-6-111
19-6-112

Environmental Quality, Solid and Hazardous Waste
R315-320
Waste Tire Transporter and Recycler Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21448
FILED: 09/11/1998, 16:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to replace the term "ground rubber" with "crumb rubber" to be consistent with the statute and the definition of the term "ultimate product" is clarified.

SUMMARY OF THE RULE OR CHANGE: The following changes are made in the rule: (1) the term "crumb rubber" replaces "ground rubber" in a definition; and (2) the definition of the term "ultimate product" is clarified by the addition of certain characteristics of an ultimate product.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105, and Title 26, Chapter 32a

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The rule is changed to be consistent with the statute and to clarify a definition. The requirements of the rule are not changed, therefore, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: The rule is changed to be consistent with the statute and to clarify a definition. The requirements of the rule are not changed, therefore, there will be no cost or savings impact.
❖OTHER PERSONS: The rule is changed to be consistent with the statute and to clarify a definition. The requirements of the

rule are not changed, therefore, there will be no cost or savings impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since no changes are made in the requirements of the rule, there will be no change in compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no change in the fiscal impact to businesses since no changes are made in the requirements of the rule--Dianne R. Nielson, Ph.D.

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

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/1998

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-320. Waste Tire Transporter and Recycler Requirements.
R315-320-2. Definitions.

Terms used in Rule R315-320 are defined in Sections R315-301-2 and 26-32a-103. In addition, for the purpose of this rule, the following definitions apply:

(1) [~~"Ground Rubber"~~]"Crumb rubber" means waste tires that have been ground, shredded or otherwise reduced in size such that the material can pass through a ASTM standard 10 mesh screen.

(2) "Shredded Tires" means waste tires that have been reduced in size so that the greatest dimension of a minimum of 60 percent, by weight, of the pieces are no more than six inches and the greatest dimension of any piece is no more than 12 inches.

(3) "Ultimate product" means a product that has, as a component, waste tires or materials derived from waste tires and

(a) may have the following characteristics:

(i) has a demonstrated market[~~.~~];

(ii) is the last manufacturing step in a processing sequence; or

(iii) meets all of the specifications for a material that is being replaced in a processing sequence.

[~~(a)~~](b) Ultimate product includes pyrolized tires and ground rubber.

[~~(b)~~](c) Ultimate product does not include a product which, upon disposal or disassembly of the product, whole tires remain.

(4) "Vehicle identification number" means the identifying number assigned by the manufacture or by the Utah Motor Vehicle Division of the Utah Tax Commission for the purpose of identifying the vehicle.

(5) "Waste tire recycling or recycling" means the burning of waste tires or material derived from waste tires as a fuel for energy recovery or the creation of ultimate products from waste tires or material derived from waste tires.

R315-320-3. Landfilling of Waste Tires and Material Derived from Waste Tires.

(1) Landfilling of Whole Tires. Except for tires from devices moved exclusively by human power and tires with a rim diameter greater than 24.5 inches, an individual, including a waste tire transporter, may not dispose of more than four whole tires at one time in a landfill.

(2) Landfilling of Material Derived from Waste Tires. An individual, including a waste tire transporter, may dispose of material derived from waste tires in a landfill which has a permit issued by the Executive Secretary.

(3) Reimbursement for Landfilling Shredded Tires.

(a) The owner or operator of a permitted landfill may apply for reimbursement for landfilling shredded tires as specified in Subsection R315-320-6(1).

(b) To receive the reimbursement, the owner or operator of the landfill must meet the following conditions:

(i) the waste tires shall be shredded;

(ii) the shredded tires shall be stored in a segregated cell or other landfill facility that ensures the shredded tires are in a clean and accessible condition so that they may be reasonably retrieved and recycled at a future time; and

(iii) the design and operation of the landfill cell or other landfill facility has been reviewed and approved by the Executive Secretary prior to the acceptance of shredded tires.

(4) Violation of Sections R315-320-3(1) or (2) is subject to enforcement proceedings and a civil penalty as specified in Subsection 26-32a-103.5(4).

KEY: solid waste management, waste disposal
[~~November 15, 1997~~]1998 **19-6-105**
26-32a

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Environmental Quality, Water Quality
R317-10
Certification of Wastewater Works Operators

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21449
FILED: 09/14/1998, 10:19
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendments were recommended to the Water Quality Board by the Utah Wastewater Operator Certification Council and the Division of Water Quality staff. The amendments clarify existing language and requirements needed to effectively administer the state Wastewater Operator Certification Program.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments correct previous typing errors, clarify existing definitions, and add a new definition. Additional changes include eliminating outdated language, modifying the requirements for the members of the Operator Certification Council, and adding additional language which reflects current program policy.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: As indicated under the "Summary of the rule or change," the proposed amendments are of a minor nature and have no impact on state budget.
❖LOCAL GOVERNMENTS: As indicated under the "Summary of the rule or change," the proposed amendments are of a minor nature and have no fiscal impact on local governments.
❖OTHER PERSONS: As indicated under the "Summary of the rule or change," the proposed amendments are of a minor nature and have no fiscal impact on other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments are of a minor and clarifying nature and will not result in additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated under the "Summary of the rule or change," the proposed amendments are of a minor and clarifying nature and will have no fiscal impact on businesses.

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

Environmental Quality
Water Quality
Cannon Health Building
288 North 1460 West
PO Box 144870
Salt Lake City, UT 84114-4870, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Rose Griffin or David Wham at the above address, by phone at (801) 538-6146, by FAX at (801) 538-6016, or by Internet E-mail at dwham@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 10/13/1998, 10:00 a.m., Room 101, Department of Environmental Quality Administration Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/19/1998

AUTHORIZED BY: Dianne R. Nielson, Director

R317. Environmental Quality, Water Quality.
R317-10. Certification of Wastewater Works Operators.

. . . . . .

R317-10-2. Scope.

These certification rules apply to all wastewater works and sewerage systems[~~, operated by political subdivisions~~], with the exception of Individual Wastewater Disposal Systems and Large Underground Disposal Systems as defined in R317-1. This includes both wastewater collection systems and wastewater treatment systems except underground wastewater disposal systems. [~~The requirements~~]Wastewater works operated by political subdivisions must have certified operators as required in this rule. Operators of wastewater systems not requiring certified operators (such as industrial wastewater treatment systems) may be certified according to provisions of these rules [~~must be met by December 31, 1994~~]for testing and certification.

. . . . . .

R317-10-4. Definitions.

A. "Board" means the Water Quality Board.

B. "Category" means type of certification (collection or wastewater treatment).

C. "Certificate" means a certificate issued by the Council, stating that the recipient has met the minimum requirements for the specified operator grade described in this rule.

D. "Certified Operator" means a person with the appropriate education and experience, as specified in this rule, that has successfully completed the certification exam or otherwise meets the requirements of this rule.

E. "Chief Operator" means the supervisor in direct responsible charge of all shift operators for a collection or treatment system.

F. "Collection System" means the system designed to collect and transport sewage from the beginning points that the collection entity regards as their responsibility to maintain and operate, to the points where the treatment facility assumes responsibility for operation and maintenance.

G. "Council" means the Utah Wastewater Operator Certification Council.

H. "Continuing Education Unit (CEU)" means ten contact hours of participation in and successful completion of an organized and approved continuing education experience. College credit in approved courses may be substituted for CEUs on an equivalency basis as defined in this rule.

I. "Direct Responsible Charge (DRC)" means active on-site charge and performance of operation duties. The person in direct responsible charge is generally a supervisor over wastewater treatment or collection who independently makes decisions affecting all treatment or system processes during normal operation

which may effect the quality, safety, and adequacy of treatment of wastewater discharged from the plant. In cases where only one operator is employed, this operator shall be considered to be in direct responsible charge.

J. "Executive Secretary" means the Executive Secretary of the Water Quality Board.

K. "Grade Level" means any one of the possible steps within a certification category of either wastewater collection or wastewater treatment. There are four levels each for collection and treatment system operators, Grade I being the lowest and Grade IV the highest level. There is one level for lagoon operators.

L. "Grandfather Certificate" means a certificate issued to an operator, without taking an examination, by virtue of the operator meeting experience and other requirements in R317-10-11.G of this rule.

M. "Operating Experience" means experience gained in operating a wastewater treatment plant or collection system which enables the operator to make correct supervisory, operational, safety, and maintenance decisions affecting personnel, water quality, public health, regulatory compliance, and wastewater works operation, efficiency, and longevity.

[~~M~~]N. "Operator" means any person who is [~~responsible for,~~]directly involved in or may be responsible for [~~,~~] operation of any [~~publicly owned~~]wastewater works or facilities treating [~~primarily sanitary~~]wastewater.

[~~N~~]O. "Population Equivalent (P.E.)" means the population which would contribute an equivalent waste load based on the calculation of total pounds of B.O.D. contributed divided by 0.2. This calculation may be used where a significant amount of industrial waste is discharged to a wastewater system.

[~~O~~]P. "Restricted Certificate" means a certificate issued upon passing the certification examination when other requirements have not been met.

[~~P~~]Q. "Small Lagoon System" means a wastewater lagoon system designed to serve fewer than 3500 design population equivalent.

[~~Q~~]R. "Wastewater Works" means facilities for collecting, pumping, treating or disposing of sanitary wastewater.

R317-10-5. Wastewater Works Owner Responsibilities.

A. The chief operator and supervisors who make process decisions for the system must be certified at the level of the facility classification. All other operators in direct responsible charge must be certified at no less than one grade lower than the facility classification or at the lowest required facility classification except as provided in B below. All facilities must have an operator certified at the facility level on duty or on call. If a facility or system undergoes a re-rating, all operators considered to be in DRC must be certified at the appropriate level within one year after notification of the new rating.

B. Upon termination of employment of the Chief Operator,[~~or operator(s)~~] considered in DRC, the Executive Secretary must be notified within 10 working days by the facility owner. The wastewater works must have a certified operator or an operator with a restricted certificate at the appropriate level within one year from the[~~date of hire, or in no case longer than 18 months from the~~] date the vacancy occurred. If the wastewater works is newly constructed, a certified operator or an operator with a restricted certificate at the appropriate level must be employed within one year after the system is deemed operable. It is recommended that during the time no certified operator is employed, a certified operator be on call to assist as needed in the operation of the wastewater works.

C. Those required to be certified may operate a system with a restricted certificate of the required grade, for up to one year for a Class[~~Grade~~] I or Class[~~Grade~~] II facility, or up to two years for a Class[~~Grade~~] III or Class[~~Grade~~] IV facility, but may not continue to operate a system if they are unable to obtain an unrestricted certificate at the end of the stipulated period.

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R317-10-7. Qualifications for Operator Grades.

A. General

1. "Qualification Points" means total of years of education and experience required. All substitutions are year for year equivalents. A college "year" is considered 45 quarter hours or 30 semester hours of credit.

2. College-level education[~~s~~] must be in a job-related field to be credited. However, partial credit may be given for non-job related education at the discretion of the Council.

3. Experience may be substituted for a high school education or a graduate equivalence degree in Grades I and II only.

4. Education may be substituted for experience, as specified below.

B. Grade I - 13 points required

1. Twelve years education (one point per year).

2. One year operating experience (one point per year).

3. Experience may be substituted for all or any part of the education requirements, on a one-to-one basis.

4. Education may not be substituted for experience.

C. Grade II - 14 points required

1. Twelve years education (one point per year)

2. Two years operating experience (one point per year)

3. Up to one year of additional education may be substituted for an equivalent amount of operating experience.

4. Experience may be substituted for all or any part of the education requirement, on a one-to-one basis.

D. Grade III - 16 points required

1. Twelve years education (one point per year)

2. Four years operating experience (one point per year)

3. Up to 2 years of additional education may be substituted for an equivalent amount of operating experience. Relevant and specialized operator training may be substituted for education requirement, where 25 CEUs is equivalent to 1 year of education.

4. At least one [~~half~~]year of the operating experience must have been at[~~in DRC of~~] a Class II facility or higher.

E. Grade IV - 18 points required

1. Twelve years education (one point per year)

2. Six years operating experience (one point per year)

3. Up to 2 years of additional education may be substituted for an equivalent amount of operating experience. Relevant and specialized training may be substituted for education where 25 CEUs equal 1 year of education.

4. At least two years of the operating experience must have been at[~~in DRC of~~] a Class III facility or higher.

R317-10-8. Council.

A. Members of the Council shall be appointed by the Board from recommendations made by interested organizations including the Department of Environmental Quality, Utah League of Cities and Towns, Water Environment Association of Utah, the Professional Wastewater Operators Division of the Water Environment Association of Utah, the Utah Rural Water Association, Utah Valley State College, and the Civil/Environmental Engineering Departments of Utah's universities. The Council shall serve at the discretion of the Board to oversee the certification program.

B. The Council shall consist of eight members as follows:

1. [~~Two~~]Three members who are[~~currently employed~~] operators holding valid certificates. [~~One of these members shall be a wastewater treatment plant or lagoon operator and~~]At least one shall be a wastewater collection system operator.[~~These members shall be appointed considering the recommendations made by the Professional Wastewater Operators Division of the Water Environment Association of Utah and other interested parties.~~]

2. One member with three years' management experience in wastewater treatment and collection, who shall represent municipal wastewater management.[~~This member shall be appointed considering the recommendations made by the Utah League of Cities and Towns and other interested parties.~~]

3. One member who is a civil or environmental engineering faculty member of a university in Utah.

4. One non-voting member who is a Senior Environmental Engineer in the Division of Water Quality or other duly designated person who shall represent the Board.

5. [~~Two members, one~~]One member from the[~~public sector and one from the~~] private sector.[~~These members shall be appointed considering the recommendations of the Water Environment Association of Utah and other interested parties.~~]

6. One member representing vocational training.[~~This members shall be appointed considering the recommendations made by Utah Valley State College and other interested parties.~~]

C. Voting Council members shall serve as follows:

1. [~~Except as provided in C.4 below,~~]Terms of office shall be for three years with two members retiring each year (except for the third year when three shall retire).

2. Appointments to succeed a Council member who is unable to serve his full term shall be for the remainder of the unexpired term.

3. Council members may be reappointed, but they do not automatically succeed themselves.

[~~4. When the Council is initially organized, two members shall be appointed for initial terms of one year, two members shall be appointed for initial terms of two years, and three members shall be appointed for full three year terms.~~]

D. Each year the Council shall elect from its membership a Chairman and Vice Chairman.

E. The duties of the Council shall include:

1. Preparing and conducting examinations for the various grades of operators, and issuing and distributing the certificates.

2. Regularly reviewing the certification examinations to ensure compatibility between the examinations and operator responsibilities.

3. Ensuring that the certification examinations and training curricula are compatible.

4. Distributing examination applications and notices.

5. Receiving all applications for certification[~~examinations and investigating, verifying~~] and evaluating the record of[~~each~~] applicants as required to establish their[~~his~~] qualifications for certification under this rule.

6. Maintaining records of operator qualifications and certification.

7. Preparing an annual report for distribution to the Board and other interested parties.

F. A majority of voting members shall constitute a quorum for the purpose of transacting official Council business.

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R317-10-10. Examination.

A. The time and place of examinations to qualify for a certificate shall be determined by the Council. All examinations shall be graded and the applicant notified of the results. Examination fees shall be charged to cover the costs of testing.

B. Normally, all examinations for certification shall be written. However, [~~the Council reserves the right to conduct oral examinations when it is determined that extraordinary situations exist.~~]upon request an oral examination will be given. Such examination shall be conducted by at least two Council members in a manner that will ensure the integrity of the certification program.

C. In the event an applicant fails an exam, the applicant may request to review the exam within 30 days following receipt of the exam score. The Council shall not review[~~individual~~] examination questions for the purpose of changing [~~examinations~~]individual examination scores. However, questions may be edited for future examinations[~~and if~~]. If an error is found in the grading of the exam, credit may be given.[~~The applicant may file for re-examination at the next scheduled exam.~~]

R317-10-11. Certificates.

A. All certificates shall indicate one of the following grades for which they are issued.

1. Wastewater Works Operator - Grades I through IV.

2. Wastewater Works Operator - Restricted Grades I through IV.

3. Wastewater Collection System Operator - Grades I through IV.

4. Wastewater Collection System Operator - Restricted Grade I through IV.

5. Small Lagoon System Operator - Grade I Wastewater Works/Collection System Combined.

6. Small Lagoon System Operator - Restricted Grade I Wastewater Works/Collection System Combined.

B. An applicant shall have the opportunity to take any grade of examination higher than the classification of the system which he or she operates. A restricted certificate shall be issued if the applicant passes the exam but lacks the experience or education required for a particular grade.

An unrestricted certificate shall be issued if the applicant passes the exam and the experience and education requirements appropriate to the particular grade are met. Restricted certificates shall become unrestricted when the appropriate experience and education requirements are met and a change in status fee is paid. A restricted certificate does not qualify a person as a certified

operator at the grade level that the restricted certificate is issued, until the limiting conditions are met, except as provided in R317-10-5. Upon application, a restricted certificate may be renewed subject to the conditions in C below. Replacement certificates may be obtained by payment of a duplicate certificate fee.

C. Certificates shall continue in effect for a period of up to three years unless revoked prior to that time. The certificate must be renewed each three years by payment of a renewal fee and submittal of evidence of required CEUs. The certificates expire on December 31 of the last year of the certificate. Operators [~~considering~~]considered in DRC must renew by the expiration date in order for the wastewater works to remain in compliance with this rule. [~~Failure to remain active in the wastewater field for at least 20% of the time during the three-year life of the certificate shall automatically be cause for denial of renewal.~~]A certificate may not be renewed if the applicant is not employed in the State of Utah at the time of application. Request for renewal shall be made on forms supplied by the Council. It shall be the responsibility of the operator to make application for certificate renewal.

D. An expired certificate may be reinstated within three months after expiration by payment of a reinstatement fee. After three months, an expired certificate cannot be reinstated, and the operator must retest to become certified[~~.~~]. The required CEU's for renewal must be accrued before expiration of the certificate.

E. The Council may, after appropriate review, waive examination of applicants holding a valid certificate or license issued in compliance with other certification plans having equivalent standards, and issue a comparable Utah certificate upon payment of a reciprocity fee.

If the applicant is working in another state at the time of application, or has relocated to Utah but has not yet obtained employment in the wastewater field in Utah, a letter of intent to issue a certificate by reciprocity [~~shall~~]may be provided. When the applicant provides proof of employment in the wastewater field in Utah, and meets all other requirements, a certificate may[~~shall~~] be issued.

[~~F. At the time these rules become effective, all certificates issued under the Utah Voluntary Certification plan shall be recognized by the Council and the Board as valid through their expiration dates, at which time application may be made for renewal.~~

~~G.~~]F. A grandfather certificate shall be issued, upon application and payment of an administrative fee, to qualified operators who must be certified (chief operators, supervisors, or anyone considered in direct responsible charge). The certificate shall be valid only for the wastewater works at which the operator is employed as that facility existed on March 16, 1991. The certificate may not be transferred to another facility or person. If the facility undergoes an addition of a new process, even if the facility classification does not change, or the collection system has a change in rating, the respective operator must obtain a restricted or unrestricted certificate within one year as specified in this rule. Grandfather certificates shall be issued for a period of up to three years and must be renewed to remain in effect. Renewal shall include the payment of a renewal fee and submittal of evidence of required CEUs. The renewal fee shall be the same as that charged for renewal of other certificates. The grandfather certificate shall be issued if the currently employed operator:

1. Was a chief operator or person in direct responsible charge of the wastewater works on March 16, 1991; and

2. Had been employed at least ten years in the operation of the wastewater works prior to March 16, 1991; and

3. Demonstrates to the Council his capability to operate the wastewater works at which he is employed by providing employment history and references.

R317-10-12. CEUs and Approved Training.

A. CEUs shall be required for renewal of [~~certificates~~]each certificate according to the following schedule:

TABLE 3
REQUIRED CEUs FOR[~~-CERTIFICATION~~] RENEWAL OF EACH CERTIFICATE

OPERATOR GRADE	CEUs REQUIRED IN A 3-YEAR PERIOD
Grade I	2
Grade II	2
Grade III	3
Grade IV	3

B. All CEUs for certificate renewal shall be subject to review for approval to ensure that the training is applicable to wastewater works operation and meets CEU criteria. Identification of approved training, appropriate CEU or credit assignment and verification of successful completion is the responsibility of the Council. Training records shall be maintained by the Council.

C. All in-house or in-plant training which is intended to meet any part of the CEU requirements must be approved by the Council[~~in writing~~]. In-house or in-plant training must meet the following general criteria to be approved:

1. Instruction must be under the supervision of an instructor approved by the Council.

2. An outline must be [~~submitted of the~~]included with all submittals listing subjects to be covered and the time[~~-to be~~] allotted to each subject.

3. A list of the teacher's objectives must be submitted which documents the essential points of the instruction ("need-to-know" information) and the methods used to illustrate these principles.

4. [~~One~~]No more than one-half of required CEU credits over a three year period following issuance of a certificate shall be given for registration and attendance at the annual technical program meetings of the Water Environment Association of Utah, the Water Environment Federation[~~-or~~], Rural Water Association of Utah, or [~~specialty conferences of these~~]similar organizations.

5. Training must be related to the responsibilities of a wastewater works operator. If a person holds two wastewater operator certificates (treatment and collection), they may receive CEU credit for each certificate from one training experience only if the training is applicable to each certificate. It is recommended that at least half the required CEU's be technical training directly related to the job duties.

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R317-10-14. Certificate Suspension and Revocation Procedures.

A. Prior to the Council's recommendation to the Executive Secretary of the suspension or revocation of a certificate, the individual shall be informed in writing of the reasons the Council

is considering such action and allowing the individual an opportunity for a hearing before the Council.

B. Grounds for suspending or revoking an operator's certificate [~~shall~~]may be any of the following:

1. Demonstrated disregard for the public health and safety;

2. Misrepresentation or falsification of figures and/or reports submitted to the State;

3. Cheating on a certification exam;

4. Falsely obtaining or altering a certificate;

[~~5. Mental or physical incapacity of the operator to perform operating duties; or~~

~~6.~~]5. Gross negligence, incompetence or misconduct in the performance of duties as an operator.

C. Suspension or revocation may result where it may be shown that circumstances and events relative to the operation of the wastewater works were under the operator's jurisdiction and control. Circumstances beyond the control of an operator shall not be grounds for suspension or revocation action.

D. Following an appropriate hearing on these matters, the Council may recommend that the Executive Secretary take formal action.

E. Any suspension or revocation decision by the Executive Secretary may be appealed to the Board. Written request for a hearing before the Board must be filed with the Executive Secretary within 30 days of the decision.

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KEY: water pollution, operator certification*, wastewater treatment
[~~August 30, 1996~~]1998 **19-5**
Notice of Continuation December 12, 1997

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Financial Institutions, Administration
R331-24
Accounting for Accrued Uncollected Income by Banks and Industrial Loan Corporations

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21431
FILED: 09/10/1998, 16:25
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify definitions and to add criteria for loans not previously included in the rule.

SUMMARY OF THE RULE OR CHANGE: Clarifies definitions under Subsections R331-24-2(5), R331-24-2(7), R331-24-2(8), R331-24-2(9), and R331-24-2(10). Under Subsection R331-24-3(2)(c), adds criteria for loans acquired at a discount and Subsection R331-24-3(d) for loans secured by a 1-to-4 family residential property. Moves Subsections R331-24-3(2)(c) and R331-24-3(2)(d) down to R331-24-3(2)(e) and R331-24-3(2)(f).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 7-1-301(14)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No impact on the state budget as compliance to the rule affects financial institutions, not the Department.
❖LOCAL GOVERNMENTS: The rule does not affect local governments.
❖OTHER PERSONS: Financial institutions-–banks and industrial loan corporations already comply with this rule and modifications to the rule should have minimal budgetary impacts as compared to current compliance methods.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Modifies accounting requirement. Undetermined as to what extent it will affect financial institutions' accounting practices.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Modifies accounting requirement. Undetermined as to what extent it will affect financial institutions' accounting practices.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Financial Institutions
Administration
Suite 201
324 South State Street
PO Box 89
Salt Lake City, UT 84110-0089, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven J. Nielsen at the above address, by phone at (801) 538-8854, by FAX at (801) 538-8894, or by Internet E-mail at bdfipost.snielsen@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: Steven J. Nielsen, Staff Attorney/Deputy Commissioner

R331. Financial Institutions, Administration.
R331-24. Accounting for Accrued Uncollected Income by Banks and Industrial Loan Corporations.

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R331-24-2. Definitions.

(1) "Accrual basis of accounting" means the accounting method in which expenses are recorded when incurred, whether

paid or unpaid, and income is recorded when earned, whether or not received.

(2) "Business credit card" means a credit card extended to a person for business purposes with a sponsoring company directly or indirectly obligated for payment of any advances.

(3) "Commissioner" means the Commissioner of Financial Institutions.

(4) "Consumer loan" means credit extended for household, family, and personal expenditures, including credit cards, and loans secured by one to four-family residential properties.

(5)(a) "Contractual commitment to advance funds" means:

(i) an obligation on the part of the bank or industrial loan corporation to make payments[~~, directly or indirectly,~~] to a third party contingent upon default by the bank's or industrial loan corporation's customer in the performance of an obligation under the terms of that customer's contract with the third party or upon some other stated condition[~~;~~], or

(ii) an obligation to guarantee or stand as surety for the benefit of a third party.

(b) The term includes standby letters of credit, guarantees, puts, and other similar arrangements. A binding, written commitment to lend is a "contractual commitment to advance funds" if it and all other outstanding loans[~~, including other binding commitments,~~] to the borrower are within the bank's or industrial loan corporation's lending limit on the date of the commitment.

(6) "In process of collection" means collection of the debt is proceeding in due course either through legal action, including judgment enforcement procedures, or, in appropriate circumstances, through collection efforts not involving legal action [~~that~~]which are reasonably expected to result in repayment of the debt or in its restoration to a current status[~~:~~] in the near future.

(7)[~~(a)~~] "Loans [~~or~~]and extensions of credit" means any direct or indirect advance of funds[~~ to a person,~~] in any [~~form~~]manner whatsoever[~~;~~] to a person. This is made on the basis of any obligation of that person to repay the funds, or repayable from specific property pledged by or on behalf of a person. Loans and extensions of credit includes:

[~~(i)~~](a) [~~a~~]A purchase under repurchase agreement of securities, other assets, or obligations other than investment grade securities in which the purchasing bank or industrial loan corporation has a perfected security interest with regard to the seller but not as an obligation of the underlying obligor of the security;

[~~(ii)~~](b) [~~a~~]An advance by means of an overdraft, cash item, or otherwise;

[~~(iii)~~](c) [~~a~~]A contractual commitment to advance funds;

[~~(iv)~~](d) [~~a~~]An acquisition by discount, purchase, exchange, or otherwise of any note, draft, or other evidence of indebtedness upon which a person may be liable as maker, drawer, endorser, guarantor, or surety;

[~~(v)~~](e) [~~a~~]A participation without recourse with regard to the participating bank or industrial loan corporation, but not the originating bank or industrial loan corporation; and

[~~(vi)~~](f) [~~an e~~]Existing loans, leases, or advances [~~that has~~]which have been charged off on the books of the bank or industrial loan corporation in whole or in part and which is legally enforceable, including statutory bad debt under Section 7-3-25 or 7-8-15[~~:~~] respectively.

[~~(b)~~](8) "Loans or extensions of credit" does not include:

[~~(i)~~](a) A receipt by a bank or an industrial loan corporation of a check deposited in or delivered to the bank or industrial loan corporation in the usual course of business, unless it results in the carrying of a cash item for the granting of an overdraft, other than an inadvertent overdraft in a limited amount that is promptly repaid;

[~~(ii)~~](b) An acquisition of a note, draft, bill of exchange, or other evidence of indebtedness through a merger or consolidation of financial institutions or a similar transaction by which an institution acquires assets and assumes liabilities of another institution, or foreclosure on collateral or similar proceeding for the protection of the bank or industrial loan corporation, [~~but only if this~~]provided that the indebtedness is not held for a period of more than three years from the date of the acquisition,
unless permission to extend the period is granted by the commissioner on the basis that holding the indebtedness beyond three years is not detrimental to the safety and soundness of the acquiring bank or industrial loan corporation[~~subject to extension by the commissioner for good cause~~];

[~~(iii)~~](c) [~~a~~]An endorsement or guarantee for the protection of a bank or industrial loan corporation of any loan or other asset previously acquired by the bank or industrial loan corporation in good faith, or any indebtedness to a bank or industrial loan corporation for the purpose of protecting the bank or industrial loan corporation against loss or of giving financial assistance to it;

[~~(iv)~~](d) [~~a n~~]Non-interest bearing deposits to the credit of the bank or industrial loan corporation[~~ of deposit~~];

[~~(v)~~](e) [~~t~~]The giving of immediate credit to a bank or industrial loan corporation upon uncollected items received in the ordinary course of business;

[~~(vi)~~](f) [~~t~~]The purchase of investment grade securities subject to repurchase agreement in which the purchasing bank or industrial loan corporation has a perfected security interest, or [~~if~~]where the securities are purchased from the state or any [~~of its~~]political subdivision[~~s~~] thereof;

[~~(vii)~~](g) [~~t~~]The sale of federal funds; or

[~~(viii)~~](h) [~~a l~~]Loans or extensions of credit which have become unenforceable by reason of[~~that has been~~] discharge[~~d~~] in bankruptcy or are[~~is otherwise~~] no longer legally enforceable for other reasons.

[~~(8)~~](9) "Standby letter of credit" means any letter of credit, or similar arrangement[~~;~~] however named or described, that represents an obligation to the beneficiary on the part of the issuer:[~~ to do any of the following:~~]

(a) To repay money borrowed by or advanced to or for the account of the account party; or

(b) To make payment on account of any indebtedness undertaken by the account party; or

(c) To make payment on account of any default by the account party in the performance of an obligation.

[~~(9)~~](10) "Well-secured" [~~describes~~]means a debt that is secured by:

(a) [~~c~~]Collateral in the form of [~~a~~]liens on or pledges of real or personal property, including securities, that [~~has~~]have a [~~reliable~~]realizable value sufficient to discharge the debt in full, including accrued interest; or

(b) [~~t~~]The guarantee of a financially responsible party.

R331-24-3. Accounting for Accrued Uncollected Income.

(1) General Rule:

A bank or industrial loan corporation that uses the accrual basis of accounting to prepare its financial statements shall, at each regularly scheduled board meeting, review all earned but uncollected income and determine the portion of it that is uncollectible. This determination shall be in accordance with generally accepted accounting principles. At a minimum, the following events should stop the accrual of income:

(a) The accrual of interest income shall cease when any loan or extension of credit is contractually 90 days delinquent.

(i) For a monthly installment account, four payments delinquent is the equivalent of 90 days delinquent.

(ii) For a single-payment commercial account that calls for interest-only payments prior to maturity, the 90-day period commences with the interest-only due date.

(b) No further income may be recognized for a precomputed loan, lease, or discounted contract when it becomes 90 days delinquent.

(c) In restructuring a loan or extension of credit, a bank or industrial loan corporation may only capitalize or add to the new principal balance up to 90 days' interest, unless the board of directors specifically approves otherwise in writing at its next regularly scheduled meeting. If, at that meeting, the board fails to approve the capitalization of additional interest, the loan or extension of credit is considered to be more than 90 days delinquent, and the accrual of interest income shall cease.

(2) Exemptions:

Subsection (1) does not limit the accrual of interest income:

(a) for any consumer loan that is in the process of collection;

(b) for any business credit card balance that is in the process of collection;

(c) for loans or other debt instruments acquired at a discount (because there is uncertainty as to the amounts or timing of future cash flow) from an unaffiliated third party (such as another institution or the receiver of a failed institution), including those that the seller had maintained in nonaccrual status, and that met the amortization criteria specified in the AICPA Bulletin No. 6.

(d) for loans secured by a 1-to-4 family residential property. Nevertheless, such loans should be subject to other alternative methods of evaluation to assure the financial institution's net income is not materially overstated.

[~~(c)~~](e) for any other loan or lease that is both well-secured and in the process of collection;[~~ or~~]

[~~(d)~~](f) to the extent the commissioner provides an additional exemption from Subsection (1) by express, prior, written approval[~~.~~]**;**

(3) Notwithstanding this rule, all extensions of credit are subject to Sections 7-3-25 and 7-8-15.

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KEY: financial institutions
[~~1995~~]1998 **7-1-301(14)**

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Human Services, Child and Family Services

R512-3

Procedures for Establishing Policy

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21466
FILED: 09/15/1998, 13:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing brings the Division of Child and Family Services into compliance with Subsection 62A-4a-102(3). A version of this new rule was previously filed on 03/05/1998, but was not made effective due to receipt of substantive comments during the comment period which resulted in further Division and Board review. The text has been revised and is submitted again as a new rule.

(**DAR Note:** The new rule that was filed for R512-3 on March 5, 1998 was published in the April 1, 1998, issue of the *Utah State Bulletin* under DAR No. 20837, and the filing lapsed.)

SUMMARY OF THE RULE OR CHANGE: As required by Subsection 62A-4a-102(3), this rule establishes procedures for the Board of Child and Family Services to obtain input of entities specified in Subsection 62A-4a-102(3)(b) when establishing policy for the Division of Child and Family Services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-4a-102(3)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The rule revision doesn't significantly alter the state budget. Distributing requests for input on proposed policy from required entities has been the practice of the Division prior to formalizing the process in rule. Mailing and printing costs associated with notification related to establishment of policy will be incurred. Costs are estimated at $600 per year.

❖LOCAL GOVERNMENTS: After careful analysis, there is no impact on local governments. Any subsequent rules that result from this rulemaking will address impact on local government individually.

❖OTHER PERSONS: After careful analysis, there is no impact on other persons. Any subsequent rules that result from this rulemaking will address impact on other persons individually.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs are nominal. Affected persons are primarily members of the Board of Child and Family Services. Costs of the Board of Child and Family Services are included in the state budget. Individuals who may want to provide input as part of the Board policy process would incur minimal expenses to travel to public hearings or to provide written input to the Board.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have virtually no fiscal impact on businesses. Individuals representing businesses who may want to provide input as part of the Board policy process would incur minimal expenses to travel to public hearings or to provide written input to the Board.

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

Human Services
Child and Family Services
Room 225, Human Services Building
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven Bradford at the above address, by phone at (801) 538-8210, by FAX at (801) 538-3993, or by Internet E-mail at hsadmin1.sbradfor@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: Ken Patterson, Director

R512. Human Services, Child and Family Services.
R512-3. Procedures for Establishing Policy.
R512-3-1. Authority and Purpose.

(1) This rule establishes procedures for the Board of Child and Family Services to obtain input of interested parties and entities specified in Subsection 62A-4a-102(3)(b) when establishing policy for the Division of Child and Family Services.

(2) This rule is required by Subsection 62A-4a-102(3).

R512-3-2. Definitions.

(1) Board means the Board of Child and Family Services.

(2) Division means the Division of Child and Family Services.

(3) Policy means the Board's directives that the Division uses to formulate its professional practices that affect the public, or the Division's consumers or providers. Board policy guides the Division's development of procedures, rules, and services, and guides the Division's discretion when rules and procedures do not exist or are inadequate to address unanticipated circumstances.

R512-3-3. Process to Establish Board Policy.

(1) Petitions or suggestions for new or revised policy may be submitted for the Board's investigation and review by a Board member, a member of an Advisory Council to the Board, the Director of the Division, or any member of the public.

(2) Following a review of the petition/suggestion, the Board may direct the Director of the Division to devise a draft policy for the Board's consideration. During the draft period, the Division will solicit input from interested parties in the development of draft policy.

(3) After the Board has reviewed the draft policy, the Board may direct the dissemination of the draft policy to any of its Advisory Councils or representatives of parties identified in Subsection 62A-4a-102(3). Subject to Board approval, the draft policy will be submitted for public comment for a period of 30 days. The Board may conduct a public hearing during this period, and may appoint an independent hearing officer for this purpose.

(4) After the 30-day comment period, the Director or designee will review and summarize the comments that have been received. Summarized comments and recommended policy changes will then be submitted to the Board.

(5) The Board will assess the recommendations within 60 days of the comment period. If policy changes are adopted, they will be scheduled for implementation upon final approval of the Board.

(6) A policy or procedure that affects the rights of private citizens, consumers, foster parents, private contract providers, state or local agencies, or others shall be promulgated as a rule, pursuant to the Utah Administrative Rulemaking Act, Title 63, Chapter 46a. Correspondingly, a policy or procedure that impacts the internal management or staff operations within the Division may be identified as such within the Division's internal policy manual.

KEY: child welfare policy*, domestic violence policy*, public input in policy*
1998 62a-4a-102

Human Services, Child and Family Services
R512-25
Child Protective Services Notification and Due Process

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21465
FILED: 09/15/1998, 13:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment to the proposed rule is the result of comments from the Governor's Office of Planning and Budget, the Administrative Rules Review Committee, and the Division of Child and Family Services Board. The amendment clarifies the language of the rule but does not make any changes in the intent or scope.

SUMMARY OF THE RULE OR CHANGE: The amendment adds or improves definitions and clarifies the language of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-106
FEDERAL REQUIREMENT FOR THIS RULE: 42 U.S.C. 5106(a)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: It is estimated that this rule will prevent new costs to state government as follows: (1) $62,500 that would have been required for duplicate hearings for persons who receive mandatory notifications of substantiations from 1988 through 1994, per Sections 62A-4a-116 and 62A-4a-116.5, and who have also been substantiated for other types of child abuse or neglect. Estimated cost savings were calculated based upon costs for Division staff (4 hours for a worker and supervisor) and for administrative hearing officers to prepare for and participate in administrative hearings, based upon a hearing rate of 10% response to notices in which multiple allegations occur (estimated at 19% of all substantiated notifications); and (2) $102,000 annually for ongoing notifications and resulting administrative hearings, utilizing the cost elements specified above.

❖LOCAL GOVERNMENTS: None--there is a remote possibility that individuals who request an administrative hearing may ask local government employees to give testimony (such as law enforcement officers or school teachers). It has been the experience of the agency in administrative hearings that this type of testimony is rare. Most evidence is presented by report.

❖OTHER PERSONS: None--following careful review of potential costs to the public, or businesses, the agency has not identified any other persons who incur costs or realize savings as a result of this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs for compliance with the existing process include costs of postage, costs for obtaining a copy of the case record (not a mandatory requirement for the individuals), costs to travel to the site of the administrative hearing, and costs for attorney representation (at the option of the affected individuals). This rule will potentially reduce costs to affected persons by eliminating the need to mail duplicate requests for administrative hearings and eliminating travel costs to attend a second hearing. In addition, if for individuals who utilize an attorney (which is optional), consolidating the adjudicative proceedings into one administrative hearing would reduce attorney fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not impact businesses because it pertains to types of child abuse or neglect which cannot be considered for licensure or employment purposes. Administrative hearings for types of child abuse and neglect which may affect businesses through licensure or employment are addressed in statute in Section 62A-4a-116.5.

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

Human Services
Child and Family Services
Room 225, Human Services Administration Building
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at (801) 538-8210, by FAX at (801) 538-3993, or by Internet E-mail at hsadmin1.sbradfor@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: Ken Patterson, Director

R512. Human Services, Child and Family Services.
R512-25. Child Protective Services Notification and Due Process.
R512-25-1. Scope.

A. The Division of Child and Family Services shall act in accordance with Section 62A-4a-409, and investigate all reports of child abuse, neglect, or dependency. Each investigation shall determine the validity of the report and make a substantiated or an unsubstantiated finding.[~~42 USC Section 5106(a) requires the State to establish a mechanism by which individuals who disagree with an official finding of abuse or neglect can appeal such a finding. Sections 62A-4a-116 and 62A-4a-116.5 establish an appeal mechanism for only certain types of abuse or neglect.~~] This rule establishes an appeal process [~~mechanism for all other types of abuse or neglect.~~]for individuals who disagree with a Division substantiated finding of abuse, neglect or dependency in accordance with Federal law, 42 United States Code, Section 5106a.

R512-25-2. Definitions.

In addition to terms defined in Section 62A-4a-101,

A. Division[~~:~~] means [~~T~~]the Division of Child and Family Services within the Department of Human Services.

B. [~~Substantiaton~~]Substantiated finding means [~~A~~]an official finding at the completion of an investigation that there is a reasonable basis to conclude that child abuse, neglect, or dependency occurred.

C. Dependency means a condition of a child who is homeless or without proper care, or is forced or obligated to be supported by a person other than the a parent or guardian.

R512-25-3. Notice of Agency Action.

A. [~~Upon the substantiation of a child protective services investigation for a type of child abuse or neglect not specified in Subsection 62A-4a-116(4), a~~]A Notice of Agency Action shall be sent [~~to the substantiated perpetrator of child abuse, neglect, or dependency~~]in accordance with Section 63-46b-3 to the person identified in the a substantiated finding as responsible for child abuse, neglect or dependency.

[~~B. The Notice of Agency Action shall include the following information:~~

~~1. the facts that support the finding of substantiation;~~

~~2. that the substantiated finding shall not be accessible to the Office of Licensing within the Department of Human Services or to the Bureau of Health Facility Licensure within the Department of Health;~~

~~3. that the person has the right to request:~~
~~a. a copy of the substantiated report; and~~
~~b. an administrative hearing in which the finding may be challenged based upon a disputed issue of fact; and~~
~~4. that failure to request an administrative hearing within 30 days of the notice being received shall result in an unappealable finding of substantiation, unless the person can show good cause for why compliance with the 30-day requirement was virtually impossible or unreasonably burdensome.~~]

R512-25-4. Challenge of Substantiated Finding.

A. A person may make a request to challenge a substantiated finding within 30 days of:

1. a notice [~~being~~]having been received [~~under~~]pursuant to R512-25-3 of this rule;

2. a finding by a court of competent jurisdiction based upon the same underlying facts that:

a. child abuse or neglect or dependency did not occur; or

b. the person was not responsible for the child abuse or neglect or dependency that did occur, or that was alleged.

3. [~~the dismissal of~~]criminal charges were dismissed or a verdict of not guilty based on the same underlying facts.

B. The 30-day requirement of R512-25-3 shall be extended for good cause shown that compliance was virtually impossible or unreasonably burdensome.

C. The Division may approve or deny a request to change the [~~substantiation~~]substantiated finding.

D. If the Division denies the request to change the substantiation or fails to act within 30 days after receiving a request submitted under R512-25-4, the Office of Administrative Hearings within the Department of Human Services shall [~~hold~~]schedule an adjudicative proceeding pursuant to Section 63-46b.

R512-25-5. [~~Legal Standard and Burden of Proof~~]Conduct and Outcome of Hearing.

A. In an adjudicative proceeding held pursuant to R512-25-4(D), the Division shall prove by a preponderance of evidence that there is a reasonable basis to conclude that:

1. child abuse or neglect occurred;

2. the person was substantially responsible for the abuse or neglect that occurred.

B. The administrative hearing officer may make a determination based solely upon the statement of the child.

C. If more than one substantiated finding is adjudicated during a single adjudicative proceeding, each substantiated finding shall be adjudicated independently.

D. If the person's challenge is successful at the adjudicative proceeding, the Division will change the designation substantiated finding to an unsubstantiated finding in agency records.

• • • • • • • • • • •

KEY: child welfare, child abuse
[~~June 16,~~]1998 **42 USC 5106(a)**
62A-4a-106
62A-4a-116
62A-4a-116.5
63-46b-3

◆ ◆

Labor Commission, Industrial Accidents
R612-2-3
Filings

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21451
FILED: 09/14/1998, 12:31
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment to existing Section R612-2-3 clarifies the consequences to medical providers who do not comply with the rule's notification and preauthorization requirements for restorative services.

SUMMARY OF THE RULE OR CHANGE: Existing Section R612-2-3 requires that providers of restorative services to injured workers must file a Restorative Services Authorization form with the insurance carrier or self insured worker within 10 days of the provider's initial evaluation of the injured worker. The proposed amendment to Section R612-2-3 clarifies that a provider who fails to comply with the rule's requirements will receive payment for only eight patient visits and that the provider may not bill the patient for any additional services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq., 34A-3-101 et seq., and 34A-1-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No impact--the proposed amendment clarifies and is consistent with current practice and standards. State agencies, through their workers' compensation insurance carriers, already comply with these practices and standards. Consequently, the proposed amendment will neither increase nor decrease the agencies' workers' compensation costs.

❖LOCAL GOVERNMENTS: No impact--the proposed amendment clarifies and is consistent with current practice and standards. Local governments, through their workers' compensation insurance carriers, already comply with these practices and standards. Consequently, the proposed amendment will neither increase nor decrease their workers' compensation costs.

❖OTHER PERSONS: No impact--the proposed amendment clarifies and is consistent with current practice and standards. Employers, their workers' compensation insurance carriers, health care providers, and workers' compensation claimants are already subject to these practices and standards. Consequently, the proposed amendment will neither increase nor decrease workers' compensation costs, benefits, or payments to medical providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this proposed amendment only clarifies the intent of existing rules, it is not anticipated that the amendment will result in any additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because this proposed amendment only clarifies the intent of existing rules, it is not anticipated that the amendment will result in any additional compliance costs.

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

Labor Commission
Industrial Accidents
Third Floor, Heber M. Wells Office Bldg.
160 East 300 South
PO Box 146600
Salt Lake City, UT 84114-6600, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joyce Sewell at the above address, by phone at (801) 530-6800, by FAX at (801) 530-6804, or by Internet E-mail at icmain.jsewell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-2. Workers' Compensation Rules-Health Care Providers.
R612-2-3. Filings.

A. Within one week following the initial examination of an industrial patient, physicians and chiropractors, shall file "Form 123 - Physicians' Initial Report" with the carrier/self-insured employer, employee, and the division. This form is to be completed in as much detail as feasible. Special care should be used to make sure that the employee's account of how the accident occurred is completely and accurately reported. All questions are to be answered or marked "N/A" if not applicable in each particular instance. All addresses must include city, state, and zip code. If modified employment in #29 is marked "yes," the remarks in #29 must reflect the particular restrictions or limitations that apply, whether as to activity or time per day or both. Estimated time loss must also be given in #29. If "Findings of Examination" (#17) do not correctly reflect the coding used in billing, a reduction of payment may be made to reflect the proper coding.

B. 1. Any medical provider billing under the restorative services section of the Labor Commission's Relative Value Schedule (RVS) shall file the Restorative Services Authorization (RSA) form with the insurance carrier or self-insured employer (payor) and the division within ten days of the initial evaluation.

2. Upon receipt of the provider's RSA form, the payor has ten days to respond, either authorizing a specified number of visits or denying the request. No more than eight visits may be incurred during the authorization process.

3. After the initial RSA form is filed with the payor and the division, an updated RSA form must be filed for approval or denial at least every six visits until a fixed state of recovery has been achieved as evidenced by either subjective or objective findings. If the medical provider has filed the RSA form per this rule, the payor is responsible for payment, unless compensability is denied by the payor. In the event the payor denies the entire compensability of a claim, the payor shall so notify the claimant, provider, and the division, after which the provider may then bill the claimant.

4. Any denial of payment for treatment must be based on a written medical opinion or medical information. The denial notification shall include a copy of the written medical opinion or information from which the denial was based. The payor is not liable for payment of treatment after the provider, claimant, and division have been notified in writing of the denial for authorization to pay for treatment. The claimant may then become responsible for payment.

5. Any dispute regarding authorization or denial for treatment will be determined from the date the division received the RSA form or notification of denial for payment of treatment.

6. The claimant may request a hearing before the Division of Adjudication to resolve compensability or treatment issues.

7. Subjective objective assessment plan/procedure (SOAP notes) or progress notes are to be sent to the payor in addition to the RSA form.

8. Any medical provider billing under the Restorative Services Section of the RVS who fails to submit the required RSA form shall be limited to payment of up to eight visits for a compensable claim. The medical provider may not bill the patient or employer for any remaining balances.

C. S.O.A.P. notes or progress reports of each visit are to be sent to the payor by all medical practitioners substantiating the care given, the need for further treatment, the date of the next treatment, the progress of the patient, and the expected return-to-work date. These reports must be sent with each bill for the examination and treatment given to receive payment. S.O.A.P. notes are not to be sent to the division unless specifically requested.

D. "Form 110 - Release to Return to Work" must be mailed by either the medical practitioner or carrier/employer to the employee and the division within five calendar days of release.

E. The carrier/employer may request medical reports in addition to regular progress reports. A charge may be made for such additional reports, which charge should accurately reflect the time and effort expended by the physician.

KEY: workers' compensation, fees, medical practitioner
[~~December 2, 1997~~]1998 **34A-2-101 et seq.**
34A-3-101 et seq.
34A-1-104

◆ ◆

Labor Commission, Industrial Accidents
R612-2-5
Regulation of Medical Practitioner Fees

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21452
FILED: 09/14/1998, 12:31
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R612-2-5 regulates the fees medical providers may charge in workers compensation cases. The amendment increases the conversion factors per unit of the Relative Value Schedule upon which such fees are calculated.

SUMMARY OF THE RULE OR CHANGE: The change increases the conversion factors per unit of the Relative Value Schedule for medical treatment in workers compensation cases by 9%. It also establishes an effective date for this change as January 1, 1999.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq., 34A-3-101 et seq., and 34A-1-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Approximately 1% to 2% increase in workers' compensation premiums.
❖LOCAL GOVERNMENTS: Approximately 1% to 2% increase in workers' compensation premiums.
❖OTHER PERSONS: Approximately 1% to 2% increase in workers' compensation premiums.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Some costs associated with reprogramming conversion costs to pay physician bills but this total is difficult to estimate for insurance carriers and other payors.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses' workers' compensation costs may increase 1% to 2%, however, the physicians have not received an increase for three and a half years.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Labor Commission
Industrial Accidents
Third Floor, Heber M. Wells Office Bldg.
160 East 300 South
PO Box 146600
Salt Lake City, UT 84114-6600, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joyce Sewell at the above address, by phone at (801) 530-6800, by FAX at (801) 530-6804, or by Internet E-mail at icmain.jsewell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-2. Workers' Compensation Rules-Health Care Providers.
R612-2-5. Regulation of Medical Practitioner Fees.

Pursuant to Section 34A-2-407:

A. The Labor Commission of Utah:

1. Establishes and regulates fees and other charges for medical, surgical, nursing, physical and occupational therapy, mental health, chiropractic, naturopathic, and osteopathic services, or any other area of the healing arts as required for the treatment of an industrially injured employee.

2. Establishes the following conversion factors per unit of the Relative Value Schedule for medical treatment resulting from an industrial injury or occupational disease, effective [~~July 3, 1995~~]January 1, 1999:

Anesthesiology [~~$26.62~~]$29.02
Medicine [~~$1.30~~]$1.42
Pathology and Laboratory [~~$1.30~~]$1.42
Radiology [~~$1.35~~]$1.47
Restorative Medicine [~~$1.30~~]$1.42
Surgery [~~$16.90~~]$18.42

3. Revises the codes and procedures within the Relative Value Schedule after analysis and study of the Medical Fee Advisory Committee recommendations. The Relative Value Schedule can be obtained from the division for a fee sufficient to recover costs of development, printing, and mailing.

4. Decides appropriate billing procedure codes when disputes arise between the medical practitioner and the employer or its insurance carrier. In no instance will the medical practitioner bill both the employer and the insurance carrier.

B. Employees cannot be billed for treatment of their industrial injuries or occupational diseases.

C. Discounting from the fees established by the Labor Commission is allowed only through specific contracts between a medical provider and a payor for treatment of industrial injured/ill patients.

D. Restocking fee 15%. Rule R612-2-15 covers the restocking fee.

E. Dental fees are not published. Rule R612-2-17 covers dental injuries.

F. Ambulance fees are not published. Rule R612-2-18 covers ambulance charges.

KEY: workers' compensation, fees, medical practitioner
[~~December 2, 1997~~]1998 **34A-2-101 et seq.**
34A-3-101 et seq.
34A-1-104

Labor Commission, Occupational Safety and Health

R614-1-4

Incorporation of Federal Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21453
FILED: 09/14/1998, 12:31
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to verify that Utah Occupational Safety and Health (UOSH) is enforcing the most current published 29 CFR 1910 and 29 CFR 1926 standards. Occupational Safety and Health Administration (OSHA) has made a continuing effort to eliminate confusing, outdated, and duplicative requirements from its standards and regulations. In response to the President's Memorandum of March 4, 1995, which requested agencies to review and stream-line their regulations, the agency conducted a line-by-line review of its regulations to determine where they could be eliminated, simplified, or clarified. As a result of this review, OSHA completed a document on May 31, 1995, entitled "OSHA's Regulatory Reform Initiatives" (Ex. L-5). That document detailed the agency's findings as to which regulations could be deleted or revised without reducing employee health and safety. OSHA stated in that document that clarifying, deleting, or revising these regulations would improve employer compliance and, consequently, enhance safety and health protection for employees. The agency began the rulemaking process that would implement the changes identified in the review with an administrative notice that made minor clarifications and technical amendments to OSHA standards (61 FR 9228, March 7, 1996). In a second notice, duplicate health provisions from the shipyard and construction standards were eliminated and replaced with cross-references to the identical text in the general industry standards (61 FR 31427, June 20, 1996). Eliminating these duplicate provisions has reduced the number of pages devoted to OSHA rules in the Code of Federal Regulations (CFR) without changing the substantive requirements of the standards. On July 22, 1996 (61 FR 37849), OSHA proposed substantive changes to certain standards that the Agency believed are unnecessary to, duplicative of, or inconsistent with the protection of worker safety and health. OSHA requested comments and set 60 days for their receipt. The final changes supported by the public record, and reflected in the Federal Register notice, complete the regulatory action initiated with the July 1996 Federal Register notice. OSHA is also reducing paperwork burden by deleting the requirements for sputum-cytology examinations and reducing the frequency of chest X rays for workers covered by the arsenic and coke oven emissions standards.

SUMMARY OF THE RULE OR CHANGE: The Occupational Safety and Health Administration (OSHA) is removing from the Code of Federal Regulations (CFR) or revising provisions in its standards that are out of date, duplicative, unnecessary, or inconsistent. The agency is making these regulatory changes to reduce the burden imposed on the regulated community by these provisions and to respond to a March 4, 1995, memorandum from the President. In this document, substantive changes are made to both health and safety standards that will revise or eliminate duplicative, inconsistent, or unnecessary regulatory requirements without diminishing employee protections. Changes being made to health standards include reducing the frequency of required chest X rays and eliminating sputum-cytology examinations for workers covered by the coke oven and inorganic arsenic standards, and changing the emergency-response provisions of the vinyl chloride standard. Changes being made to OSHA safety standards include eliminating the public safety provisions of the temporary labor camp standard, eliminating unnecessary cross-references in the textile industry standards, and others. OSHA estimates that these changes will result in annualized savings for employers of over $9,600,000 and in reducing paperwork burden of 6,600 hours annually.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202
FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1910 and 29 CFR 1926

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: FR Vol. 63, No. 117, Thursday, June 18, 1998, Pages 33449 to and including 33469, effective August 17, 1998

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No impact--although the proposed amendment's reduction in record keeping requirements will tend to lower costs to state agencies, such savings are difficult to quantify and will not relieve agencies of other recording keeping requirements which remain in effect. The proposed amendment's reduction in the required frequency of chest X rays and other physical examinations for workers in certain occupations will have no impact on state agencies, since the agencies do not employ workers in those fields.
❖LOCAL GOVERNMENTS: No impact--although the proposed amendment's reduction in record keeping requirements will tend to lower costs to local governments, such savings are difficult to quantify and will not relieve agencies of other recording keeping requirements which remain in effect. The proposed amendment's reduction in the required frequency of chest X rays and other physical examinations for workers in certain occupations will have no impact on local governments, since they do not employ workers in those fields.

❖OTHER PERSONS: Savings of $96,000, based on OSHA's estimation that the proposed amendments will produce a nationwide savings of $9,600,000 and that 1% of such savings will accrue to Utah employers.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes made by this final rule by revising provisions that are duplicative, unnecessary, or inconsistent in the textile, pulp, and paper and sawmill standards will have little fiscal impact in Utah. The greatest fiscal impact of this final rule will be the savings to those industries dealing with Coke Oven Emissions and Inorganic Arsenic. Coke Oven Emissions--the average X-ray charge nationally is $54.40 and the average lab charge for cytological examination of bodily fluids is $51.90. (OSHA assumes that the additional charge of $19 for sputum specimen collection is included in the fee for the medical exam required by the standard). Therefore the savings associated with the elimination of one chest X ray and two sputum cytologies annually is $158.20 per worker ($54.40 for one X ray, and $103.80 for two sputum cytology tests). Inorganic Arsenic--this change will eliminate the need for X ray and sputum cytological testing valued at $158.20 per worker ($54.40 for one X ray, and $103.80 for two sputum cytology tests). These changes will result in a significant savings to those industries that deal with Coke Oven Emissions and Inorganic Arsenic.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Labor Commission
Occupational Safety and Health
Third Floor, Heber M. Wells Office Bldg.
160 East 300 South
PO Box 146650
Salt Lake City, UT 84114-6650, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
William W. Adams, Jr. at the above address, by phone at (801) 530-6897, by FAX at (801) 530-7606, or by Internet E-mail at icmain.wadams@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R614. Labor Commission, Occupational Safety and Health.
R614-1. General Provisions.
R614-1-4. Incorporation of Federal Standards.

A. General Industry Standards.

1. Sections 29 CFR 1910.21 to 1910.999 and 1910.1000 through the end of part 1910 of the July 1, 1997, edition are incorporated by reference.

2. FR Vol. 63, No. 5, Thursday, January 8, 1998, Pages 1152 to and including 1300, "Respiratory Protection; Final Rule" is incorporated by reference.

3. FR Vol. 63, No. 117, Thursday, June 18, 1998, Pages 33449 to and including 33469, "Standards Improvement (Miscellaneous Changes) for General industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic; Final Rule" effective August 17, 1998, is incorporated by reference.

KEY: safety
[~~December 2, 1997~~]1998 **34A-6**

Labor Commission, Safety
R616-3
Elevator Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21454
FILED: 09/14/1998, 12:31
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes are made for the following reasons: (1) to clarify and add to the safety standards adopted for assuring elevator safety in Utah; (2) to document elevators which are exempt from Division of Safety inspections; and (3) to document several technical requirements that have been enforced in practice for several years.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule are for clarification and include specifications for headroom clearance for inclined wheelchair lifts, specifications for valves in hydraulic elevator operating fluid systems, exempts hydraulic elevators with a rise of 50 feet or less from Rule 102.2(c)(3) of A17.1, and sets standards for hoistway vents and remodeled elevators. The change also clarifies adopted safety standards and which elevators are exempt from Division of Safety inspections. The change also makes hand line control elevators unlawful and requires owners of such elevators to render them inoperable. There is also some renumbering to accommodate the placement of these amendments.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-101 et seq.

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: ASME A17.1 Safety Code for Elevators and Escalators 1996 Ed, with 1997 supp.; ASME A17.3 - 1996 Safety Code for Existing Elevators and Escalators; 1997 Uniform Building Code Chapters 11 and 30; and CABO/ANSI A117.1 - 1992 Accessible and Usable Buildings and Facilities, Sections 4.10 and 4.11

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No impact--the proposed amendments to Rule R616-3 primarily clarify existing standards or practices. Inclusion of these standards and practices in Rule R616-3 will have no impact on the state budget because state agencies are, to the best of the Safety Division's knowledge, now in compliance with such standards and practices.

❖LOCAL GOVERNMENTS: No impact--as noted under "State budget," the proposed amendments to Rule R616-3 primarily clarify existing standards or practices. Inclusion of these standards and practices in Rule R616-3 will have no impact on local governments because they are, to the best of the Safety Division's knowledge, already in compliance.

❖OTHER PERSONS: The cost of compliance with proposed Section R616-3-8 is approximately $2,500 per year. This aggregate cost is based on an estimated 25 affected hydraulic elevator systems multiplied by a compliance cost of $100 per system. The remaining amendments to Rule R616-3 primarily clarify existing standards or practices. Consequently, inclusion of these standards and practices in Rule R616-3 will result in no costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only aspect of the change that may have a compliance cost is Section R616-3-8. Since this is not a retroactive change the compliance cost is minimized. Projected increased cost is less than $100 per hydraulic elevator system. As a matter of practice only one local elevator company commonly uses the bronze-bodied valves. The other companies already use the steel-bodied valves.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes were designed to clarify or document existing practices so it is believed that there will be essentially no fiscal impact on businesses.

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

Labor Commission
Safety
Third Floor, Heber M. Wells Office Bldg.
160 East 300 South
PO Box 146600
Salt Lake City, UT 84114-6600, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Larry Patrick at the above address, by phone at (801) 530-6369, by FAX at (801) 530-6390, or by Internet E-mail at icmain.lpatrick@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R616. Labor Commission, Safety.

R616-3. Elevator Rules.

R616-3-1. Authority.

This rule is established pursuant to Section 34A-1-104 for the purpose of the Labor Commission ascertaining, fixing, and enforcing reasonable standards regarding elevators for the protection of life, health, and safety of the general public and employees.

. . . . . .

R616-3-3. Safety Codes for Elevators.

The following safety codes are adopted and incorporated by reference within this rule:

[~~A. ASME A17.1-1996, Safety Code for Elevators and Escalators.~~]A. ASME A17.1, Safety Code for Elevators and Escalators, 1996 ed., with 1997 Supp. This code is issued every three years with annual supplements. New issues and supplements become mandatory only when a formal change is made to these rules. Elevators are required to comply with the A17.1 code in effect at the time of installation. The latest effective version of A17.1 is the 1996 edition with the 1997 supplement.

B. ASME A17.3 - 1996 Safety Code for Existing Elevators and Escalators. This code is adopted for regulatory guidance only for elevators classified as remodeled elevators by the Division of Safety.

[~~B~~]C. ASME A90.1-1992, Safety Standard for Belt Manlifts.

[~~C~~]D. ASME B20.1-1993, Safety Standard for Conveyors and Related Equipment only as it relates to Section 6.21 for Vertical Reciprocating Conveyors.

[~~D~~]E. ANSI A10.4-1990, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

[~~E. Construction standards and building codes adopted by the Uniform Building Codes Commission, which codes are adopted pursuant to Section 58-56-4.~~]F. 1997 Uniform Building Code Chapters 11 and 30.

G. CABO/ANSI A117.1-1992 Accessible and Usable Buildings and Facilities, sections 4.10 and 4.11.

R616-3-4. Modifications and Variances to Codes.

A. In a case where the Division finds that the enforcement of any code would not materially increase the safety of employees or general public, and would work undue hardships on the owner/user, the Division may allow the owner/user a variance. Variances must be in writing to be effective and can be revoked after reasonable notice is given in writing.

B. No errors or omissions in these codes shall be construed as permitting any unsafe or unsanitary condition to exist.

C. The Commission may, by rule, add or delete from the applicable safety codes for any good and sufficient safety reason.

D. In the event that adopted safety codes are in conflict with one another, the ASME A17.1, Safety Code for Elevators and Escalators will take precedence. The exception to this is for compliance with the accessibility guidelines of Pub. L. No. 101-336 "The Americans with Disability Act of 1990". In this instance, the Uniform Building Code standards adopted in R616-3-3 for accessibility as applied to elevators take precedence over ASME A17.1.

R616-3-5. Exemptions.

A. These rules apply to all elevators in Utah with the following exemptions:

1. Private residence elevators installed inside a single family dwelling. Common elevators which serve multiple private residences are not exempt from these rules.

2. Elevators in buildings owned by the Federal government.

B. Owners of elevators exempted in R616-3-5.A. may request a safety inspection by Division of Safety inspectors. Code non-compliance items will be treated as recommendations by the inspector with the owner having the option as to which, if any, are corrected. Owners requesting these inspections will be invoiced at the special inspection rate. If the owner requests a State of Utah Certificate to Operate for the elevator, all of the recommendations must be completed to the satisfaction of the inspector and the owner will be invoiced the appropriate certificate fee.

R616-3-[5]6. Inspection of Elevators, Permit to Operate, Unlawful Operations.

A. It shall be the responsibility of the Division to make inspections of all elevators when deemed necessary or appropriate.

B. Elevator inspectors shall examine conditions in regards to the safety of the employees, public, machinery, ventilation, drainage, methods of lighting, and into all other matters connected with the safety of persons using or in close proximity to each elevator, and when necessary give directions providing for the better health and safety of persons in or about the same. The owner/user is required to freely permit entry, inspection, examination and inquiry, and to furnish a guide when necessary.

C. If the Division finds that an elevator complies with the applicable safety codes and rules, the owner/user shall be issued a Certificate of Inspection and Permit to Operate.

1. The Certificate of Inspection and Permit to Operate is valid for 24 months.

2. The Certificate of Inspection and Permit to Operate shall be displayed in a conspicuous location near the elevator for the entire validation period. If the certificate is displayed where accessible to the general public, as opposed to being in the elevator machine room, it must be protected under a transparent cover.

D. If the Division finds an elevator is not being operated in accordance with the safety codes and rules, the owner/user shall be notified in writing of all deficiencies and shall be directed to make specific improvements or changes as are necessary to bring the elevator into compliance.

E. Pursuant to Section 34A-1-407, if the improvements or changes are not made within a reasonable time, by agreement of the division and the owner, the elevator is being operated unlawfully.

F. If the owner/user refuses to allow an inspection to be made, the elevator is being operated unlawfully.

G. If the owner/user refuses to pay the required fee, the elevator is being operated unlawfully.

H. If the owner/user operates an elevator unlawfully, the Commission may order the elevator operation to cease pursuant to Section 34A-1-104.

I. If, in the judgment of an elevator inspector, the lives or safety of employees or public are, or may be, endangered should they remain in the danger area, the elevator inspector shall direct that they be immediately withdrawn from the danger area, and the elevator removed from service until repairs have been made and the elevator has been brought into compliance.

R616-3-7. Inclined Wheelchair Lift Headroom Clearance.

A. Since the incorporated safety standard (ASME A17.1) does not specify the minimum headroom clearance requirements for the installation of an inclined wheelchair lift, the following requirements must be met for inclined wheelchair lifts installed in Utah.

B. Headroom clearance for inclined wheelchair lifts throughout the range of travel shall be not less than 80 inches (2032 mm) as measured vertically from the leading edge of the platform floor.

C. For existing facilities only, in the event that it is not technically or economically feasible to provide other means of access for disabled persons, inclined wheelchair lifts may be installed if all of the following conditions are met:

1. The appropriate building inspection jurisdiction approves the use of an inclined wheelchair lift for the specific application.

2. Headroom clearance throughout the range of travel shall be not less than 60 inches as measured vertically from the leading edge of the platform floor.

3. The passenger restriction sign as required by ASME A17.1 Rule 2001.7e shall be amended as follows: "PHYSICALLY DISABLED PERSONS ONLY. NO FREIGHT. HEADROOM CLEARANCE IS LIMITED. USE ONLY IN THE SITTING POSITION".

R616-3-8. Valves in Hydraulic Elevator Operating Fluid Systems.

A. Due to the potential loss of pressure retaining capability when over torqued, bronze-bodied valves shall not be installed in the hydraulic systems of a hydraulic elevator.

B. This requirement is in effect for all new installations and remodel installations involving the hydraulic system.

C. If a bronze-bodied valve installed on an existing elevator begins to leak, that valve shall be replaced by a steel-bodied valve.

R616-3-9. Shunt Trips in Elevator Systems.

A. The means (shunt trip) to automatically disconnect the main line power supply to the elevator discussed in Rule 102.2(c)(3) of A17.1 is not required for hydraulic elevators with a rise of 50 feet or less.

R616-3-10 Hoistway Vents.

A. With regard to hoistway vents, the Division will assure that elevators meet Rule 100.4 of ASME A17.1 and the minimum area of the vent required by the Uniform Building Code. Requirements for the operation of the vent are defined by the local jurisdiction's fire marshall or building inspector.

R616-3-11. Hand Line Control Elevators.

A. Operation of a hand line control elevator is not permitted.

B. Owners of hand line control elevators are required to render the elevator electrically and mechanically incapable of operation.

R616-3-12. Remodeled Elevators.

A. When an elevator is classified as a remodeled (modernized) elevator by the Division, the components of the elevator involved in the modernization must comply with the standards of the latest version of A17.1 and A17.3 in effect at the time the remodeling of the elevator commences.

R616-3-[6]13. Fees.

A. Fees to be charged as provided by Section 34A-1-106 and 63-38-3.2 shall be adopted by the Labor Commission and approved by the Legislature pursuant to Section 63-38-3(2).

B. The fee for the initial certification permit shall be invoiced to and paid by the company or firm installing the elevator.

C. The renewal certification permit shall be invoiced to and paid by the owner/user.

D. Any request for a special inspection shall be invoiced to and paid by the person/company requesting the inspection, at the hourly rate plus mileage and expenses.

R616-3-[7]14. Notification of Installation, Revision or Remodeling.

A. Before any elevator covered by this rule is installed or a major revision or remodeling begins on the elevator, the Division must be advised at least one week in advance of such installation, revision, or remodeling unless emergency dictates otherwise.

R616-3-[8]15. Initial Agency Action.

Issuance or denial of a Certificate of Inspection and Permit to Operate by the Division, and orders or directives to make changes or improvements by the elevator inspector are informal adjudicative actions commenced by the agency per Section 63-46b-3.

R616-3-[9]16. Presiding Officer.

The elevator inspector is the presiding officer referred to in Section 63-46b-3. If an informal hearing is requested pursuant to R616-3-1, the Commission shall appoint the presiding officer for that hearing.

R616-3-[10]17. Request for Informal Hearing.

Within 30 days of issuance, any aggrieved person may request an informal hearing regarding the reasonableness of a permit issuance or denial or an order to make changes or improvements. The request for hearing shall contain all information required by Sections 63-46b-3(a) and 63-46b-3(b).

R616-3-[11]18. Classification of Proceeding for Purpose of Utah Administrative Procedures Act.

Any hearing held pursuant to R616-3-14 shall be informal and pursuant to the procedural requirements of Section 63-46b-5 and any agency review of the order issued after the hearing shall be per Section 63-46b-13. An informal hearing may be converted to a formal hearing pursuant to Section 653-46b-4(3).

KEY: elevators*, certification, safety
[October 7, 1997]1998 34A-1-101 et seq.
Notice of Continuation February 5, 1997

Public Service Commission, Administration
R746-360
Universal Public Telecommunications Service Support Fund

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21450
FILED: 09/14/1998, 11:16
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule governs the creation and maintenance of a telecommunications universal service support fund to assist in the provision of public telecommunication services in areas of the State of Utah where the costs of providing the service may be high. Creation and operation of the fund is required by Section 54-8b-15. The rule establishes the fund's revenue sources and disbursement procedures. Eligible telecommunications corporations will be able to draw from the fund in order to provide specified services in designated support areas. The proposed rule is intended to replace a current emergency rule.

SUMMARY OF THE RULE OR CHANGE: Section 54-8b-15 requires the creation of a universal service support fund. The proposed rule provides definitions of terms used in the rule. The rule provides for a transition from an earlier fund, operating pursuant to Section 54-8b-12, and permits telephone companies that received funding from the earlier fund to continue to receive equivalent funding through December 1999, or to elect to receive funding pursuant to the new fund. The rule designates the Division of Public Utilities, Department of Commerce, as the administrator of the fund and provides administrative guidelines for the fund. The rule provides for a retail end-user surcharge as the funding source for the fund and describes how remittances and disbursements are to be made. The rule describes how telecommunications corporations may become eligible to receive support from the fund and how the support will be calculated.

(**DAR Note:** The first proposed new rule for R746-360 was filed to replace R746-408 under DAR No. 20106 in the November 1, 1997, issue of the *Utah State Bulletin*, however, the filing lapsed. A 120-day (emergency) rule was filed for R746-360 under DAR No. 20598 in the January 15, 1998, issue of the *Utah State Bulletin* that was effective December 31, 1997. The proposed new rule was also filed again for R746-360 under DAR No. 20599 in the January 15, 1998,

issue of the *Utah State Bulletin*. A second emergency rule was filed (DAR No. 20956) which superseded the first and was published in the April 15, 1998, issue of the *Utah State Bulletin* that was effective March 31, 1998. A change in proposed rule on the new rule filing (DAR No. 20599) was published in the May 1, 1998, issue of the *Utah State Bulletin*, however, this filing also lapsed. The third emergency rule filing which supersedes the second one was published under DAR No. 21317 in the August 15, 1998, issue of the *Utah State Bulletin*, and is effective as of July 28, 1998.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-8b-15

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--the fund established by this rule replaces a prior fund. Duties of state agencies under the new fund are similar or identical to duties under the prior fund. No change in the overall costs of such duties is anticipated and no savings, or reduced costs, are expected.
❖LOCAL GOVERNMENTS: None--the rule does not establish duties or activities for local governments and no prior duties existed.
❖OTHER PERSONS: For traditional telephone utilities and telecommunications corporations, there will be no change in costs or savings in operating under the new fund compared with operations under the prior fund or emergency rule. For some new telecommunications corporations, there may be some costs associated with processing fund remittances, as Section 54-8b-15 clarified that some companies, that had not previously participated, are now to be included. The Commission did not receive any comments attempting to quantify the costs for these additional companies. The Commission estimates the cost to be less than $1,000 annually for a company.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Refer to "Other persons" for compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule results from the Commission's rulemaking efforts which have covered almost one year. In order to promote the availability of telecommunication services throughout the state, the State of Utah has used a universal service fund for almost a decade. In 1997, the Utah Legislature changed the approach in which the support fund would be funded and in which funds would be utilized. Legislation specified that all public telecommunications corporations are to collect funds from their retail customers to support the fund. This change in funding approach will cause some companies to start including universal service support charges, necessitating some changes in their billing practices and initiation of a process to remit the funds to the administrator. The legislation also changed the disbursement approach from one of supporting overall company operations to one of supporting specific services provided in discrete geographic areas. This change may result in some minor changes in the accounting and cost identification procedures followed to identify high cost service areas.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/06/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 11/23/1998, 9:00 a.m., Public Service Commission (PSC) Hearing Room 426, Fourth Floor, 160 East 300 South, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/25/1998

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.
R746-360. Universal Public Telecommunications Service Support Fund.
R746-360-1. General Provisions.

A. Authorization -- Section 54-8b-15 authorizes the Commission to establish an expendable trust fund, known as the Universal Public Telecommunications Service Support Fund, the "universal service fund," "USF" or the "fund," to promote equitable cost recovery and universal service by ensuring that customers have access to basic telecommunications service at just, reasonable and affordable rates, consistent with the Telecommunications Act of 1996.

B. Purpose -- The purposes of these rules are:

1. to govern the methods, practices and procedures by which:

a. the USF is created, maintained, and funded by end-user surcharges applied to retail rates paid by service end-users;

b. funds are collected for and disbursed from the USF to qualifying telecommunications corporations so that they will provide basic telecommunications service at just, reasonable and affordable rates; and,

2. to govern the relationship between the fund and the trust fund established under 54-8b-12, and establish the mechanism for the phase-out and expiration of the latter fund.

C. Application of the Rules -- The rules apply to all retail providers that provide intrastate public telecommunications services.

R746-360-2. Definitions.

A. Affordable Base Rate (ABR) -- means the monthly per line retail rates, charges or fees for basic telecommunications service which the Commission determines to be just, reasonable, and affordable for a designated support area. The Affordable Base Rate shall be established by the Commission and shall be the rate against which the USF proxy cost model results shall be compared in

considering the amount of USF support. The Affordable Base Rate does not include the applicable USF retail surcharge.

B. Average Revenue Per Line -- means the average revenue for each access line computed by dividing all revenue derived from a telecommunications corporation's provision of public telecommunications services in a designated support area by that telecommunications corporation's number of access lines in the designated support area. When a telecommunications corporation does not have access lines in a designated support area, the average revenue per line for that telecommunications corporation will be based on the simple average of the average revenue per line determinations of all other telecommunications corporations which have access lines in the designated support area.

C. Basic Telecommunications Service -- means a local exchange service consisting of access to the public switched network; touch-tone, or its functional equivalent; single-party service with telephone number listed free in directories that are received free; access to operator services; access to directory assistance, lifeline and telephone relay assistance; access to 911 and E911 emergency services; access to long-distance carriers; access to toll limitation services; and other services as may be determined by the Commission.

D. Designated Support Area -- means the geographic area used to determine USF support distributions. A designated support area, or "support area," need not be the same as a USF proxy model's geographic unit. The Commission will determine the appropriate designated support areas for determining USF support requirements.

E. Facilities-Based Provider -- means a telecommunications corporation that uses its own facilities, a combination of its own facilities and essential facilities or unbundled network elements purchased from another telecommunications corporation, or a telecommunications corporation which solely uses essential facilities or unbundled network elements purchased from another telecommunications corporation to provide public telecommunications services.

F. Geographic Unit -- means the geographic area used by a USF proxy cost model for calculating costs of basic local exchange service. The Commission will determine the appropriate geographic area to be used in determining basic local exchange service costs.

G. Net Fund Distributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the former amount is greater than the latter amount.

H. Net Fund Contributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the latter amount is greater than the former amount.

I. Retail Provider -- means telecommunications corporations, interexchange carriers, resellers, alternate operator service providers, commercial mobile radio service providers, radio common carriers, aggregators or any other person or entity providing telecommunications services that are used or consumed by an consumer or end-user.

J. Trust Fund -- means the Trust Fund established by 54-8b-12.

K. USF Proxy Model Costs -- means the average total, jurisdictionally unseparated, cost estimate for basic telecommunications service, in a geographic unit, based on the forward-looking, economic cost proxy model(s) chosen by the Commission. The level of geographic cost disaggregation to be used for purposes of assessing the need for and the level of USF support within a geographic unit will be determined by the Commission.

L. Universal Service Fund (USF or fund) -- means the Universal Public Telecommunications Service Support Fund established by 54-8b-15 and set forth by this rule.

R746-360-3. Transition From 54-8b-12 to 54-8b-15.

A. Phase out of 54-8b-12 Trust Fund and Transfer of Trust Fund Funds -- In order to permit telecommunications corporations to make the transition to the fund created by 54-8b-15 and this rule:

1. The 54-8b-12 Trust Fund mechanisms shall continue until May 31, 1998, upon which date they shall cease. Funds derived from these funding mechanisms will be deposited in the USF.

2. Balances remaining in the 54-8b-12 Trust Fund as of June 1, 1998, plus remittances of any funds pursuant to the 54-8b-12 Trust Fund shall be transferred to the USF.

B. Two-Year Continuation of Equivalent Trust Fund Funding -- Upon written notification to the Commission, telecommunications corporations that received 54-8b-12 Trust Fund support in 1997 may elect to receive support equivalent to what they would have received from the 54-8b-12 Trust Fund rather than support pursuant to the 54-8b-15 USF. These companies may continue to receive this Trust Fund equivalent support until December 31, 1999. During this time period, these companies may elect to end this equivalent support and begin to receive support pursuant to the 54-8b-15 USF by submitting a written notification to the Commission 30 days prior to the beginning of the 54-8b-15 USF support. Funds for equivalent Trust Fund support will be provided from the USF.

R746-360-4. Duties of Administrator.

A. Selection of Administrator -- The Division of Public Utilities will be the fund administrator. If the Division is unable to fulfill that responsibility, the administrator, who must be a neutral third party, unaffiliated with any fund participant, shall be selected by the Commission.

B. Cost of Administration -- The cost of administration shall be borne by the fund.

C. Access to Books -- Upon reasonable notice, the administrator shall have access to the books of account of all telecommunications corporations and retail providers, which shall be used to verify the intrastate retail revenue assessed in an end-user surcharge, to confirm the level of eligibility for USF support and to ensure compliance with this rule.

D. Maintenance of Records -- The administrator shall maintain the records necessary for the operation of the USF and this rule.

E. Report Forms -- The administrator shall develop report forms to be used by telecommunications corporations and retail providers to effectuate the provisions of this rule and the USF. An officer of the telecommunications corporation or retail provider shall attest to and sign the reports to the administrator.

F. Administrator Reports -- The administrator shall file reports with the Commission containing information on the average

revenue per line calculations, projections of future USF needs, analyses of the end-user surcharges and Affordable Base Rates, and recommendations for calculating them for the following 12-month period. The report shall include recommendations for changes in determining basic telecommunications service, designated support areas, geographic units, USF proxy cost models and ways to improve fund collections and distributions.

G. Annual Review -- The administrator, under the direction of the Commission, shall perform an annual review of fund recipients to verify eligibility for future support and to verify compliance with all applicable state and federal laws and regulations.

H. Proprietary Information -- Information received by the administrator which has been determined by the Commission to be proprietary shall be treated in conformance with Commission practices.

I. Information Requested -- Information requested by the administrator which is required to assure a complete review shall be provided within 45 days of the request. Failure to provide information within the allotted time period may be a basis for withdrawal of future support from the USF or other lawful penalties to be applied.

R746-360-5. Application of Fund Surcharges to Customer Billings.

A. Commencement of Surcharge Assessments -- Commencing June 1, 1998, end-user surcharges shall be the source of revenues to support the fund. Surcharges will be applied to intrastate retail rates, and shall not apply to wholesale services.

B. Surcharge Based on a Uniform Percentage of Retail Rates -- The retail surcharge shall be a uniform percentage rate, determined and reviewed annually by the Commission and billed and collected by all retail providers.

C. Initial Surcharge -- The initial surcharge to be assessed beginning June 1, 1998, shall equal one percent of billed intrastate retail rates.

R746-360-6. Fund Remittances and Disbursements.

A. Remitting Surcharge Revenues --

1. Retail providers, not eligible for USF support funds, providing telecommunications services subject to USF surcharges shall collect and remit surcharge revenues to the administrator within 45 days after the end of each month.

2. Retail providers eleigible for USF support funds shall make remittances as follows:

a. Prior to the end of each month, the fund administrator shall inform each qualifying telecommunications corporation of the estimated amount of support that it will be eligible to receive from the USF for that month.

b. Net fund contributions shall be remitted to the administrator within 45 calendar days after the end of each month. If the net amount owed is not received by that date, remedies, including withholding future support from the USF, may apply.

3. The administrator will forward remitted revenues to the Utah State Treasurer's Office for deposit in a USF account.

B. Distribution of Funds -- Net Fund distributions to qualifying telecommunications corporations for a given month shall be made 60 days after the end of that month, unless withheld for failure to maintain qualification or failure to comply with Commission orders or rules.

R746-360-7. Eligibility for Fund Distributions.

A. Qualification --To qualify to receive USF support funds, a telecommunications corporation shall be designated an "eligible telecommunications carrier," pursuant to 47 U.S.C. Section 214(e), be in compliance with Commission orders and rules and have its average revenue per line less than the USF cost proxy model costs for each designated support area in which it desires to qualify to receive support from the fund. Each telecommunications corporation receiving support shall use that support only to provide basic telecommunications service and any other services or purposes approved by the Commission.

B. Retail Rate Ceiling -- To be eligible, a telecommunications corporation may not charge retail rates in excess of the Commission determined Affordable Base Rate for basic telecommunications service or vary from the terms and conditions determined by the Commission for other telecommunications services for which it receives Universal Service Fund support.

C. Lifeline Requirement -- A telecommunications corporation may qualify to receive distributions from the fund only if it offers Lifeline service on terms and conditions prescribed by the Commission.

D. Exclusion of Resale Providers -- Only facilities-based providers, will be eligible to receive support from the fund. Where service is provided through one telecommunications corporation's resale of another telecommunications corporation's service, support may be received by the latter only.

R746-360-8. Calculation of Fund Distributions.

A. Use of Proxy Cost Models -- The USF proxy cost model(s) selected by the Commission, the Affordable Base Rates, and average revenue per line will be used to determine fund distributions within designated support areas.

B. Impact of Other Funding Sources -- The USF proxy cost estimate for a designated support area will be reduced by the amount that basic telecommunication service costs are recovered through interstate cost allocations, from the federal USF, pursuant to 47 U.S.C. Section 254, or from any other mechanism by which intrastate costs are calculated from total costs.

C. Determination of Support Amounts -- Telecommunications corporations shall use USF funds to support each primary residential line in active service which it furnishes in each designated area for which the monthly intrastate USF proxy model cost exceeds the Affordable Base Rate established for that area. Monies from the fund will equal the numerical difference between USF proxy model cost estimates and the Affordable Base Rate or Average Revenue per line, for the designated support area, whichever is the lesser amount.

D. Lifeline Support -- Eligible telecommunications corporations shall receive additional USF funds to recover any discount granted to lifeline customers, participating in a Commission approved Lifeline program, that is not recovered from federal lifeline support mechanisms.

E. Exemptions -- Telecommunications corporations may petition to receive an exemption for any provision of this rule or to receive additional USF support, for use in designated support areas, to support additional services which the Commission determines to be consistent with universal service purposes and permitted by law.

R746-360-9. One-Time Distributions From the Fund.

A. Applications for One-Time Distributions -- Telecommunications corporations or potential customers not presently receiving service may apply to the Commission for one-time distributions from the fund for extension of service to a customer, or customers, not presently served. These distributions are to be made only in extraordinary circumstances, when traditional methods of funding and service provision are infeasible.

1. In considering the one-time distribution application, the Commission will examine relevant factors including the type and grade of service to be provided, the cost of providing the service, the demonstrated need for the service, whether the customer is within the service territory of a telecommunications corporation, the provisions for service or line extension currently available, and whether the one-time distribution is in the public interest.

B. Maximum Amount -- The maximum one-time distribution will be no more than that required to make the net investment equivalent to the relevant proxy model cost estimate.

C. Impact of Distribution on Rate of Return Companies -- A one-time distribution from the fund shall be recorded on the books of a rate base, rate of return regulated LEC as an aid to construction and treated as an offset to rate base.

D. Notice and Hearing -- Following notice that a one-time distribution application has been filed, a LEC may request a hearing or seek to intervene to protect its interests.

E. Bidding for Unserved Areas -- A telecommunications corporation will be selected to serve in an unserved area on the basis of a competitive bid. The estimated amount of the one-time distribution will be considered in evaluating each bid. Fund distributions in that area will be based on the winning bid.

R746-360-10. Altering the USF Charges and the End-User Surcharge Rates.

The uniform surcharge shall be adjusted periodically to minimize the difference between amounts received by the fund and amounts disbursed.

R746-360-11. Support for Schools, Libraries, and Health Care Facilities. Calculation of Fund Distributions.

The Universal Service Fund rules for schools, libraries and health care providers, as prescribed by the Federal Communications Commission in Docket 96-45, 97-157 Sections X and XI, paragraphs 424 - 749, of Order issued May 8, 1996, and CFR Sections 54.500 through 54.623 inclusive, incorporated by this reference, is the prescribed USF method that shall be employed in Utah. Funding shall be limited to funds made available through the federal universal service fund program.

KEY: public utilities, telecommunications, universal service*
1998 **54-7-25**
54-7-26
54-8b-12
54-8b-15

◆ ◆

End of the Noties of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text (• • • • • •) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends November 2, 1998. At its option, the agency may hold public hearings.

From the end of the waiting period through January 29, 1999, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Environmental Quality, Air Quality
R307-2-13
Section IX, Control Measures for Area and Point Sources, Part D, Ozone

NOTICE OF CHANGE IN PROPOSED RULE
DAR FILE NO.: 21031
FILED: 09/11/1998, 08:45
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To revise in response to public comments.

SUMMARY OF THE RULE OR CHANGE: Section R307-2-13 is amended to reflect adoption by the Air Quality Board on September 9 instead of July 1, 1998. Other changes are made in the Ozone Maintenance Plan, which is incorporated by reference under Section R307-2-13. In IX.D.2.b(4) of the Ozone Maintenance Plan, add language to clarify that the Environmental Protection Agency (EPA) granted the partial exemption from nitrogen oxide requirements as Utah requested in May 1997. The reason for the request was that Utah is in compliance with the one-hour ozone standard and further reductions in nitrogen oxides are not needed. In IX.D.2.f(3) and Table 9, add language: to identify the safety margin that is available; to specify that the safety margin is set aside for transportation conformity purposes; to emphasize that the safety margin is available only upon allocation by the Air Quality Board, is not automatically available for future transportation plans, and the Board may choose not to allocate it at all; and to allow the safety margin to be used for general conformity purposes if adopted by the Board as an amendment to the Maintenance Plan and approved by EPA. In IX.D.2.h(2), change the date on which the one-hour health standard for ozone was revoked in Utah from January 16 to June 5, 1998. The one-hour standard has been replaced with an eight-hour standard. Also, add a sentence stating that removal of the automatic triggering mechanism for ozone contingency measures is consistent with EPA guidance, citing the specific guidance document. (**DAR Note:** The original proposed amendment upon which this change in proposed rule is based was published in the May 15, 1998, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Section IX, Control Measures for Area and Point Sources, Part D, Ozone, September 9, 1998

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No change from original proposal.
❖LOCAL GOVERNMENTS: No change from original proposal.
❖OTHER PERSONS: No change from original proposal.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No change from original proposal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: All of the changes are clarifications of the language in the original proposal and there are no costs or benefits beyond those originally proposed--Dianne R. Nielson.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 11/02/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/1998

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-2. Utah State Implementation Plan.
R307-2-13. Section IX, Control Measures for Area and Point Sources, Part D, Ozone.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part D, Ozone, as most recently amended by the Utah Air Quality Board on [~~July 1~~]September 9, 1998, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, environmental protection, small business assistance program*, particulate matter
[~~January 8,~~]1998 19-2-104
Notice of Continuation June 2, 1997

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End of the Changes in Proposed Rules Section

NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (1996)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (• • • • •) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (1996); and *Utah Administrative Code* Section R15-4-8.

Human Services, Administration, Administrative Services, Licensing
R501-7
Rules for Child Placing Agencies

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 21415
FILED: 09/02/1998, 09:42
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To bring the State of Utah into compliance with Title IV-E State Plan requirements, the Division of Child and Family Services agreed to make changes to policy, procedure, and licensing standards. The proposed change will bring Child Placing licensing standards into compliance.

SUMMARY OF THE RULE OR CHANGE: Prohibits the delay or denial of adoptive or foster placement of child based on race, color, or national origin.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-101 et seq.
FEDERAL REQUIREMENT FOR THIS RULE: 45 CFR 1356 Sec. 471(a)(18)(A)(B)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--the Department has complied with the Multi Ethnic Placement Act for some time. While this extends requirements for non-discrimination, there are no additional compliance costs anticipated.
❖LOCAL GOVERNMENTS: None--local government is not affected by this rule.
❖OTHER PERSONS: None--Child Placing Agencies have complied with the Multi Ethnic Placement Act for some time.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the Department has complied with the Multi Ethnic Placement Act for some time. While this extends requirements for non-discrimination, there are no additional compliance costs anticipated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--as under "Compliance costs for affected persons," Child Placing Agencies have complied with the Multi Ethnic Placement Act for some time.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Department has been compliant with the Multi-Ethnic Placement Act, but additional changes have been made to the federal law pertaining to interethnic adoptions and multi-ethnic placements. This change brings the Department into full compliance with those changes.

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

Human Services
Administration, Administrative Services,
Licensing
Room 303

120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Reta D. Oram at the above address, by phone at (801) 538-4242, by FAX at (801) 538-4553, or by Internet E-mail at hsadmin.hsadmin2.roram@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 09/02/1998

AUTHORIZED BY: Reta D. Oram, Director

R501. Human Services, Administration, Administrative Services, Licensing.
R501-7. Rules for Child Placing Agencies.
R501-7-1. Requirements for Organizations and Administration of Child Placing Agencies.

A. Definition

Child Placing means receiving, accepting, or providing custody or care for any child under 18 years of age, temporarily or permanently in accordance with 62A-2-101.

B. Purpose

The purpose of a Child Placing Agency is to place the child permanently in a home for adoption or temporarily in a foster home placement.

C. Administration

1. In addition to the following rules, all Child Placing Agencies will comply with R501-2, Core Standards.

2. Multiple-Service Agency: When services for birth parents are provided in the same agency that provides adoption services, it is necessary to ensure that full consideration is given to the needs of birth parents, as well as to those of the child. Moreover, the agency shall advertise to the public that it does provide services for birth parents who are not considering adoption, refer to R501-7-3.

3. Selection and Placement: A child placing agency for adoption or foster care shall not:

a. deny to any person the opportunity to become an adoptive or a foster parent on the basis of race, color, or national origin of the person, or of a child, involved; or

b. delay or deny the placement of a child for adoption or into foster care on the basis of the race, color or national origin of the adoptive or foster parent, or of a child, involved.[~~Recruitment of Adoptive Families: The agency shall have a written plan for recruiting families for all children for whom the agency is seeking adoptive families.~~]

4. Legal Responsibility for Child: The agency shall be legally responsible for the well-being of the child following relinquishment of the child until the adoption is finalized, or unless the court places legal responsibility with another party. If the child cannot be adopted, the agency shall continue to be legally responsible for the child, i.e., for making referrals to the appropriate service for continuing care until the agency is discharged.

5. Legal and Other Documents: The agency shall have available and keep in a confidential file all pertinent legal and other documents as available and appropriate, including but not limited to the following:

a. birth records,

b. baptismal certificates,

c. an original of the transfer of parental rights or relinquishment,

d. decree of termination of parental rights,

e. copies of divorce papers,

f. death certificates of adoptive family members or birth parents,

g. affidavits in cases where a husband is not the father of the child,

h. statement of the birth parents to release information to mutually agreed upon individuals, or waiver of confidentiality,

i. statements of birth and adoptive parents regarding their agreement to exchange information and the conditions, if any, pursuant to contact following placement and legal adoption, and

j. copy of the order of adoption.

6. Minimum Qualifications of Staff: The Executive Director and other staff of the agency shall meet the standards listed below. Department of Human Services Offices staff will be required to meet the personnel and administrative standards as set by State Personnel Policy.

7. Executive Director:

a. The Board of a private agency shall select the Executive Director and delegate to the Executive Director the responsibility for administration of the agency within the general policies of the Board.

b. The Executive Director of a licensed child-placing agency shall be graduated from an accredited four-year college or university, have a master's degree in social work and shall be licensed in accordance with 58-60-204,105 and 58-60-404,405 as a clinical social worker, certified social worker, or professional counselor. In agencies where the Executive Director does not have the appropriate professional license, there shall be a staff member with the appropriate licensure designated as Social Services Director for the agency.

c. In addition, staff identified shall have had two years of full-time paid professional employment in services to children, in a social service setting; one of which must have been in a supervisory or administrative capacity.

8. Casework Supervisor: If an agency has six or more professional staff besides the Executive Director, provisions shall be made for a certified social worker or professional counselor to supervise the additional staff. The certified social worker or professional counselor must have at least one year of full-time paid professional experience in social work. In general, the ratio shall not exceed one certified social worker or professional counselor to eight caseworkers.

9. Social Service Worker: All service workers shall be licensed to practice social work under the laws of the State of Utah.

10. Workloads: The agency shall establish full time workload standards for staff, taking into consideration average time for satisfactory completion of intake; assessment and preparation of adoptive applicants; and post placement and post legal adoptive services to the birth, adoptive parents and adoptive persons. Under no circumstance shall the workload for social work staff working with children under the age of five exceed 20 active cases; for staff working with prospective adoptive parents prior to approval of the

family exceed 30 active cases; for staff working with prospective adoptive parents, following approval exceed 60 active cases; for staff working with birth parents exceed 25 active cases; and for staff working with older or special needs children exceed 15 active cases.

11. Staff Development: The agency shall provide opportunities for staff to enhance professional growth through supervision, in-service training and educational leave. The agency shall maintain current adoption literature.

12. Ethical Conduct: A child placing agency shall operate in an ethical manner, including the following:

a. Its governing body, voluntary board, staff and consultants are not favored in applying for or receiving the services of the agency.

b. It receives no payment or other considerations for the referral of any applicant or client.

c. It provides no payment or other considerations to any services provider or other organization or individual for any referral of any applicant for the agency's services.

d. It prohibits the directed referral, or steering, of its applicants, clients, and their families to any private practice in which it's staff or consultants may be engaged.

e. It maintains a record of the ownership of all its properties and of all financial transactions it enters into with respect to such properties.

f. The members of the governing body of a private or public agency have no direct or indirect financial interest in the assets or leases of the agency; any member who individually or as part of business or professional firm is involved in the business transactions or current professional services of the agency shall disclose this relationship and shall not participate in any vote taken in respect to such transactions or services.

13. Case Records: The agency shall maintain a case record of each child accepted for care, of the family, and of each adoptive applicant, from the time of the application for service through the completed legal adoption and termination of the agency's service. As a minimum, the record shall contain the following information:

a. application and reason for service,

b. social study,

c. problems and service of the client to these services,

d. progress report, at least quarterly, to include the following,

1) services provided,

2) response of the client to these services, and

3) results,

e. closure, a brief summary of what was accomplished and reason for closure, and

f. dates, places and other pertinent information.

g. Adoptive parents, adoptees, and birth parents shall be encouraged to provide updated information to be added to the file at any time prior to and following finalization proceedings. This updated information may include medical, psychological and social information.

h. Case records shall be continuous records of adjustment, interaction, relationships, physical and mental conditions, growth and development. All records and information shall be confidential.

14. Record Retention: At the completion of the adoption all records pertaining to the adoption must be retained.

15. Confidentiality of Records: All adoption records shall be treated as confidential and be retained in a locked, metal file, accessible to designated personnel only. No formation shall be shared with any person without the appropriate consent forms.

16. Location and Housing: The agency shall be located in an area convenient to the clients it expects to serve. It shall be housed in a setting that is attractive, well maintained and comfortable.

17. Office Space: The facility shall maintain offices to meet the needs of clients being served.

18. Resources: The agency shall have financial resources to support the services offered.

19. Payment of Fees: The agency may charge birth parents and adoptive parents for cost of services provided. However, under no circumstance shall the provision of services to birth parents be contingent upon the ability to pay. A signed fee schedule shall be on file indicating cost of each service. Fees may be charged according to a sliding scale, based upon ability to pay in relation to income or can be set at a uniform amount with a provision in agency policy for reducing or waiving the fee when indicated.

20. Itemization of Expenditures:

An itemization of all allowable expenditures on behalf of birth parents shall be on file. The itemization shall be signed by birth parents and adoptive applicant. If any cost appears to be greater than the ordinary or usual costs, the agency must show that the expenditure was fit and appropriate. The agency may pay reasonable costs for the following:

a. legal services related to the adoption,

b. medical services related to pregnancy, birth, and post-natal care for the birth mother and medical care for the child,

c. emergency health related services for the birth mother needed to protect the health and well-being of the fetus,

d. housing, including utilities and basic telephone service,

e. necessary transportation, including gasoline or public transportation,

f. purchase of food, necessary household supplies, and personal hygiene or grooming products,

g. clothing for the birth mother, and

h. necessary mental health services for the birth mother during the pre and post-natal period.

i. For other expenses the agency must show that the expenditure was fit and appropriate for the birth parents beyond six weeks postpartum.

21. Itemization of Fees for Adoption:

An itemization of all adoption related expenses shall be filed with the court prior to the final decree of adoption.

22. Statistics: The agency shall maintain accurate statistics on persons served, applications, and dispositions as a minimum.

23. Indian Child Welfare Act: An agency which serves Indian children must have standards and procedures which also conform to the Indian Child Welfare Act, refer to pl 95-600.

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KEY: licensing, human services, child placing
September 2, 1998 [~~62A-2~~]62A-2-101 et seq.
Notice of Continuation September 2, 1997

Workforce Services, Employment Development

R986-414

Income

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 21419
FILED: 09/02/1998, 15:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this filing is to incorporate the revised Food Stamp Program maximum shelter deduction as directed by the United States Department of Agriculture (USDA), Food and Nutrition Service. This new deduction amount is effective for all benefits issued beginning October 1, 1998.

SUMMARY OF THE RULE OR CHANGE: This rule change implements the revised maximum shelter deduction of $275. That maximum was $250. When food stamp benefits are calculated, recipients are allowed a deduction for their shelter expenses that exceed 50% of their adjusted net income. The amount of that deduction cannot exceed the maximum established by the Food and Nutrition Service (FNS).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: All Food Stamp Program benefits are funded by the federal government. The State does, however, pay one half of the administrative costs related to this program. In the case of this rule change, the maximum shelter deduction has been increased by $25. This means that households currently participating or new applicants could potentially receive a larger deduction for their shelter expenses which may result in an increase in benefits. That increase may be as much as $5 a month for certain households. It is unlikely that this change, in itself, will result in a significant number of new households participating in the program. There are certain administrative costs associated with implementing this change that are absorbed in the Department's cost of operating the Food Stamp Program. Those costs are not distinguishable or significant.

❖LOCAL GOVERNMENTS: Local governments are not involved in the administration of the Food Stamp Program. This change has no direct impact on local governments.

❖OTHER PERSONS: This rule change incorporates an increase in the maximum shelter deduction which means that Utah's citizens could potentially qualify (or continue to qualify) for increased benefits from the Food Stamp Program. There are no costs or savings associated with an increased shelter expense deduction to existing food stamp recipients or to potential food stamp applicants. Increased benefits for recipients participating in the Food Stamp Program could have some implications for businesses that interact with participants of the Food Stamp program. Any costs or savings to those businesses reflect the potential for increased sales and operating expenses. Those potential costs or savings are unknown to the Department and are considered incalculable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although compliance with and implementation of the revised maximum shelter deduction does potentially increase the benefit level for program participants, all increased benefit costs are borne by the Federal government. The Department does incur 50% of the associated administrative costs. Those costs associated with implementing this change are absorbed in the Department's cost of operating the Food Stamp Program. Those costs are not distinguishable or significant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change increases the maximum shelter deduction that is used to calculate food stamp benefits. This change will potentially increase the amount of benefits to households participating in the Food Stamp Program. It is also feasible that the number of program participants would also increase. However, businesses dealing directly with the participants (food retailers) would not necessarily realize an increase in business. Although it also possible that the operating costs of those businesses could be affected, those costs are unknown to the Department and are not calculable.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Department is required to administer the Food Stamp Program based on standards established by the United States Department of Agriculture, FNS. FNS revises the maximum shelter deduction periodically. The revised maximum shelter deduction must be used by the Department to determine benefits for the Food Stamp Program beginning October 1, 1998. The Department did not receive the revised maximum shelter deduction in time to process this change through normal rulemaking procedures.

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

Workforce Services
Employment Development
Second Floor
1385 South State Street
Salt Lake City, UT 84115, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at hsfamily.gmenden@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 10/01/1998

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-414. Income.

. . . . . .

R986-414-410. Income Deductions.

The department adopts 7 CFR 273.9(d) and 7 CFR 273.11(c) and (d), 1995 edition and P.L. 104-193, Sec. 809.

1. Current Department Practices

a. The State uses the single Standard Utility Allowance (SUA) option.

b. The telephone allowance is the same whether the client chooses actual utility costs or the SUA.

c. The State uses an annualized SUA for households with a heating or cooling cost.

d. The SUA is $150.

e. The standard deduction is $134.

f. The maximum shelter deduction is [~~$250~~]$275 for households with no elderly or disabled household member.

g. The standard homeless shelter deduction is $143. For the purposes of qualifying for this deduction, an individual residing in the home of another person is considered homeless if the living arrangement is expected to last 90 days or less.

h. Amounts paid for legally obligated child support to or for non household members.

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KEY: income
October 1, 1998 **35A-3-103**
Notice of Continuation February 10, 1997

Workforce Services, Employment Development
R986-417
Documentation

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 21420
FILED: 09/02/1998, 15:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to incorporate revised procedures for processing applications for the Food Stamp Program. This change also corrects rule language for Department practices that are incorporated by reference.

SUMMARY OF THE RULE OR CHANGE: This rule change implements revised application processing requirements for the Food Stamp Program. These revisions incorporate waivers to regulatory procedures as approved by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). These waivers allow Utah to deny Food Stamp Program applications when an applicant fails to appear for a second scheduled interview and after applicants have been interviewed but fail to return with required verification.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This rule change implements changes to procedures for processing applications for the Food Stamp Program. The administrative costs attributed to making these changes are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant.

❖LOCAL GOVERNMENTS: Local governments are not involved with the administration of the Food Stamp Program. This change has no direct impact on local governments.

❖OTHER PERSONS: With this change, it is likely that some households that make application for benefits from the Food Stamp Program will have their applications denied due to the revised procedures. Although it is unknown how may of these households may reapply, there could be an associated cost for those households that do. The number of households impacted by these changes is unknown to the Department and the applicable costs are considered incalculable. These changes are procedural in nature and involve the application for benefits from the Food Stamp Program. No "other persons" are impacted by this rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department of Workforce Services is the single state agency responsible for administering the Food Stamp Program. Compliance with and implementation of these regulatory waivers does not have a direct impact on program benefits which are funded by the Federal government. The Department does incur 50% of the associated administrative costs for operating the Food Stamp Program. The costs related to implementing these waivers are absorbed in those costs and are not distinguishable or significant. No "other persons" have compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change implements waivers to Food Stamp Program regulations that revise certain application processing procedures for the Food Stamp Program. The changes do impact the Department and potential applicants but have no impact on businesses.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Department of Workforce Services is required to administer the Food Stamp Program based on regulations established by USDA, FNS. FNS has granted Utah certain

waivers to these regulations. Approved waivers are implemented into the Department's policies and procedures for administering the Food Stamp Program. The revised policy is effective October 1, 1998. There was not sufficient time to submit this rule change through normal rulemaking procedures.

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

Workforce Services
Employment Development
Second Floor
1385 South State Street
Salt Lake City, UT 84115, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at hsfamily.gmenden@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 10/01/1998

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-417. Documentation.

. . . . . .

R986-417-710. Application Processing.

The department adopts 7 CFR 273.2(a) through (e), 7 CFR 273.10(a)(3) and 7 CFR 273.2(j) through (k), 1992 ed. which are incorporated by reference.

1. Current Department Practices

a. A Public Assistance or categorically eligible household's may apply for Food Stamps at the same time they apply for Public Assistance using the same application form.

b. A single interview is conducted for clients who have applied for other assistance at the same time they applied for Food Stamps.

c. If applicants fail to appear for their first scheduled interview, a second interview need not be scheduled unless requested by the applicant household. When the second interview is not rescheduled, the application shall not be denied before 30 days. If the applicant household schedules a second interview and does not appear for the second interview, the application can be denied after the second missed interview, but no later than 30 days after the date of application.

. . . . . .

R986-417-714. Processing Standards.

The department adopts 7 CFR 273.2(h), 7 CFR 274.2 and 7 CFR 273.10(g), 1992 ed. which are incorporated by reference.

1. Current Department Practices

a. [~~If day 30 falls on a weekend or holiday, the deadline to process the application is 5:00 p.m. of the next working day.~~

~~b. Notice of denial is sent as soon as possible. If the client also applied for AFDC, the denial is postponed for up to 30 days while awaiting a decision on the AFDC application. This delay is to identify households that may become categorically eligible.~~

~~c. Households which are denied on the 30th day for failure to provide requested verification can provide the missing verification within the next 30 days and their eligibility will be redetermined without a new application.~~]Applications maybe denied after applicants have been interviewed and have been requested, in writing, to provide required verification, if they fail to return with the requested verification after 10 days, but no later the 30th day after the date of application.

. . . . . .

KEY: food stamps, benefits
October 1, 1998 **35A-3-103**
Notice of Continuation February 10, 1997 **7 CFR 273.14**

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Workforce Services, Employment Development
R986-419
Income Limits

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 21421
FILED: 09/02/1998, 15:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this filing is to incorporate the revised Food Stamp Program maximum income limits as directed by the USDA, FNS. These new limits are effective for all benefits issued beginning October 1, 1998.

SUMMARY OF THE RULE OR CHANGE: This rule change implements the revised maximum income limits for the Food Stamp Program. The Department is removing the maximum income limits table from this rule. This rule will now reference those limits in Tables IV, V, and VI which are contained in the Food Stamp Manual as maintained by the Department. Maximum income limits are updated annually by the United States Department of Agriculture USDA, Food and Nutrition Service (FNS).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 7 CFR 273.9(a)(4)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: All Food Stamp Program benefits are funded by the federal government. The State does, however, pay one half of the administrative costs related to this program. In the case of this rule change, the maximum income limits have been increased. This means that households currently participating will continue to qualify for benefits at the higher income levels and that new applicants could now qualify at those higher limits. The administrative costs to implement the new maximum income limits are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant.

❖LOCAL GOVERNMENTS: Local governments are not involved in the administration of the Food Stamp Program. This change has no direct impact on local governments.

❖OTHER PERSONS: This rule change incorporates higher income levels which means that more of Utah's citizens could potentially qualify (or continue to qualify) for benefits from the Food Stamp Program. There are no costs or savings to potential or existing food stamp applicants associated with increased income limits. Increased participation in the Food Stamp Program also has some implications for those businesses that interact with program participants. There is the potential that sales and/or operating expenses may be affected. Any resulting costs or savings to those businesses are unknown to the Department and are considered incalculable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department of Workforce Services is the single state agency responsible for administering the Food Stamp Program. Compliance with and implementation of the revised maximum income levels does potentially increase the number of program participants. Increased benefit costs are borne by the Federal government. Although the Department does incur 50% of the associated administrative costs, those costs are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant. No "other persons" have compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change increases the maximum income limits for qualifying for the Food Stamp Program. Although it is feasible that the number of program participants would increase, businesses dealing directly with the participants (food retailers) would not necessarily realize an increase in business. It is feasible that businesses could see an increase in related operating expenses. Although there are potential costs to businesses, those costs are unknown to the Department and are not calculable.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Department is required to administer the Food Stamp Program based on standards established by USDA, FNS. FNS revises the maximum income limits annually. Those revised income limits must be used by the Department to determine benefits for the Food Stamp Program beginning October 1, 1998. The Department did not receive the revised income limits in time to process this change through normal rulemaking procedures.

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

Workforce Services
Employment Development
Second Floor
1385 South State Street
Salt Lake City, UT 84115, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at hsfamily.gmenden@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 10/01/1998

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-419. Income Limits.
R986-419-900. Food Stamp Program Income Limits.

The department adopts [~~The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, signed into law August 22, 1996,~~]7 CFR 273.9(a)(4) which is incorporated by reference.

The Food Stamp Program income limits are updated annually. The current limits are listed in the Food Stamps Manual, Tables IV, V, VI. That manual is available for public inspection at each Department of Workforce Services Employment Center and at the Employment Development Division, 1385 South State Street, Salt Lake City, UT.[

~~TABLE~~
~~FOOD STAMP PROGRAM INCOME LIMITS~~

	TABLE IV	TABLE V	TABLE VI
Household Size	Maximum Gross Monthly Income Elderly/Disabled 165% of Poverty	Gross Monthly Income Limits 130% of Poverty	Net Monthly Income Limit 100% of Poverty
1	1085	855	658
2	1459	1150	885
3	1833	1445	1111
4	2207	1739	1338
5	2581	2034	1565
6	2955	2329	1791
7	3329	2623	2018
8	3703	2918	2245
9	4077	3213	2472
10	4451	3508	2699
for each additional member add:	$374	$295	$227

~~]~~

KEY: food stamps
October 1, 1998 **35A-3-103**
Notice of Continuation August 18, 1997

Workforce Services, Employment Development

R986-420

Maximum Allotments

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 21422
FILED: 09/02/1998, 15:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this filing is to incorporate the revised Food Stamp Program maximum food stamp allotments as directed by the USDA, FNS. These new allotment amounts are effective for all benefits issued beginning October 1, 1998.

SUMMARY OF THE RULE OR CHANGE: This rule change implements the revised maximum allotment amounts for the Food Stamp Program. The Department is removing the maximum allotment amounts table from this rule. This rule will now reference those allotment amounts in Table VII which is contained in the Food Stamp Manual as maintained by the Department. Maximum allotment amounts are updated annually by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 7 CFR 273.10(e)(2)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: All Food Stamp Program benefits are funded by the federal government. The State does, however, pay one half of the administrative costs related to this program. In the case of this rule change, the maximum allotment amounts have been increased. This means that households participating in the Food Stamp Program will likely receive more benefits beginning in October 1998. At the maximum benefit level, the increase averages $10 a month for all households combined. The administrative costs to implement the new allotment amounts are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant.
❖LOCAL GOVERNMENTS: Local governments are not involved in the administration of the Food Stamp Program. This change has no direct impact on local governments.
❖OTHER PERSONS: This rule change incorporates new allotment amounts that mean increased food stamp benefits for Utah's citizens. The Federal government funds all program benefits. There are no costs associated with this change that would impact potential or existing food stamp participants. The increase of participant benefits does have some implications for businesses that interact with participants of the Food Stamp Program. There is the potential that sales and/or operating expenses may be affected. Any resulting costs or savings to those businesses are unknown to the Department and are considered incalculable.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department of Workforce Services is the single state agency responsible for administering the Food Stamp Program. Compliance with and implementation of the revised maximum food stamp allotments does potentially increase the benefit amount for program participants. Increased benefit costs are borne by the Federal government. Although the Department does incur 50% of the associated administrative costs related to this change, those costs are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant. No "other persons" have compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change increases the maximum allotment amounts for the Food Stamp Program. It is likely that the amount of benefits to households will increase. However, since the increase will average less than $10 per household, businesses dealing directly with the participants (food retailers) will not necessarily realize a significant increase in business. It is feasible that businesses could see an increase in related operating expenses. Although there are potential costs to businesses, those costs are unknown to the Department and are not calculable.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Department is required to administer the Food Stamp Program based on standards established by USDA, FNS. FNS revises the maximum allotment amounts annually. Those revised allotment amounts must be used by the Department to determine benefits for the Food Stamp Program beginning October 1, 1998. The Department did not receive the revised allotment amounts in time to process this change through normal rulemaking procedures.

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

Workforce Services
Employment Development
Second Floor
1385 South State Street
Salt Lake City, UT 84115, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at hsfamily.gmenden@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 10/01/1998

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-420. Maximum Allotments.
R986-420-100. Maximum Food Stamp [~~Allotment Table~~]Allotments.

The department adopts [~~The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, signed into law August 22, 1996,~~]7 CFR 273.10(e)(2) which is incorporated by reference.

The Food Stamp Program maximum food stamp allotments are updated annually. The current maximum allotment amounts are listed in the Food Stamps Manual, Table VII (Basic Coupon Issuance Tables). That manual is available for public inspection at each Department of Workforce Services Employment Center and at the Employment Development Division, 1385 South State Street, Salt Lake City, UT.[

~~TABLE~~

~~MAXIMUM FOOD STAMP ALLOTMENTS~~

~~HOUSEHOLD SIZE~~	~~MAXIMUM ALLOTMENT~~
~~1~~	~~122~~
~~2~~	~~224~~
~~3~~	~~321~~
~~4~~	~~408~~
~~5~~	~~485~~
~~6~~	~~582~~
~~7~~	~~643~~
~~8~~	~~735~~
~~9~~	~~827~~
~~10~~	~~919~~
~~Each Additional Person:~~	~~92~~

~~]~~

KEY: food stamps
October 1, 1998 **35A-3-103**
Notice of Continuation August 18, 1997

Workforce Services, Employment Development
R986-421
Demonstration Programs

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 21423
FILED: 09/02/1998, 15:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this filing is to remove certain eligibility conditions of the Food Stamp Program that were in place as a result of waivers approved under Utah's Single Parent Employment Demonstration Program (renamed the Family Employment Program) that have been terminated by the USDA, FNS.

SUMMARY OF THE RULE OR CHANGE: This rule change reflects the termination of certain waivers of Food Stamp Program policy by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). These waivers were in place as a result of Utah's Single Parent Employment Demonstration Program (renamed the Family Employment Program (FEP)). The terminated waivers include certain earned, unearned income, and resource exclusions that pertained to recipients of diversion assistance, FEP recipients, and recipients of transitional benefits.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 35A, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: All Food Stamp Program benefits are funded by the federal government. The State does, however, pay one half of the administrative costs related to this program. The administrative costs attributed to making these changes are absorbed in the Department's costs of operating the Food Stamp Program, and are not distinguishable or significant.

❖LOCAL GOVERNMENTS: Local governments are not involved in the administration of the Food Stamp program. This change has no direct impact on local governments. However, it is feasible that certain food stamp households lost benefits as a result of the termination of the waivers. Consequently, local governments may incur costs that are unknown to the Department if they are required to provide for those households who lost benefits.

❖OTHER PERSONS: With this rule change, certain households participating in the Food Stamp Program lost or received less benefits beginning July 1, 1998. Data concerning the number of households impacted or the amount of benefits that are lost is not available to the Department. The loss or decrease of participant benefits does have some implications for businesses that interact with participants of the Food Stamp program. There is the potential that sales and/or operating expenses may be affected. Any resulting costs or savings to these businesses, although unknown to the Department, are considered incalculable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department of Workforce Services is the single state agency responsible for administering the Food Stamp Program. Compliance with and implementation of revised requirements due to the termination of certain Demonstration Project waivers did decrease program benefits to certain participants. Although the Federal government funds all program benefits, the Department does incur 50% of the associated administrative costs. The administrative costs related to the loss of the demonstration waivers are absorbed in the Department's costs of operating the Food Stamp Program and are not

sdistinguishable or significant. No "other persons" have compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change reflects the termination of certain waivers that had been authorized under the Single Parent Demonstration Project (now the Family Employment Program). Certain households that were participating in the Food Stamp Program lost or had benefits reduced effective July 1, 1998. The loss or decrease of participant benefits could have some implications for those businesses that interact with Food Stamp Program recipients. There is the potential that sales and/or operating expenses may be affected. Although there are potential costs to businesses, those costs are unknown to the Department and are not calculable.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Department is required to administer the Food Stamp Program based on standards established by USDA, FNS. After review of cost neutrality issues, FNS terminated the applicable Demonstration Project waivers effective July 1, 1998. The Department was allowed through September 30, 1998, to phase out the applicable waiver requirements. Consequently, those modifications necessary to the eligibility system and the Food Stamp Program policy manual have occurred. There was not sufficient time to process this change through normal rulemaking procedures and meet the September 30, 1998, deadline.

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

Workforce Services
Employment Development
Second Floor
1385 South State Street
Salt Lake City, UT 84115, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at hsfamily.gmenden@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 10/01/1998

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-421. Demonstration Programs.
R986-421-101. [~~Single Parent Employment Program~~]Family Employment Program.

1. The department shall operate a Single Parent Employment Demonstration Program as authorized by Section 1115 of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference. The Single Parent Employment Program has been renamed the Family Employment Program.

2. The following definitions apply:

a. "Diversion" means a one time [~~Single Parent Employment Program~~]Family Employment Program payment that may equal up to three months of [~~AFDC~~]financial assistance.

b. "Participant" means any applicant for or recipient of the [~~Single Parent Employment Program~~]Family Employment Program.

c. "Transitional" food stamp benefit means the 24 month period that participants are eligible for food stamp benefits after the end of financial participation in the [~~Single Parent Employment Program~~]Family Employment Program.

3. The goal of the [~~Single Parent Employment Program~~]Family Employment Program is to increase family income through employment and child support.

4. The [~~Single Parent Employment Program~~]Family Employment Program will operate [~~in selected offices as determined by the department~~]statewide.

5. The following exceptions regarding [~~Single Parent Employment Program~~]Family Employment Program participants apply to R986-411 through R986-420;

[~~a. $100 of financial assistance will not be counted in the food stamp allotment calculation.~~

~~b. $100 of earned income will not be counted after financial assistance terminates.~~

~~c. A maximum of $8,000 equity value for one vehicle will be exempt from the resource determination test. The entire equity value of one vehicle equipped to transport a disabled individual is exempt from the resource determination test.~~

~~d. Educational income is exempt.~~

~~e. $50 of child support received is exempt.~~

~~f.~~]a. Participants are required to report the following changes in income[~~ of more than $100 in the Best Estimated Monthly gross income~~]:

(i) change in the income source, both unearned and earned;

[~~(ii) change of more than $25 in gross monthly unearned income;~~

~~(iii)~~](ii) change in employment status;

([~~iv~~]iii) a change from fulltime to parttime or parttime to fulltime;

([~~v~~]iv) a change in wage rate or salary.

[~~g~~]b. The diversion payment is not counted in the food stamp allotment calculation.

[~~h~~]c. Recertification must be completed every 12 months with a face-to-face interview at least every 24 months.

[~~i~~]d. Participants will remain in the [~~Single Parent Employment Program~~]Family Employment Program for 24 months after termination of financial assistance.

KEY: income, demonstration*
October 1, 1998 **35A-3**
Notice of Continuation February 6, 1998

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FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Administrative Services, Administration
R13-1
Public Petitions for Declaratory Orders

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21435
FILED: 09/11/1998, 14:14
RECEIVED BY: NL

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 63-46b-21 requires each agency to issue rules that govern procedures for declaratory orders.

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 comment has been received since it was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and orders governing or issued by the department. The department has received no comments in opposition to the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Administration
3120 State Office Bldg.
450 North Main Street
PO Box 141002
Salt Lake City, UT 84114-1002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Vicki Schoenfeld at the above address, by phone at (801) 538-3215, by FAX at (801) 538-3844, or Internet E-mail at asitmain.vschoenf@email.state.ut.us.

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 09/11/1998

Agriculture and Food, Plant Industry
R68-16
Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21432
FILED: 09/11/1998, 09:06
RECEIVED BY: NL

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: In Subsection 4-2-2(1)(k), The Department of Agriculture and Food has been given the authority to make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture; in Subsection 4-2-2(1)(l)(ii), to establish and enforce quarantines; and in Section 4-35-9, to adopt and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Pine Shoot Beetle is a serious pest of pine trees which also damages fir, larch, and spruce trees by attacking the trunks and stems. This rule is established in order to maintain control of this beetle.

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

Agriculture and Food
Plant Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ed Bianco at the above address, by phone at (801) 538-7184, by FAX at (801) 538-7126, or Internet E-mail at agmain.ebianco@state.ut.us.

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 09/11/1998

Agriculture and Food, Plant Industry

R68-17

Quarantine Pertaining to Necrotic Strain of the Potato Virus Y

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21433
FILED: 09/11/1998, 09:06
RECEIVED BY: NL

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: In Subsection 4-2-2(1)(k), The Department of Agriculture and Food has been given the authority to make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture; and in Subsection 4-2-2(1)(l)(ii), to establish and enforce quarantines.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Necrotic Strain of the Potato Virus Y is a disease of many plants, mostly in the family Solanacea. This rule is established in order to maintain control of this virus.

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

Agriculture and Food
Plant Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ed Bianco at the above address, by phone at (801) 538-7184, by FAX at (801) 538-7126, or Internet E-mail at agmain.ebianco@state.ut.us.

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 09/11/1998

Financial Institutions, Administration

R331-20

Designation of Adjudicative Proceedings as Informal

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21425
FILED: 09/03/1998, 12:11
RECEIVED BY: NL

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 63-46b-4 authorizes the agency to designate categories of adjudicative proceedings. The rule defines that all proceedings which are subject to the requirements of the Utah Administrative Procedures Act are designated informal proceedings.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule applies to all proceedings before the Department and

designates all proceedings before the Department as informal hearings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Financial Institutions
Administration
Suite 201
324 South State Street
PO Box 89
Salt Lake City, UT 84110-0089, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven J. Nielsen at the above address, by phone at (801) 538-8854, by FAX at (801) 538-8894, or Internet E-mail at bdfipost.snielsen@email.state.ut.us.

AUTHORIZED BY: Steven J. Nielsen, Staff Attorney/Deputy Commissioner

EFFECTIVE: 09/03/1998

Financial Institutions, Administration
R331-24
Accounting for Accrued Uncollected Income by Banks and Industrial Loan Corporations

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21430
FILED: 09/10/1998, 16:25
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 7-1-301(14) authorizes the commissioner to require financial institutions to keep books and records of the transactions and accounts of the institutions so that the commissioner, supervisors, and department examiners can determine institutions' true pecuniary condition. These requirements must be consistent with generally accepted accounting principles for financial institutions. The rule establishes some specific accounting requirements for accrued uncollected income.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes accounting requirements for accrued uncollected income to ensure accurate accounting of the income of banks and industrial loan corporations.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Financial Institutions
Administration
Suite 201
324 South State Street
PO Box 89
Salt Lake City, UT 84110-0089, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven J. Nielsen at the above address, by phone at (801) 538-8854, by FAX at (801) 538-8894, or Internet E-mail at bdfipost.snielsen@email.state.ut.us.

AUTHORIZED BY: Steven J. Nielsen, Staff Attorney/Deputy Commissioner

EFFECTIVE: 09/10/1998

Human Services, Recovery Services
R527-301
Non-IV-D Income Withholding

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21427
FILED: 09/04/1998, 11:54
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-502 provides generally for immediate income withholding for child support orders issued or modified on or after January 1, 1994, whether the obligor is delinquent or not. It also requires the court to order the commencement of immediate income withholding upon request of either party in any action to establish or modify an order after July 1, 1997. If neither party requests immediate income withholding, the court is required to include a provision in the order that either party may commence income withholding by applying for IV-D services with the Office of Recovery Services/Child Support Services (ORS/CSS) or by filing an ex parte motion with the district court. Section 62A-11-504 indicates that either party may commence income withholding (by applying for IV-D services with ORS/CSS or by filing an ex parte motion with

the court) if it has not already begun in connection with a child support order. This section also includes the requirement that ORS/CSS shall open a IV-D services case upon the application of either party, and begin the income withholding process. Under this section, the court is required to grant the motion to commence income withholding if the obligee provides appropriate evidence. The rule provides clarification by limiting the responsibility of ORS/CSS to receiving, processing, and recording income withholding payments in Non-IV-D cases (income withholding referrals to ORS/CSS from the court clerk or requesting party as ordered by the court). The rule also specifies that adjustment to the child support award or modification of the income withholding amount, services provided by ORS/CSS in IV-D cases, is the responsibility of the parents in Non-IV-D cases. Further clarification is provided in Section R527-301-2 of the rule which states that when the child support order does not require immediate income withholding, either party may pursue income withholding through the courts, by applying for IV-D services, or by receiving IV-A assistance. Section 62A-11-506 describes the specific information that must be included in an order/notice to withhold income including the penalties for failure to withhold or remit. Section R527-301-4 of the rule makes it clear that in Non-IV-D cases, either parent may proceed with judicial action to obtain a judgment against an employer who fails to comply with the order/notice to withhold income according to the penalty provisions in Section 62A-11-506 of the statute. Section R527-301-7 of the rule summarizes and clarifies Section 62A-11-508 by indicating that either party, at any time, may request the termination of income withholding by requesting a judicial hearing. It also makes it clear that when the court orders the termination of income withholding, it is the responsibility of the obligee (not the court or ORS/CSS) to provide written notice of the termination to each payor of income. The rule, at Section R527-301-5, also gives the parents direction on how to proceed when the income withholding amount needs to be changed in Non-IV-D cases. It provides the options of petitioning the court or applying with ORS/CSS for IV-D services. Section R527-301-3 provides additional clarification regarding the scope of Non-IV-D services by pointing out that ORS/CSS will not collect child care expenses through Non-IV-D income withholding. Section R527-301-6 addresses the disposition of payments received by ORS/CSS through Non-IV-D income withholding when the obligee's address is unknown. It specifies that the service ORS/CSS provides in that situation is limited to holding the payment for 60 days, making one locate attempt during that time, and then refunding the payment to the obligor at the end of the time period if the obligee's address is still unknown.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary because it clearly addresses the nature and extent of Non-IV-D income withholding services provided by the Office of Recovery Services/Child Support Services (ORS/CSS) and gives essential information to both parents about how to get income withholding implemented and how to enforce, modify, or terminate an order/notice to withhold income. It also presents to the parents the option of applying for IV-D services rather than pursuing income withholding through the courts and informs them that IV-D income withholding services are also provided when a parent is receiving IV-A assistance.

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

Human Services
Recovery Services
Fourteenth Floor, Eaton/Kenway Bldg.
515 East 100 South
PO Box 45011
Salt Lake City, UT 84145-0011, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hsadmin.hsorsslc.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/04/1998

Public Service Commission, Administration

R746-600

Postretirement Benefits other than Pensions

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21458
FILED: 09/15/1998, 10:45
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: As a part of its ratemaking authority in Section 54-4-1, the Commission must determine how utility costs, such as postretirement benefits, are accounted for.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule since it was made effective in 1993.

REASONED JUSTIFICATION FOR 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 so that the Commission can continue to determine how postretirement benefits are accounted for by the utility companies.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Barbara Stroud or Sandy Mooy at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 09/15/1998

End of the Five-Year Notices of Review and Statements of Continuation

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food

Animal Industry

No. 21337 (AMD): R58-1. Admission and Inspection of Livestock, Poultry, and Other Animals.
Published: August 15, 1998
Effective: September 15, 1998

Regulatory Services

No. 21231 (AMD): R70-530. Food Protection.
Published: July 15, 1998
Effective: September 15, 1998

Environmental Quality

Air Quality

No. 21100 (AMD): R307-1. Utah Air Conservation Rules.
Published: June 1, 1998
Effective: September 15, 1998

No. 21104 (AMD): R307-1-5 (Changed to R307-105). Emergency Controls.
Published: June 1, 1998
Effective: September 15, 1998

No. 21105 (AMD): R307-1-6 (Changed to R307-120). Eligibility of Pollution Control Expenditures for Sales Tax Exemption and Income Tax Credit.
Published: June 1, 1998
Effective: September 15, 1998

No. 21105 (AMD): R307-1-6 (Changed to R307-121). Eligibility of Pollution Control Expenditures for Sales Tax Exemption and Income Tax Credit.
Published: June 1, 1998
Effective: September 15, 1998

No. 21105 (AMD): R307-1-6 (Changed to R307-122). Eligibility of Pollution Control Expenditures for Sales Tax Exemption and Income Tax Credit.
Published: June 1, 1998
Effective: September 15, 1998

No. 21106 (AMD): R307-1-8 (Changed to R307-801). Asbestos Certification, Asbestos Work Practices, and Implementation of Toxic Substances Control Act, Title II.
Published: June 1, 1998
Effective: September 15, 1998

No. 21107 (AMD): R307-2 (Changed to R307-110). State Implementation Plan.
Published: June 1, 1998
Effective: September 15, 1998

No. 21108 (AMD): R307-3 (Changed to R307-342). Qualification of Contractors, Test Procedures for Testing of Vapor Recovery Systems for Gasoline Delivery Tanks.
Published: June 1, 1998
Effective: September 15, 1998

No. 21109 (AMD): R307-4 (Changed to R307-130). Air Quality Board Penalty Policy and AHERA Enforcement Response Policy.
Published: June 1, 1998
Effective: September 15, 1998

No. 21109 (AMD): R307-4 (Changed to R307-135). Air Quality Board Penalty Policy and AHERA Enforcement Response Policy.
Published: June 1, 1998
Effective: September 15, 1998

No. 21101 (REP): R307-7. Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery.
Published: June 1, 1998
Effective: September 15, 1998

No. 21110 (AMD): R307-8 (Changed to R307-301). Oxygenated Gasoline Program.
Published: June 1, 1998
Effective: September 15, 1998

No. 21111 (AMD): R307-10 (Changed to R307-214). National Emission Standards for Hazardous Air Pollutants.
Published: June 1, 1998
Effective: September 15, 1998

No. 21112 (AMD): R307-11 (Changed to R307-320). Employer-Based Trip Reduction Program.
Published: June 1, 1998
Effective: September 15, 1998

No. 21113 (AMD): R307-13 (Changed to R307-170). Continuous Emission Monitoring Systems Program.
Published: June 1, 1998
Effective: September 15, 1998

No. 21102 (REP): R307-14. Requirements for Ozone Nonattainment Areas and Davis and Salt Lake Counties.
Published: June 1, 1998
Effective: September 15, 1998

No. 21114 (AMD): R307-15 (Changed to R307-415). Operating Permit Requirements.
Published: June 1, 1998
Effective: September 15, 1998

No. 21115 (AMD): R307-16 (Changed to R307-215). Acid Rain Requirements.
Published: June 1, 1998
Effective: September 15, 1998

No. 21115 (AMD): R307-16 (Changed to R307-417). Acid Rain Requirements.
Published: June 1, 1998
Effective: September 15, 1998

No. 21103 (REP): R307-17. Emissions Standards for Residential Solid Fuel Burning Devices and Fireplaces.
Published: June 1, 1998
Effective: September 15, 1998

No. 21116 (AMD): R307-19 (Changed to R307-115). General Conformity.
Published: June 1, 1998
Effective: September 15, 1998

No. 21117 (AMD): R307-20 (Changed to R307-220). Emission Standards: Plan for Designated Facilities.
Published: June 1, 1998
Effective: September 15, 1998

No. 21118 (AMD): R307-21 (Changed to R307-221). Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills.
Published: June 1, 1998
Effective: September 15, 1998

No. 21119 (NEW): R307-101. General Requirements.
Published: June 1, 1998
Effective: September 15, 1998

No. 21120 (NEW): R307-102. General Requirements: Broadly Applicable Requirements.
Published: June 1, 1998
Effective: September 15, 1998

No. 21121 (NEW): R307-107. General Requirements: Unavoidable Breakdown.
Published: June 1, 1998
Effective: September 15, 1998

No. 21122 (NEW): R307-150. Periodic Inventories.
Published: June 1, 1998
Effective: September 15, 1998

No. 21123 (NEW): R307-155. Emission Inventories.
Published: June 1, 1998
Effective: September 15, 1998

No. 21124 (NEW): R307-165. Emission Testing.
Published: June 1, 1998
Effective: September 15, 1998

No. 21125 (NEW): R307-201. Emission Standards: General Emission Standards.
Published: June 1, 1998
Effective: September 15, 1998

No. 21126 (NEW): R307-202. Emission Standards: General Burning.
Published: June 1, 1998
Effective: September 15, 1998

No. 21127 (NEW): R307-203. Emission Standards: Sulfur Content of Fuels.
Published: June 1, 1998
Effective: September 15, 1998

No. 21128 (NEW): R307-206. Emission Standards: Abrasive Blasting.
Published: June 1, 1998
Effective: September 15, 1998

No. 21129 (NEW): R307-302. Davis, Salt Lake, Utah Counties: Residential Fireplaces and Stoves.
Published: June 1, 1998
Effective: September 15, 1998

No. 21130 (NEW): R307-305. Davis, Salt Lake and Utah Counties and Ogden City and Nonattainment Areas for PM10: Fine Particulates.
Published: June 1, 1998
Effective: September 15, 1998

No. 21131 (NEW): R307-307. Davis, Salt Lake and Utah Counties: Road Salting and Sanding.
Published: June 1, 1998
Effective: September 15, 1998

No. 21132 (NEW): R307-325. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions.
Published: June 1, 1998
Effective: September 15, 1998

No. 21133 (NEW): R307-326. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Control of Hydrocarbon Emissions in Refineries.
Published: June 1, 1998
Effective: September 15, 1998

No. 21134 (NEW): R307-327. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Petroleum Liquid Storage.
Published: June 1, 1998
Effective: September 15, 1998

No. 21135 (NEW): R307-328. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Gasoline Transfer and Storage.
Published: June 1, 1998
Effective: September 15, 1998

No. 21136 (NEW): R307-332. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Stage II Vapor Recovery Systems.
Published: June 1, 1998
Effective: September 15, 1998

No. 21137 (NEW): R307-335. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Degreasing and Solvent Cleaning Operations.
Published: June 1, 1998
Effective: September 15, 1998

No. 21138 (NEW): R307-340. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes.
Published: June 1, 1998
Effective: September 15, 1998

No. 21139 (NEW): R307-341. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt.
Published: June 1, 1998
Effective: September 15, 1998

No. 21140 (NEW): R307-401. Permit: Notice of Intent and Approval Order.
Published: June 1, 1998
Effective: September 15, 1998

No. 21141 (NEW): R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.
Published: June 1, 1998
Effective: September 15, 1998

No. 21142 (NEW): R307-405. Permits: Prevention of Significant Deterioration of Air Quality (PSD).
Published: June 1, 1998
Effective: September 15, 1998

No. 21143 (NEW): R307-409. Visibility.
Published: June 1, 1998
Effective: September 15, 1998

No. 21144 (NEW): R307-410. Permits: Emissions Impact Analysis.
Published: June 1, 1998
Effective: September 15, 1998

No. 21145 (NEW): R307-413. Exemptions and Special Provisions.
Published: June 1, 1998
Effective: September 15, 1998

No. 21146 (NEW): R307-414. Permits: Fees for Approval Orders.
Published: June 1, 1998
Effective: September 15, 1998

Health

Community Health Services, Environmental Services

No. 20963 (CPR): R392-200-6. Construction and Maintenance of Physical Facilities.
Published: July 15, 1998
Effective: September 10, 1998

Family Health Services, Children with Special Health Care Needs

No. 21225 (NEW): R398-2. Newborn Hearing Screening.
Published: July 15, 1998
Effective: September 11, 1998

Health Systems Improvement, Child Care Licensing

No. 21276 (NEW): R430-60. Hourly Child Care Center.
Published: August 1, 1998
Effective: September 10, 1998

No. 21277 (AMD): R430-100. Child Care Facilities.
Published: August 1, 1998
Effective: September 10, 1998

Health Systems Improvement: Health Facility Licensure

No. 21296 (R&R): R432-6. Residential Health Care Facility, General Construction.
Published: August 1, 1998
Effective: September 14, 1998

Human Services

Child and Family Services

No. 21336 (NEW): R512-25. Child Protective Services Notification and Due Process.
Published: August 15, 1998
Effective: September 15, 1998

Pardons (Board of)

Administration

No. 21313 (NEW): R671-312. Commutation Hearings for Death Penalty Cases.
Published: August 15, 1998
Effective: September 15, 1998

RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all changes to Utah's administrative rules from January 2, 1998, to the present (current as of July 27, 1998). The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.state.ut.us/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
5YR = Five-Year Review
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
* = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

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R23-21	Division of Facilities Construction and Management Lease Procedures	20710	5YR	01/28/98	98-4/132
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R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	20962	AMD	05/16/98	98-8/2
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R68-16	Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda	21432	5YR	09/11/98	98-19/104
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R68-19	Compliance Procedures	20280	NEW	01/15/98	97-24/13
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R70-201-4	Citation	20814	AMD	04/15/98	98-6/16
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R156-3a	Architect Licensing Act Rules	20200	CPR	02/18/98	98-2/79
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R156-16a	Optometry Practice Act Rules	20778	AMD	04/01/98	98-5/4
R156-17a	Pharmacy Practice Act Rules	20492	AMD	02/24/98	98-1/3
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R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	20940	AMD	see CPR	98-8/4
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	20940	CPR	07/16/98	98-12/29
R156-31	Nurse Practice Act Rules	21029	REP	07/01/98	98-10/7*
R156-31b	Nurse Practice Act Rules	21030	NEW	07/01/98	98-10/8
R156-31b	Nurse Practice Act Rules	21234	AMD	08/20/98	98-14/36
R156-31b-102	Definitions	21278	AMD	09/01/98	98-15/3
R156-37	Controlled Substance Act Rules of the Division of Occupational and Professional Licensing	20878	AMD	05/04/98	98-7/8
R156-37	Utah Controlled Substances Act Rules	21092	NSC	05/21/98	Not Printed
R156-37-605	Emergency Verbal Prescription of Schedule II Controlled Substances	20941	AMD	05/19/98	98-8/8
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	21019	AMD	see CPR	98-10/14
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	21019	CPR	08/20/98	98-14/88
R156-40	Recreational Therapy Practice Act Rules	20697	5YR	01/27/98	98-4/133
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R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	20173	AMD	see CPR	97-22/12
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	20173	CPR	02/03/98	98-1/199
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R156-56-706	Amendments to the IPC	20989	AMD	07/01/98	98-9/23
R156-56-706	Amendments to the IPC	20991	AMD	07/01/98	98-9/25
R156-56-706	Amendments to the IPC	21203	NSC	07/01/98	Not Printed
R156-59	Employee Leasing Company Act Rules	20701	5YR	01/27/98	98-4/134
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R156-60b	Marriage and Family Therapist Licensing Act Rules	20581	AMD	02/18/98	98-2/18
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R156-60b-302a	Qualifications for Licensure - Education Requirements	21229	AMD	08/20/98	98-14/39
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R156-60c	Professional Counselor Licensing Act Rules	20359	AMD	02/03/98	98-1/6
R156-60c	Professional Counselor Licensing Act Rules	21008	AMD	06/16/98	98-10/20
R156-60c-302a	Qualifications for Licensure - Education Requirements	21230	AMD	08/20/98	98-14/40
R156-60c-502	Unprofessional Conduct	20728	NSC	02/19/98	Not Printed
R156-60d	Substance Abuse Counselor Act Rules	20273	AMD	01/15/98	97-24/16
R156-61	Psychologist Licensing Act Rules	20342	AMD	02/03/98	98-1/10
R156-61-502	Unprofessional Conduct	20729	NSC	02/19/98	Not Printed
R156-63	Security Personnel Licensing Act Rules	20930	AMD	05/19/98	98-8/9
R156-63-502	Unprofessional Conduct	21174	NSC	06/03/98	Not Printed
R156-67-302d	Qualifications for Licensure - Examination Requirements	20974	AMD	06/04/98	98-9/29
R156-68	Utah Osteopathic Medical Practice Act Rules	21319	5YR	07/23/98	98-16/89
R156-68-302b	Qualifications for Licensure - Examination Requirements	20975	AMD	06/04/98	98-9/30
R156-69	Dentist and Dental Hygienist Practice Act Rules	20776	AMD	04/01/98	98-5/6
R156-72	Acupuncture Licensing Act Rules	21149	AMD	07/07/98	98-11/29
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R162-1	Authority and Definitions	20798	AMD	04/23/98	98-6/17
R162-2	Exam and License Application Requirements	20799	AMD	04/23/98	98-6/19
R162-3	License Status Change	20800	AMD	04/23/98	98-6/21

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R162-4	Office Procedures - Real Estate Principal Brokerage	20801	AMD	04/23/98	98-6/23
R162-5	Property Management	20802	AMD	04/23/98	98-6/26
R162-6	Licensee Conduct	20803	AMD	04/23/98	98-6/27
R162-7	Enforcement	20804	AMD	04/23/98	98-6/32
R162-10	Administrative Procedures	20805	AMD	04/23/98	98-6/33
R162-106	Professional Conduct	21151	AMD	07/14/98	98-11/30
R162-107	Unprofessional Conduct	20625	NEW	03/04/98	98-2/22
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R164-4	Licensing Requirements	20679	AMD	03/04/98	98-3/31
R164-5	Broker-Dealer and Investment Adviser Books and Records	20680	AMD	03/04/98	98-3/38
R164-6-1g	Dishonest or Unethical Business Practices	20681	AMD	03/04/98	98-3/40
R164-26-6	Consent to Service	20682	AMD	03/04/98	98-3/44
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R202-100	Community Services Block Grant Rules	20282	AMD	01/15/98	97-24/17
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R207-1	Utah Arts Council General Program Rules	20811	5YR	02/25/98	98-6/77
R207-2	Policy for Donations and Loans to the State Fine Art Collection	20812	5YR	02/25/98	98-6/77
R207-2	Policy for Donations and Loans to the State Fine Art Collection	21175	AMD	09/03/98	98-12/10
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R212-12	Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds	20528	NEW	03/10/98	98-2/23
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R223-1	Adjudicative Procedures	21090	5YR	05/01/98	98-11/201
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R251-107	Executions	20160	AMD	01/15/98	97-22/16
R251-112	Americans With Disabilities Act Complaint Procedures	20841	5YR	03/06/98	98-7/72
R251-112	Americans With Disabilities Act Complaint Procedures	20842	AMD	06/15/98	98-7/32
R251-112	Americans With Disabilities Act Implementation and Complaint Process	20986	NSC	06/15/98	Not Printed
R251-304	Contract Procedures	20843	5YR	03/06/98	98-7/73
R251-304	Contract Procedures	20844	AMD	06/15/98	98-7/34
R251-307	Community Service	21207	5YR	06/11/98	98-13/30
R251-307	Community Service	21198	REP	09/01/98	98-13/12

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R251-703	Vehicle Direction Station	20196	AMD	01/15/98	97-23/6
R251-707	Legal Access	20198	AMD	01/15/98	97-23/8
R251-710	Search	20379	AMD	03/15/98	98-1/14
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R270-1	Award and Reparation Standards	21061	AMD	07/01/98	98-10/23
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R277-104	USOE ADA Complaint Procedure	21191	5YR	06/04/98	98-13/30
R277-116	USOE Internal Audit Procedure	21076	AMD	06/17/98	98-10/25
R277-436	Gang Prevention and Intervention Programs in the Schools	21192	5YR	06/04/98	98-13/31
R277-436	Gang Prevention and Intervention Programs in the Schools	21159	AMD	07/02/98	98-11/31
R277-451	The State School Building Program	21259	REP	08/15/98	98-14/41
R277-458	70% Utilization of School Buildings	21260	AMD	08/15/98	98-14/43
R277-460	Distribution of Substance Abuse Prevention Account	21403	5YR	09/01/98	98-18/49
R277-469	Textbook Commission Operating Procedures	20779	NEW	04/07/98	98-5/7
R277-502	Teacher Certification Procedures	21261	AMD	08/15/98	98-14/45
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, and Special Education (Birth-Age 5) Certification	20780	AMD	04/07/98	98-5/10
R277-508	Employment of Substitute Teachers	20899	5YR	03/13/98	98-7/73
R277-514	Suspension and Revocation of Teaching Certificates	20781	R&R	04/07/98	98-5/13
R277-516	Library Media Certificates and Programs	20657	5YR	01/14/98	98-3/89
R277-518	Vocational-Technical Certificates	20658	5YR	01/14/98	98-3/90
R277-600	Student Transportation Standards and Policies	20659	5YR	01/14/98	98-3/90
R277-605	Extracurricular Student Activities	20660	5YR	01/14/98	98-3/91
R277-606	Interschool Competitive Sports in High School	20661	5YR	01/14/98	98-3/91
R277-610	Released-Time Classes for Religious Instruction	20662	5YR	01/14/98	98-3/91
R277-615	Foreign Exchange Students	20663	5YR	01/14/98	98-3/92
R277-616	Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students	21160	AMD	07/02/98	98-11/32
R277-700	The Elementary and Secondary School Core Curriculum and High School Graduation Requirements	20664	5YR	01/14/98	98-3/92
R277-701	Values Education	20665	5YR	01/14/98	98-3/93
R277-702	Procedures for the Utah General Educational Developmental Certificate	20666	5YR	01/14/98	98-3/93
R277-709	Education Programs Serving Youth in Custody	20667	5YR	01/14/98	98-3/94
R277-710	Accelerated Learning Programs	20668	5YR	01/14/98	98-3/94
R277-716	Alternative Language Services (ALS)	20669	5YR	01/14/98	98-3/94

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R277-722	Withholding Payments and Commodities in the CACFP	20672	5YR	01/14/98	98-3/96
R277-730	Alternative High School Curriculum	20673	5YR	01/14/98	98-3/96
R277-732	Community Education	20674	5YR	01/14/98	98-3/97
R277-740	Subchapter One of the Education Improvement and Consolidation Act of 1981	20900	5YR	03/13/98	98-7/74
R277-746	Driver Education Programs for Utah Schools	20901	5YR	03/13/98	98-7/74
R277-747	Private School Student Driver Education	20902	5YR	03/13/98	98-7/74
R277-751	Special Education Extended School Year	20903	5YR	03/13/98	98-7/75
R277-907	ATC/ATCSR Membership Hour Accounting	21161	NEW	07/02/98	98-11/34
R277-912	Standards and Procedures for Post-Secondary Applied Technology Education Accreditation	20904	5YR	03/13/98	98-7/75
R277-912	Standards and Procedures for Post-Secondary Applied Technology Education Accreditation	21077	NSC	05/07/98	Not Printed
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R280-200	Rehabilitation	20905	5YR	03/13/98	98-7/76
R280-200	Rehabilitation	21078	NSC	05/07/98	Not Printed
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R307-1	Utah Air Conservation Rules	21100	AMD	09/15/98	98-11/37
R307-1-1	Foreword and Definitions	20096	AMD	01/08/98	97-21/4
R307-1-1	Foreword and Definitions	20202	AMD	01/08/98	97-23/10
R307-1-1	Foreword and Definitions	20736	AMD	04/22/98	98-5/16
R307-1-2	General Requirements	21015	AMD	08/13/98	98-10/26
R307-1-3	Control of Installations	20219	AMD	02/05/98	97-23/20
R307-1-3	Control of Installations	20740	NSC	02/05/98	Not Printed
R307-1-5 (Changed to R307-105)	Emergency Controls	21104	AMD	09/15/98	98-11/37
R307-1-6 (Changed to R307-120)	Eligibility of Pollution Control Expenditures for Sales Tax Exemption and Income Tax Credit	21105	AMD	09/15/98	98-11/39
R307-1-6 (Changed to R307-121)	Eligibility of Pollution Control Expenditures for Sales Tax Exemption and Income Tax Credit	21105	AMD	09/15/98	98-11/39
R307-1-6 (Changed to R307-122)	Eligibility of Pollution Control Expenditures for Sales Tax Exemption and Income Tax Credit	21105	AMD	09/15/98	98-11/39
R307-1-8 (Changed to R307-801)	Asbestos Certification, Asbestos Work Practices, and Implementation of Toxic Substances Control Act, Title II	21106	AMD	09/15/98	98-11/43
R307-2 (Changed to R307-110)	State Implementation Plan	21107	AMD	09/15/98	98-11/55

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R307-2-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	20099	AMD	01/08/98	97-21/14
R307-2-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	21280	NSC	07/27/98	Not Printed
R307-3 (Changed to R307-342)	Qualification of Contractors, Test Procedures for Testing of Vapor Recovery Systems for Gasoline Delivery Tanks	21108	AMD	09/15/98	98-11/58
R307-4 (Changed to R307-130)	Air Quality Board Penalty Policy and AHERA Enforcement Response Policy	21109	AMD	09/15/98	98-11/61
R307-4 (Changed to R307-135)	Air Quality Board Penalty Policy and AHERA Enforcement Response Policy	21109	AMD	09/15/98	98-11/61
R307-6	De minimis Emissions from Air Strippers and Soil Venting Projects	21009	REP	08/13/98	98-10/29
R307-7	Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery	21101	REP	09/15/98	98-11/65
R307-8	Oxygenated Gasoline Program	20771	AMD	04/22/98	98-5/26
R307-8 (Changed to R307-301)	Oxygenated Gasoline Program	21110	AMD	09/15/98	98-11/66
R307-8-3	Average Oxygen Content Standard	20100	AMD	01/08/98	97-21/15
R307-10 (Changed to R307-214)	National Emission Standards for Hazardous Air Pollutants	21111	AMD	09/15/98	98-11/74
R307-10-2	Part 63 Sources	20737	AMD	06/26/98	98-5/34
R307-11 (Changed to R307-320)	Employer-Based Trip Reduction Program	21112	AMD	09/15/98	98-11/75
R307-13 (Changed to R307-170)	Continuous Emission Monitoring Systems Program	21113	AMD	09/15/98	98-11/78
R307-14	Requirements for Ozone Nonattainment Areas and Davis and Salt Lake Counties	21102	REP	09/15/98	98-11/82
R307-15 (Changed to R307-415)	Operating Permit Requirements	21114	AMD	09/15/98	98-11/83
R307-16 (Changed to R307-215)	Acid Rain Requirements	21115	AMD	09/15/98	98-11/99
R307-16 (Changed to R307-417)	Acid Rain Requirements	21115	AMD	09/15/98	98-11/99
R307-17	Emissions Standards for Residential Solid Fuel Burning Devices and Fireplaces	21103	REP	09/15/98	98-11/100
R307-18 (Changed to R307-210)	Stationary Sources	21011	AMD	08/13/98	98-10/32
R307-19 (Changed to R307-115)	General Conformity	21116	AMD	09/15/98	98-11/101
R307-20 (Changed to R307-220)	Emission Standards: Plan for Designated Facilities	21117	AMD	09/15/98	98-11/101

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R307-101	General Requirements	21119	NEW	09/15/98	98-11/104
R307-102	General Requirements: Broadly Applicable Requirements	21120	NEW	09/15/98	98-11/110
R307-107	General Requirements: Unavoidable Breakdown	21121	NEW	09/15/98	98-11/112
R307-150	Periodic Inventories	21122	NEW	09/15/98	98-11/113
R307-155	Emission Inventories	21123	NEW	09/15/98	98-11/114
R307-165	Emission Testing	21124	NEW	09/15/98	98-11/117
R307-201	Emission Standards: General Emission Standards	21125	NEW	09/15/98	98-11/118
R307-202	Emission Standards: General Burning	21126	NEW	09/15/98	98-11/119
R307-203	Emission Standards: Sulfur Content of Fuels	21127	NEW	09/15/98	98-11/121
R307-206	Emission Standards: Abrasive Blasting	21128	NEW	09/15/98	98-11/123
R307-302	Davis, Salt Lake, Utah Counties: Residential Fireplaces and Stoves	21129	NEW	09/15/98	98-11/124
R307-305	Davis, Salt Lake and Utah Counties and Ogden City and Nonattainment Areas for PM10: Fine Particulates	21130	NEW	09/15/98	98-11/126
R307-307	Davis, Salt Lake, and Utah Counties: Road Salting and Sanding	21131	NEW	09/15/98	98-11/128
R307-307-3	Alternatives	21273	NSC	09/15/98	Not Printed
R307-325	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions	21132	NEW	09/15/98	98-11/129
R307-326	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Control of Hydrocarbon Emissions in Refineries	21133	NEW	09/15/98	98-11/131
R307-327	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Petroleum Liquid Storage	21134	NEW	09/15/98	98-11/133
R307-328	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Gasoline Transfer and Storage	21135	NEW	09/15/98	98-11/135
R307-332	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Stage II Vapor Recovery Systems	21136	NEW	09/15/98	98-11/137
R307-335	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Degreasing and Solvent Cleaning Operations	21137	NEW	09/15/98	98-11/141
R307-340	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes	21138	NEW	09/15/98	98-11/143
R307-341	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt	21139	NEW	09/15/98	98-11/150
R307-401	Permit: Notice of Intent and Approval Order	21140	NEW	09/15/98	98-11/151
R307-401-2	Notice of Intent Requirements	21274	NSC	09/15/98	Not Printed
R307-403	Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas	21141	NEW	09/15/98	98-11/154
R307-405	Permits: Prevention of Significant Deterioration of Air Quality (PSD)	21142	NEW	09/15/98	98-11/157

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R307-410	Permits: Emissions Impact Analysis	21144	NEW	09/15/98	98-11/163
R307-410-3	Modeling of Criteria Pollutant Impacts in Attainment Areas	21395	NSC	09/15/98	Not Printed
R307-413	Exemptions and Special Provisions	21010	NEW	08/13/98	98-10/35
R307-413	Exemptions and Special Provisions	21145	NEW	09/15/98	98-11/167
R307-413	Exemptions and Special Provisions	21354	NSC	09/15/98	Not Printed
R307-414	Permits: Fees for Approval Orders	21146	NEW	09/15/98	98-11/170
R307-840	Lead-Based Paint Accreditation, Certification and Work Practice Standards	21016	NEW	08/13/98	98-10/36
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R309-105	Quantity Requirements	20789	EXD	02/01/98	98-5/80
R309-106	Source Development	20290	REP	03/01/98	97-24/26
R309-107	Disinfection	20291	REP	03/01/98	97-24/33
R309-108	Conventional Complete Treatment	20292	REP	03/01/98	97-24/37
R309-109	Miscellaneous Treatment Methods	20293	REP	03/01/98	97-24/47
R309-110	Pumping Facilities	20294	REP	03/01/98	97-24/56
R309-111	Water Storage	20295	REP	03/01/98	97-24/60
R309-112	Distribution System	20296	REP	03/01/98	97-24/63
R309-113	Drinking Water Source Protection	20977	AMD	06/15/98	98-9/31
R309-114	Drinking Water Source Protection Funding	20693	NEW	see CPR	98-4/76
R309-114	Drinking Water Source Protection Funding	20693	CPR	06/15/98	98-9/60
R309-352	Drinking Water Capacity Development Funding	21027	NEW	06/19/98	98-10/38
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R311-210	Administrative Procedures for Underground Storage Tank Act Adjudicative Proceedings	21074	NSC	05/06/98	Not Printed
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R313-12	General Provisions	20234	AMD	see CPR	97-23/115
R313-12	General Provisions	20234	CPR	03/20/98	98-4/115
R313-15	Standards for Protection Against Radiation	20235	AMD	see CPR	97-23/44
R313-15	Standards for Protection Against Radiation	20235	CPR	03/20/98	98-4/120
R313-15	Standards for Protection Against Radiation	20953	NSC	04/04/98	Not Printed
R313-15	Standards for Protection Against Radiation	21038	5YR	04/30/98	98-10/149
R313-15	Standards for Protection Against Radiation	21271	NSC	07/22/98	Not Printed
R313-18	Notices, Instructions and Reports to Workers by Licensees or Registrants -- Inspections	20236	AMD	01/23/98	97-23/61
R313-22-37	Renewal of Licenses	20961	NSC	04/01/98	Not Printed
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	20237	AMD	01/23/98	97-23/62
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	20954	NSC	04/03/98	Not Printed
R313-32	Medical Use of Radioactive Material	20238	AMD	01/23/98	97-23/65
R313-32	Medical Use of Radioactive Material	20829	NSC	04/01/98	Not Printed

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R313-32	Medical Use of Radioactive Material	21088	AMD	08/11/98	98-10/40
R313-36-3	Clarifications or Exceptions	21095	NSC	05/02/98	Not Printed
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R315-1	Utah Hazardous Waste Definitions and References	20382	AMD	02/20/98	98-1/15
R315-2	General Requirements - Identification and Listing of Hazardous Waste	20383	AMD	02/20/98	98-1/17
R315-2-17	Petition to Amend Rules	20733	NSC	02/18/98	Not Printed
R315-3	Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	20384	AMD	02/20/98	98-1/27
R315-3	Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	20795	NSC	03/05/98	Not Printed
R315-4	Hazardous Waste Manifest	20385	AMD	02/20/98	98-1/35
R315-4-4	Off-Site Hazardous Waste Storage, Treatment or Disposal Facilities Manifest Procedures	20797	NSC	03/06/98	Not Printed
R315-6-7	Transfer Facility Requirements	20538	AMD	02/20/98	98-2/24
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	20386	AMD	02/20/98	98-1/36
R315-7-17	Tanks	20734	NSC	02/18/98	Not Printed
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	20387	AMD	02/20/98	98-1/38
R315-13	Land Disposal Restrictions	20388	AMD	02/20/98	98-1/39
R315-13	Land Disposal Restrictions	20796	NSC	03/05/98	Not Printed
R315-14-7	Hazardous Waste Burned in Boilers and Industrial Furnaces	20389	AMD	02/20/98	98-1/40
R315-15-11	Closure	21026	AMD	06/17/98	98-10/41
R315-16	Standards for Universal Waste Management	20390	AMD	02/20/98	98-1/40
R315-50	Appendices	20391	AMD	02/20/98	98-1/50
R315-301	Solid Waste Authority, Definitions, and General Requirements	20965	5YR	04/02/98	98-9/65
R315-301-2	Definitions	19876	AMD	see CPR	97-19/23
R315-301-2	Definitions	19876	CPR	01/05/98	97-23/111
R315-301-2	Definitions	20249	NSC	01/05/98	Not Printed
R315-301-2	Definitions	20686	NSC	02/03/98	Not Printed
R315-301-2	Definitions	21093	NSC	05/20/98	Not Printed
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	20966	5YR	04/02/98	98-9/66
R315-302-2	General Facility Requirements	20761	NSC	02/18/98	Not Printed
R315-303	Landfilling Standards	20967	5YR	04/02/98	98-9/67
R315-303-3	Standards for Design	20933	NSC	03/27/98	Not Printed
R315-305	Class IV Landfill Requirements	20968	5YR	04/02/98	98-9/68
R315-306	Energy Recovery and Incinerator Standards	20969	5YR	04/02/98	98-9/69
R315-306-2	Requirements for Energy Recovery Facilities and Incinerators	20687	NSC	02/03/98	Not Printed

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R315-308	Ground Water Monitoring Requirements	21000	5YR	04/20/98	98-10/150
R315-309	Financial Assurance	21001	5YR	04/20/98	98-10/151
R315-309-3	Financial Assurance Mechanisms	20688	NSC	02/03/98	Not Printed
R315-310	Permit Requirements for Solid Waste Facilities	21002	5YR	04/20/98	98-10/152
R315-310-7	Contents of a Permit Application for a New or Expanding Energy Recovery or Incinerator Facility	20689	NSC	02/03/98	Not Printed
R315-311	Permit Approval for Solid Waste Disposal, Energy Recovery, and Incinerator Facilities	21003	5YR	04/20/98	98-10/153
R315-312	Recycling and Composting Facility Standards	21004	5YR	04/20/98	98-10/154
R315-313	Transfer Stations and Drop Box Facilities	21020	5YR	04/28/98	98-10/154
R315-314	Facility Standards for Piles Used for Storage and Treatment	21021	5YR	04/28/98	98-10/155
R315-315	Special Waste Requirements	20690	NSC	02/03/98	Not Printed
R315-315	Special Waste Requirements	21022	5YR	04/28/98	98-10/156
R315-316	Infectious Waste Requirements	21023	5YR	04/28/98	98-10/156
R315-316-1	Applicability	20691	NSC	02/03/98	Not Printed
R315-317	Other Processes, Variances, and Violations	21024	5YR	04/28/98	98-10/157
R315-317-1	Other Processes, Methods, and Equipment	20692	NSC	02/03/98	Not Printed
R315-318	Permit by Rule	21025	5YR	04/28/98	98-10/158
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R331-20	Designation of Adjudicative Proceedings as Informal	21425	5YR	09/03/98	98-19/105
R331-22	Rule Governing Reimbursement of Financial Institutions for Production of Records	20879	AMD	05/04/98	98-7/35
R331-24	Accounting for Accrued Uncollected Income by Banks and Industrial Loan Corporations	21430	5YR	09/10/98	98-19/106
GOVERNOR					
Administration					
R355-1-1	Purpose	20923	NSC	03/27/98	Not Printed
HEALTH					
Children's Health Insurance Program					
R382-1	Benefits and Administration	21153	NEW	07/14/98	98-11/171
R382-10	Eligibility	21154	NEW	07/14/98	98-11/173
R382-10-10	Creditable Health Coverage	21187	AMD	07/17/98	98-12/11
R382-20	Provider Assessment	21155	NEW	07/14/98	98-11/178
R382-20	Provider Assessment	21237	NSC	07/22/98	Not Printed
Community Health Services, Epidemiology					
R386-703	Injury Reporting Rule	20898	NSC	03/18/98	Not Printed
R386-704	Immunization Rule for Students	20958	REP	08/12/98	98-8/10

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Community Health Services, Environmental Services					
R392-200-6	Construction and Maintenance of Physical Facilities	20963	AMD	see CPR	98-8/12
R392-200-6	Construction and Maintenance of Physical Facilities	20963	CPR	09/10/98	98-14/90
Family Health Services, Child Health					
R396-100	Immunization Rule for Students	20959	NEW	see CPR	98-8/15
R396-100	Immunization Rule for Students	20959	CPR	08/12/98	98-12/32
Family Health Services, Children with Special Health Care Needs					
R398-2	Newborn Hearing Screening	21225	NEW	09/11/98	98-14/49
Health Care Financing, Coverage and Reimbursement Policy					
R414-1	Utah Medicaid Program	20541	NSC	01/06/98	Not Printed
R414-1	Utah Medicaid Program	20945	NSC	03/28/98	Not Printed
R414-1	Utah Medicaid Program	20998	AMD	06/16/98	98-10/42
R414-3X	Restriction on Use of CPR-4 Psychiatric Codes	20542	REP	02/20/98	98-2/25
R414-4X	Policy Statement on Denial of Payment to Medicaid Provider When Client Fails to Keep Scheduled Appointment	20648	5YR	01/12/98	98-3/97
R414-10	Physician Services	21156	AMD	07/08/98	98-11/180
R414-10A	Transplant Services Standards	20825	EMR	02/26/98	98-6/64
R414-10A	Transplant Services Standards	20652	AMD	03/19/98	98-3/44
R414-10X	Pharmacy Policy	20612	REP	02/20/98	98-2/26
R414-12	Medical Supplies Durable Medical Equipment--Prosthetics	20762	5YR	02/09/98	98-5/66
R414-13x	Section V of all Medicaid Provider Manuals: "Provider Compliance"	20922	EXD	03/15/98	98-7/80
R414-15	Patients Personal Needs Fund	20232	AMD	01/13/98	97-23/80
R414-17	Policy on Use of Oxygen Concentrators	20212	REP	01/13/98	97-23/82
R414-22	Administrative Sanction Procedures and Regulations	20653	5YR	01/13/98	98-3/97
R414-22	Administrative Sanction Procedures and Regulations	20654	AMD	03/19/98	98-3/56
R414-24	Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment	20345	REP	02/04/98	98-1/51
R414-25X	Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment	20613	REP	02/20/98	98-2/26
R414-26	Implementation and Maintenance of the Health Care Financing Administration Common Procedure Coding System (HCPCS)	20764	5YR	02/09/98	98-5/66
R414-27	Medicare Nursing Facility Certification	20735	5YR	02/04/98	98-5/67
R414-28	Record Keeping and Disclosure for Medicaid Providers	20993	EXD	04/14/98	98-9/74
R414-30	Bureau of Facility Management Policy and Procedures Manual Part B, Hospital Preadmission and Continued Stay Review	20655	REP	03/19/98	98-3/60

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R414-31x	Hospital Utilization Review	20766	5YR	02/09/98	98-5/67
R414-32	Hospital Record-keeping Policy	20767	5YR	02/09/98	98-5/68
R414-36	Bureau of Facility Management Policy and Procedures Manual	20656	REP	03/19/98	98-3/66
R414-39	Home and Community-based Services Waiver	20935	REP	05/27/98	98-8/18
R414-42	Limitations on Scope of Service for Inpatient Hospitals and Outpatient Hospitals and Limitations on Scope of Service for Physician Services	20994	EXD	04/14/98	98-9/74
R414-51	Dental, Orthodontia	21188	5YR	06/01/98	98-12/37
R414-51	Dental, Orthodontia	21189	AMD	07/17/98	98-12/13
R414-52	Optometry Services	21232	5YR	06/22/98	98-14/101
R414-53	Eyeglasses Services	21233	5YR	06/22/98	98-14/102
Health Systems Improvement, Community Health Nursing					
R425-1	Nurse Education Financial Assistance	20768	5YR	02/10/98	98-5/68
R425-1	Nurse Education Financial Assistance	20794	AMD	see CPR	98-6/34
R425-1	Nurse Education Financial Assistance	20794	CPR	06/03/98	98-9/61
Health Systems Improvement, Emergency Medical Services					
R426-1	Ambulance Rules	21034	AMD	06/23/98	98-10/45
R426-1-8	Maximum Ambulance Transportation Rates and Charges	21152	AMD	07/06/98	98-11/185
R426-3	Utah Mobile Paramedic Rules	21035	AMD	06/23/98	98-10/52
R426-4	Emergency Medical Dispatcher Rules	21028	AMD	06/23/98	98-10/58
Health Data Analysis					
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	20192	NEW	03/15/98	97-22/21
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	21157	AMD	07/22/98	98-11/187
R428-13	Health Data Authority. Audit and Reporting of HMO Performance Measures	20731	NEW	04/05/98	98-5/40
R428-13	Health Data Authority. Audit and Reporting of HMO Performance Measures	21158	AMD	07/22/98	98-11/189
Health Systems Improvement, Child Care Licensing					
R430-2	General Licensing Provisions, Child Care Facilities	20264	NEW	02/04/98	97-24/66
R430-3	General Care Facility Rules Inspection and Enforcement	20265	NEW	01/21/98	97-24/69
R430-4	General Certificate Provisions	21235	NEW	08/20/98	98-14/51
R430-5	Child Care Facility, General Construction	20266	NEW	02/05/98	97-24/71
R430-6	Background Screening	20267	NEW	01/20/98	97-24/75
R430-6	Background Screening	21245	AMD	08/20/98	98-14/53
R430-10	Notice of Intent to License, Hourly Care Provider	20645	EMR	01/09/98	98-3/86
R430-10	Notice of Intent to License, Hourly Care Provider	20684	EMR	01/20/98	98-4/122
R430-30	Adjudicative Procedure	20268	NEW	01/21/98	97-24/79

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R430-50	Residential Certificate Child Care Standards	21236	NEW	08/20/98	98-14/55
R430-60	Hourly Child Care Center	21276	NEW	09/10/98	98-15/5
R430-90	Licensed Family Child Care	21246	NEW	08/20/98	98-14/58
R430-100	Child Care Facilities	20269	NEW	02/05/98	97-24/79
R430-100	Child Care Facilities	21277	AMD	09/10/98	98-15/10
Health Systems Improvement, Health Facility Licensure					
R432-1-4	Identification Badges	20808	AMD	05/28/98	98-6/38
R432-3-9	Medicare/Medicaid Certification	20830	AMD	05/07/98	98-7/36
R432-6	Residential Health Care Facility, General Construction	21296	R&R	09/14/98	98-15/20
R432-16	Hospice Inpatient Facility Construction	20582	NEW	03/04/98	98-2/27
R432-35	Background Screening	21257	NEW	08/28/98	98-14/64
R432-102	Specialty Hospital - Chemical Dependency/Substance Abuse	20558	AMD	02/24/98	98-2/31
R432-102-14	Patient Record	21005	AMD	06/26/98	98-10/93
R432-103	Speciality Hospital - Rehabilitation	20607	NSC	01/06/98	Not Printed
R432-151	Mental Disease Facility	20685	5YR	01/20/98	98-4/134
R432-550	Birthing Centers (Five or Less Birth Rooms)	20559	AMD	02/24/98	98-2/34
R432-600	Abortion Clinic Rule	20560	AMD	02/24/98	98-2/39
R432-700	Home Health Agency Rule	20561	AMD	02/24/98	98-2/42
R432-750	Hospice Rule	20562	AMD	03/04/98	98-2/49
Laboratory Services, Laboratory Improvement					
R444-14	Rules for the Certification of Environmental Laboratories	20521	R&R	02/19/98	98-1/51
R444-14	Rules for the Certification of Environmental Laboratories	21037	NSC	05/07/98	Not Printed
HUMAN RESOURCE MANAGEMENT					
Administration					
R477-1	Definitions	21062	AMD	06/27/98	98-10/94
R477-2	Administration	21063	AMD	06/27/98	98-10/98
R477-5	Filling Positions	21066	AMD	06/27/98	98-10/100
R477-6	Employee Status and Probation	21067	AMD	06/27/98	98-10/103
R477-7	Compensation	21068	AMD	06/27/98	98-10/104
R477-8	Working Conditions	21069	AMD	06/27/98	98-10/108
R477-8	Working Conditions	21264	EMR	07/01/98	98-14/94
R477-10	Employee Development	21070	AMD	06/27/98	98-10/115
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R497-100	Adjudicative Proceedings	20248	AMD	01/26/98	97-24/88

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R501-2	Core Standards	21083	EMR	05/04/98	98-10/139
R501-2	Core Standards	21084	AMD	07/02/98	98-10/120
R501-7	Rules for Child Placing Agencies	21415	EMR	09/02/98	98-19/94
R501-12	Foster Care Core Standards	21258	AMD	08/17/98	98-14/66
R501-14	Criminal Background Screening	21081	EMR	05/04/98	98-10/140
R501-14	Criminal Background Screening	21085	AMD	06/16/98	98-10/121
R501-15	Utah Social Services Delivery System Data Bases Screening	21039	EXD	05/01/98	98-10/168
R501-17	Adult Foster Care Standards	20179	NEW	03/15/98	97-22/24
R501-17	Adult Foster Care Standards	20286	NSC	03/15/98	Not Printed
R501-17	Adult Foster Care Standards	20880	NSC	03/17/98	Not Printed
R501-18	Abuse Background Screening	21082	EMR	05/04/98	98-10/145
R501-18	Abuse Background Screening	21086	NEW	06/16/98	98-10/126
Administration, Administrative Services, Management Services					
R503-5	Client Notice and Client Hearings	20895	5YR	03/13/98	98-7/76
R503-5	Client Notice and Client Hearings	20896	REP	05/02/98	98-7/37
Aging and Adult Services					
R510-100	Funding Formulas	20634	5YR	01/08/98	98-3/98
R510-101	Carryover Policy for Title III: Grants for State and Community Programs on Aging	20635	5YR	01/08/98	98-3/99
R510-102	Amendments to Area Plan and Management Plan	20636	5YR	01/08/98	98-3/99
R510-103	Use of Senior Centers by Long Term Care Facility Residents and Senior Citizens' Groups Participating in Activities Outside Their Planning and Service Area	20637	5YR	01/08/98	98-3/100
R510-106	Minimum Percentage of Older Americans Act, Title III: Grants for State and Community Programs on Aging Part B: Supportive Services and Senior Centers Funds That an Area Agency on Aging Must Spend on Access, In-home and Legal Assistance	20638	5YR	01/08/98	98-3/100
R510-107	Title V Senior Community Service Employment Program Standards and Procedures	20639	5YR	01/08/98	98-3/101
R510-108	Definition of Rural for Title III: Grants for State and Community Programs on Aging Reporting Under the Older Americans Act	20640	5YR	01/08/98	98-3/101
R510-109	Definition of Significant Population of Older Native Americans	20641	5YR	01/08/98	98-3/102
R510-110	Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services	20642	5YR	01/08/98	98-3/102
R510-200	Long-Term Care Ombudsman Program Policy	20643	5YR	01/08/98	98-3/103
R510-400	Home and Community-Based Alternative Services Policy and Procedures	20644	5YR	01/08/98	98-3/103

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R512-2	Child Welfare/Aid to Families with Dependent Children (AFDC) Foster Care/Adoption	20245	AMD	02/01/98	97-24/90
R512-25	Child Protective Services Notification and Due Process	21226	EMR	06/16/98	98-14/99
R512-25	Child Protective Services Notification and Due Process	21336	NEW	09/15/98	98-16/26
R512-31	Foster Parent Due Process	20288	AMD	04/01/98	97-24/91
Mental Health, State Hospital					
R525-1	Patient Records	20913	EXD	03/15/98	98-7/80
R525-1	Medical Records	20919	NEW	05/25/98	98-7/40
R525-2	Patient Rights	20914	EXD	03/15/98	98-7/80
R525-2	Patient Rights	20920	NEW	05/25/98	98-7/41
R525-3	Treatment Procedures	20915	EXD	03/15/98	98-7/80
R525-3	Medication Treatment of Patients	20921	NEW	05/25/98	98-7/42
R525-4	Patient Management	20916	EXD	03/15/98	98-7/80
R525-4	Visitors	20888	NEW	05/25/98	98-7/43
R525-5	Patient Services	20917	EXD	03/15/98	98-7/80
R525-5	Background Checks	20890	NEW	05/25/98	98-7/43
R525-6	Weapons at the Utah State Hospital	20891	NEW	see CPR	98-7/44
R525-6	Weapons at the Utah State Hospital	20891	CPR	08/15/98	98-14/93
R525-7	Complaints/Suggestions/Concerns	20892	NEW	05/25/98	98-7/45
Recovery Services					
R527-3	Definitions	20647	5YR	01/12/98	98-3/104
R527-5	Release of Information	20240	AMD	01/05/98	97-23/83
R527-39	Applicant/Recipient Cooperation	20522	NEW	02/05/98	98-1/67
R527-56	In-Kind Support	20978	5YR	04/13/98	98-9/69
R527-56	In-Kind Support	20979	NSC	04/20/98	Not Printed
R527-100	Uniform Interstate Family Support Act	21018	NEW	06/16/98	98-10/129
R527-253	Collection of Child Support Judgments	21243	AMD	08/17/98	98-14/73
R527-300	Income Withholding	20723	AMD	03/18/98	98-4/77
R527-300	Income Withholding	21006	AMD	06/16/98	98-10/130
R527-301	Non IV-D Income Withholding	20724	AMD	03/18/98	98-4/80
R527-301	Non IV-D Income Withholding	21427	5YR	09/04/98	98-19/106
R527-305	High-Volume, Automated Administrative Enforcement in Interstate Child Support Cases	21017	NEW	06/16/98	98-10/131
R527-430	Administrative Notice of Lien-Levy Procedures	20523	NEW	02/05/98	98-1/68
R527-475	State Tax Refund Intercept	20725	AMD	03/18/98	98-4/82
R527-550	Assessment	20520	AMD	02/11/98	98-1/70
R527-928	Lost Checks	20518	AMD	02/17/98	98-1/71

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R590-79-4	Definitions	20815	AMD	05/01/98	98-6/39
R590-94	Rule Permitting Smoker/Nonsmoker Mortality Tables For Use In Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	21338	5YR	07/31/98	98-16/90
R590-124	Loss Information Rule	20816	5YR	02/26/98	98-6/78
R590-128	Unfair Discrimination Based Solely on the Failure to Maintain Automobile Insurance	20817	AMD	see CPR	98-6/41
R590-128	Unfair Discrimination Based on the Failure to Maintain Automobile Insurance. (Revised)	20817	CPR	06/16/98	98-10/138
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	18730	AMD	see CPR (First)	97-7/36
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	18730	CPR (First)	see CPR (Second)	97-15/102
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	18730	CPR (Second)	03/01/98	97-22/105
R590-132-3	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	20590	NSC	03/01/98	Not Printed
R590-141	Licensing Rule	20826	AMD	05/01/98	98-6/42
R590-141	Individual and Agency License Lapse and Reinstatement Rule	21087	NSC	05/07/98	Not Printed
R590-154	Unfair Marketing Practices Rule	21205	5YR	06/10/98	98-13/31
R590-155	Disclosure of Life and Disability Guaranty Association Limitations	20943	5YR	03/27/98	98-8/63
R590-157	Taxation of Surplus Lines Insurance Premiums	20944	5YR	03/27/98	98-8/64
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R595-1-10	Hearing	20527	AMD	02/20/98	98-2/57
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R600-1	Declaratory Orders	21215	5YR	06/15/98	98-13/32
Industrial Accidents					
R612-2	Worker's Compensation Rules - Health Care Providers	21216	5YR	06/15/98	98-13/32
R612-3	Worker's Compensation Rules - Self-Insurance	21217	5YR	06/15/98	98-13/33
R612-5	Employee Leasing Company Worker's Compensation Insurance Policy Endorsements	21218	5YR	06/15/98	98-13/33
R612-6	Impairment Ratings for Industrial Injuries and Diseases	21268	5YR	07/06/98	98-15/80
Occupational Safety and Health					
R614-1-4	Incorporation of Federal Standards	20633	NSC	01/21/98	Not Printed
R614-1-4	Incorporation of Federal Standards	20835	AMD	05/04/98	98-7/45
R614-6-7	Hot Metallurgical Operations	21094	NSC	05/22/98	Not Printed

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R628-11	Maximum Amount of Public Funds Allowed to Be Held by Any Qualified Depository	21190	NSC	06/17/98	Not Printed
NATURAL RESOURCES					
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R634-1	Americans With Disabilities Complaint Procedure	20256	NEW	01/15/98	97-24/92
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R636-2	Public Petitions for Declaratory Rulings	20718	EXD	02/01/98	98-4/136
R636-4	Confidential Energy Information	20719	EXD	02/01/98	98-4/136
R636-5	Administrative Procedures	20720	EXD	02/01/98	98-4/136
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R637-1	Utah Energy Saving Systems Tax Credit (ESSTC) Rules	20678	NEW	03/05/98	98-3/73
Oil, Gas and Mining Board					
R641-100	General Provisions	21041	5YR	05/01/98	98-10/158
R641-101	Parties	21042	5YR	05/01/98	98-10/159
R641-102	Appearances and Representations	21043	5YR	05/01/98	98-10/159
R641-103	Intervention	21044	5YR	05/01/98	98-10/160
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R641-105	Filing and Service	21046	5YR	05/01/98	98-10/160
R641-106	Notice and Service	21047	5YR	05/01/98	98-10/161
R641-107	Prehearing Conference	21048	5YR	05/01/98	98-10/161
R641-108	Conduct of Hearings	21049	5YR	05/01/98	98-10/162
R641-109	Decisions and Orders	21050	5YR	05/01/98	98-10/162
R641-110	Rehearing and Modification of Existing Orders	21051	5YR	05/01/98	98-10/163
R641-111	Declaratory Rulings	21052	5YR	05/01/98	98-10/163
R641-112	Rulemaking	21053	5YR	05/01/98	98-10/164
R641-113	Hearing Examiners	21054	5YR	05/01/98	98-10/164
R641-114	Exhaustion of Administrative Remedies	21055	5YR	05/01/98	98-10/164
R641-115	Deadline for Judicial Review	21056	5YR	05/01/98	98-10/165
R641-116	Judicial Review of Formal Adjudicative Proceedings	21057	5YR	05/01/98	98-10/165
R641-117	Civil Enforcement	21058	5YR	05/01/98	98-10/166
R641-118	Waivers	21059	5YR	05/01/98	98-10/166
R641-119	Severability	21060	5YR	05/01/98	98-10/167
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R645-100-200	Definitions	20189	AMD	03/15/98	97-22/27
R645-102	Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction	21327	5YR	07/27/98	98-16/91

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R645-301-500	Engineering	20190	AMD	03/15/98	97-22/38
R645-301-700	Hydrology	20191	AMD	03/15/98	97-22/59
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R647-1	Minerals Regulatory Program	21328	5YR	07/27/98	98-16/91
R647-2	Exploration	21329	5YR	07/27/98	98-16/92
R647-3	Small Mining Operations	21330	5YR	07/27/98	98-16/92
R647-4	Large Mining Operations	21331	5YR	07/27/98	98-16/93
R647-5	Administrative Procedures	21332	5YR	07/27/98	98-16/93
R647-1-106	Definitions	20727	AMD	06/15/98	98-4/83
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R649-1	Oil and Gas General Rules	20946	AMD	06/02/98	98-8/24
R649-2	General Rules	20947	AMD	06/02/98	98-8/27
R649-3	Drilling and Operating Practices	20948	AMD	06/02/98	98-8/28
R649-5	Underground Injection Control of Recovery Operations and Class II Injection Wells	20949	AMD	06/02/98	98-8/35
R649-8	Reporting and Report Forms	20950	AMD	06/02/98	98-8/36
R649-9	Waste Management and Disposal	20951	AMD	06/02/98	98-8/37
Parks and Recreation					
R651-102	Government Records Access Management Act	21314	5YR	07/21/98	98-16/94
R651-301	State Recreation Fiscal Assistance Programs	21315	5YR	07/21/98	98-16/94
R651-603-5	Hunting Wildlife	20839	AMD	07/06/98	98-7/47
R651-611	Fee Schedule	20793	AMD	07/06/98	98-6/44
Water Resources					
R653-2	Financial Assistance from the Board of Water Resources	20722	AMD	03/18/98	98-4/85
R653-3	Selecting Private Consultants	20597	AMD	02/18/98	98-2/58
R653-4	Investigation Account	20694	AMD	03/18/98	98-4/88
R653-5	Cloud Seeding	20593	AMD	02/18/98	98-2/60
R653-5	Cloud Seeding	20791	NSC	03/05/98	Not Printed
R653-7	Administrative Procedures for Informal Proceedings	20554	AMD	02/18/98	98-2/63
R653-8	Flaming Gorge Water Right Segregation	20717	NEW	03/23/98	98-4/89
R653-8	Flaming Gorge Water Right Segregation	20792	NSC	03/23/98	Not Printed
R653-8	Flaming Gorge Water Right Segregation	20936	NSC	03/30/98	Not Printed
Water Rights					
R655-5	Maps Submitted to the Division of Water Rights	20955	NEW	05/18/98	98-8/40
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R657-5	Taking Big Game	20241	AMD	01/15/98	97-24/95
R657-5	Taking Big Game	21185	AMD	07/16/98	98-12/14
R657-6	Taking Upland Game	21238	AMD	08/19/98	98-14/74

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R657-10	Taking Cougar	20928	EMR	03/19/98	98-8/57
R657-33	Taking Bear	20929	EMR	03/19/98	98-8/58
R657-33	Taking Bear	20938	5YR	03/24/98	98-8/65
R657-33	Taking Bear	20939	AMD	05/18/98	98-8/43
R657-37	Cooperative Wildlife Management Units for Big Game	20243	AMD	01/15/98	97-24/104
R657-38	Dedicated Hunter Program	20244	AMD	01/15/98	97-24/105
R657-41	Conservation and Sportsman Permits	21239	AMD	08/19/98	98-14/80
R657-42	Big Game Hunting Permit Exchanges	21240	AMD	08/19/98	98-14/81
R657-43	General Season Landowner Deer Permits	20700	AMD	03/18/98	98-4/90
R657-45	Wildlife License, Permit, Certificate of Registration, Habitat Authorization and Heritage Certificate Forms	21241	NEW	08/19/98	98-14/83
PARDONS (BOARD OF)					
Administration					
R671-101	Rules	20425	AMD	02/18/98	98-1/72
R671-102	Americans with Disabilities Act Complaint Procedure Rule	20427	AMD	02/18/98	98-1/73
R671-201	Original Parole Grant Hearing Schedule and Notice	20429	AMD	02/18/98	98-1/73
R671-201	Original Parole Grant Hearing Schedule and Notice	21199	NSC	06/17/98	Not Printed
R671-202	Notification of Hearings	20431	AMD	02/18/98	98-1/74
R671-203	Victim Input and Notification	20433	AMD	02/18/98	98-1/75
R671-204	Pending Charges	20435	AMD	02/18/98	98-1/76
R671-205	Credit for Time Served	20486	AMD	02/18/98	98-1/76
R671-205	Credit for Time Served	21300	EXD	07/15/98	98-16/96
R671-205	Credit for Time Served	21310	EMR	07/17/98	98-16/81
R671-206	Competency of Offenders	20437	AMD	02/18/98	98-1/77
R671-207	Mentally-Ill Offender Custody Transfer	20439	AMD	02/18/98	98-1/78
R671-208	Confidentiality of Psychological Evaluations and Alienist Reports	20441	AMD	02/18/98	98-1/79
R671-301	Personal Appearance	20443	AMD	02/18/98	98-1/79
R671-302	News Media and Public Access to Hearings	20445	AMD	02/18/98	98-1/80
R671-303	Offender Access to Information	20447	AMD	02/18/98	98-1/82
R671-304	Hearing Record	20449	AMD	02/18/98	98-1/83
R671-305	Notification of Board Decision	20487	AMD	02/18/98	98-1/83
R671-307	Foreign Nationals and Offenders With Detainers	20451	AMD	02/18/98	98-1/84
R671-308	Offender Hearing Assistance	20453	AMD	02/18/98	98-1/84
R671-309	Impartial Hearings	20455	AMD	02/18/98	98-1/85
R671-310	Rescission Hearings	20457	AMD	02/18/98	98-1/86
R671-311	Special Attention Hearings and Reviews	20459	AMD	02/18/98	98-1/87
R671-311	Special Attention Hearings and Reviews	21200	NSC	06/17/98	Not Printed
R671-312	Commutation Hearings for Death Penalty Cases	20489	AMD	02/18/98	98-1/87
R671-312	Commutation Hearings for Death Penalty Cases	21301	EXD	07/15/98	98-16/96
R671-312	Commutation Hearings for Death Penalty Cases	21312	EMR	07/17/98	98-16/82

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R671-312	Commutation Hearings for Death Penalty Cases	21313	NEW	09/15/98	98-16/49
R671-312	Commutation Hearings for Death Penalty Cases	21428	NSC	09/15/98	Not Printed
R671-315	Pardons	20461	AMD	02/18/98	98-1/89
R671-316	Redetermination	20463	AMD	02/18/98	98-1/90
R671-317	Interim Decisions	20465	AMD	02/18/98	98-1/91
R671-317	Interim Decisions	21201	NSC	06/17/98	Not Printed
R671-402	Special Conditions of Parole	20469	AMD	02/18/98	98-1/91
R671-402	Special Conditions of Parole	21202	NSC	06/17/98	Not Printed
R671-403	Restitution	20490	AMD	02/18/98	98-1/92
R671-405	Parole Termination	20471	AMD	02/18/98	98-1/93
R671-501	Warrants of Arrest	20473	AMD	02/18/98	98-1/93
R671-503	Prerevocation Hearings	20475	AMD	02/18/98	98-1/95
R671-504	Timeliness of Parole Revocation Hearings	20477	AMD	02/18/98	98-1/95
R671-505	Parole Revocation Hearings	20479	AMD	02/18/98	98-1/96
R671-507	Restarting the Parole Period	20481	AMD	02/18/98	98-1/98
R671-508	Evidentiary Hearings	20483	AMD	02/18/98	98-1/98
PROFESSIONAL PRACTICES ADVISORY COMMISSION					
Administration					
R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	20524	NEW	02/09/98	98-1/99
R686-101	Alcohol Related Offenses	21262	NEW	08/15/98	98-14/84
R686-102	Drug Related Offenses	21263	NEW	08/15/98	98-14/85
PUBLIC SAFETY					
Driver License					
R708-1	Rehabilitation of Alcohol and Drug Problem Drivers	20335	REP	02/10/98	98-1/107
R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	20632	AMD	03/04/98	98-3/76
Fire Marshal					
R710-1	Concerns Servicing Portable Fire Extinguishers	21289	AMD	09/01/98	98-15/39
R710-2	Rules Pursuant to the Utah Fireworks Act	20712	AMD	03/18/98	98-4/93
R710-3	Residential Care and Assisted Living Facilities	20713	AMD	03/18/98	98-4/94
R710-3	Residential Care and Assisted Living Facilities	21290	AMD	09/01/98	98-15/44
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	20714	AMD	03/18/98	98-4/96
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	21291	AMD	09/01/98	98-15/46
R710-6	Liquefied Petroleum Gas Rules	20715	AMD	03/18/98	98-4/99
R710-6	Liquefied Petroleum Gas Rules	21292	AMD	09/01/98	98-15/49
R710-7	Concerns Servicing Automatic Fire Suppression Systems	20277	AMD	01/15/98	97-24/108
R710-7	Concerns Servicing Automatic Fire Suppression Systems	21293	AMD	09/01/98	98-15/53

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R710-8	Day Care Rules	20716	AMD	03/18/98	98-4/103
R710-8	Day Care Rules	21294	AMD	09/01/98	98-15/55
R710-9	Rules Pursuant to the Utah Fire Prevention Law	20278	AMD	01/15/98	97-24/109
R710-9	Rules Pursuant to the Utah Fire Prevention Law	21295	AMD	09/01/98	98-15/57
Highway Patrol					
R714-110	Permit to Operate a Motor Vehicle in Violation of Equipment Laws	21075	5YR	05/01/98	98-10/167
R714-158	Vehicle Safety Inspection Rule	20906	R&R	05/05/98	98-7/48
R714-158	Vehicle Safety Inspection Program Requirements	21176	AMD	07/30/98	98-12/17
R714-159	Utah Street Rod Rule	20840	REP	05/05/98	98-7/56
R714-200	Department Standards for Lights and Illumination Devices on Vehicles	20907	R&R	05/05/98	98-7/57
R714-205	Vehicle Window Tinting	21040	EXD	05/01/98	98-10/168
R714-210	Air Conditioning Equipment - Requirements	20908	R&R	05/05/98	98-7/59
R714-220	Standards for Protective Headgear	20909	R&R	05/05/98	98-7/60
R714-230	Standards and Specifications for Seat Belts	20910	R&R	05/05/98	98-7/61
R714-240	Standards and Specifications for Child Restraint Devices	20911	R&R	05/05/98	98-7/62
R714-300	Brake Equipment Requirements	20912	R&R	05/05/98	98-7/63
R714-400	Compressed and Liquefied Gas Fuel Systems	21197	REP	08/04/98	98-13/15
R714-550	Rule for Spending Fees Generated by the Reinstatement of Driver Licenses	20698	AMD	03/24/98	98-4/104
Law Enforcement and Technical Services, Criminal Identification					
R722-1	Non-criminal Justice Agency Access to State Criminal History Files	20629	REP	03/04/98	98-3/77
Law Enforcement and Technical Services, Regulatory Licensing					
R724-4	Concealed Firearm Permit Rule	20806	R&R	04/16/98	98-6/46
R724-7	Undercover Driver's License	21316	5YR	07/21/98	98-16/95
Peace Officer Standards and Training					
R728-401	Requirements For Approval and Certification of Peace Officer Basic Training Programs and Applicants	20782	NSC	02/23/98	Not Printed
R728-402	Application Procedures to Attend a Basic Peace Officer Training Program	20783	NSC	02/23/98	Not Printed
R728-403	Qualifications For Admission To Certified Peace Officer Training Academies	20784	NSC	02/23/98	Not Printed
R728-404	Basic Training Basic Academy Rules	20810	AMD	04/15/98	98-6/52
R728-406	Requirements For Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants	20786	NSC	02/23/98	Not Printed
R728-407	Waiver/Reactivation Process	20787	NSC	02/23/98	Not Printed
R728-408	Reserve and Auxiliary Officer Standards	20831	5YR	03/04/98	98-7/77
R728-409	Refusal, Suspension, or Revocation of Peace Officer Certification	20995	AMD	06/02/98	98-9/41

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R728-410	Guidelines Regarding Failure To Obtain Annual Statutory Training	20788	NSC	02/23/98	Not Printed
R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning As Peace Officers Without Peace Officer Certification Or Powers	20832	5YR	03/04/98	98-7/77
R728-502	Procedure for POST Instructor Certification	20833	5YR	03/04/98	98-7/78
R728-504	Regional Training	20834	5YR	03/04/98	98-7/78
R728-505	Service Dog Program Rules	20996	NEW	06/02/98	98-9/47
PUBLIC SERVICE COMMISSION					
Administration					
R746-110	Uncontested Matters to be Adjudicated Informally	21248	5YR	06/26/98	98-14/102
R746-210	Utility Service Rules Applicable Only to Electric Utilities	21249	5YR	06/26/98	98-14/103
R746-330	Rules for Water and Sewer Utilities Operating in Utah	20957	5YR	03/31/98	98-8/65
R746-331	Determination of Exemption of Mutual Water Corporations	20626	EMR	01/05/98	98-3/87
R746-331	Determination of Exemption of Mutual Water Corporations	20627	NEW	04/06/98	98-3/78
R746-332	Depreciation Rates for Water Utilities	20964	5YR	04/02/98	98-9/70
R746-340	Substantive Rules Governing Telecommunications Utilities	21250	5YR	06/26/98	98-14/103
R746-341	Lifeline Rule	20677	AMD	04/06/98	98-3/78
R746-342	Rule on One-Way Paging	20970	5YR	04/03/98	98-9/71
R746-344	Filing Requirements for Telephone Corporations With Less Than 5,000 Access Line Subscribers	21348	5YR	08/11/98	98-17/62
R746-345	Pole Attachments for Cable Television Companies	21349	5YR	08/11/98	98-17/62
R746-356-2	Definitions	20592	NSC	01/06/98	Not Printed
R746-360	Universal Public Telecommunications Service Support Fund	20956	EMR	03/31/98	98-8/59
R746-360	Universal Public Telecommunications Service Support Fund	21317	EMR	07/28/98	98-16/84
R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	20971	5YR	04/03/98	98-9/71
R746-404	Regulation of Promotional Programs of Electric and Gas Public Utilities	21350	5YR	08/11/98	98-17/63
R746-405	Rules Governing the Filing of Tariffs for Gas, Electric, Telephone, Water and Heat Utilities	20972	5YR	04/03/98	98-9/72
R746-406	Advertising by Electric and Gas Utilities	21351	5YR	08/11/98	98-17/63
R746-409	Pipeline Safety	21098	NSC	05/21/98	Not Printed
R746-500	Americans With Disabilities Act Complaint Procedure	21341	5YR	08/05/98	98-17/64
R746-600	Postretirement Benefits other than Pensions	21458	5YR	09/15/98	98-19/107

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Administration					
R765-134	Informal Adjudicative Procedures Under the Utah Administrative Procedures Act	20980	5YR	04/13/98	98-9/72
R765-171	Postsecondary Proprietary School Act Rules	20983	NSC	05/01/98	Not Printed
R765-555	Policy on Colleges and Universities Providing Facilities, Goods and Services in Competition with Private Enterprise	20981	5YR	04/13/98	98-9/73
R765-555	Policy on Colleges and Universities Providing Facilities, Goods and Services in Competition with Private Enterprise	20984	NSC	05/01/98	Not Printed
R765-605	Utah Centennial Opportunity Program for Education	21163	NEW	07/02/98	98-11/194
R765-993	Records Access and Management	20982	5YR	04/13/98	98-9/73
R765-993	Records Access and Management	20985	NSC	05/01/98	Not Printed
SCHOOL AND INSTITUTIONAL TRUST LANDS					
Administration					
R805-2	Government Records Access and Management Act Procedures	21227	5YR	06/17/98	98-14/104
R850-50-700	Reinstatements	21242	NSC	07/07/98	Not Printed
R850-80	Sale of Trust Lands	20395	AMD	02/03/98	98-1/108
R850-80-550	Methods of Sale	21320	NSC	08/05/98	Not Printed
R850-80-600	Public Sale Procedures	21184	AMD	07/16/98	98-12/20
STATEHOOD CENTENNIAL COMMISSION (UTAH)					
Administration					
R855-1	Functional Baseline: Administration	20924	EXD	03/17/98	98-8/67
R855-2	Disbursement of “Pass-Through” License Plate Revenues for Expenditure by County Centennial Committees	20925	EXD	03/17/98	98-8/67
R855-3	Disbursement of Discretionary Grants for Expenditure by County Centennial Committees, Communities, Other Groups, and Individuals	20926	EXD	03/17/98	98-8/67
TAX COMMISSION					
Administration					
R861-1A-23	Designation of Adjudicative Proceedings Pursuant to Utah Code Ann. Section 63-46b-4	20818	AMD	05/04/98	98-6/55
R861-1A-24	Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.1, 63-46b-8, and 63-46b-10	20819	AMD	05/04/98	98-6/56
R861-1A-25	Informal Adjudicative Proceedings Pursuant to Utah Code Ann. Section 63-46b-5	20820	AMD	05/04/98	98-6/57
R861-1A-26	Procedures for Formal and Informal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501, 63-46b-5, and 63-46b-6 through 63-46b-11	20821	AMD	05/04/98	98-6/57
R861-1A-27	Discovery Pursuant to Utah Code Ann. Section 63-46b-7	20822	AMD	05/04/98	98-6/59

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R861-1A-28	Evidence in Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-210, 76-8-502, 76-8-503, 63-46b-8	20823	AMD	05/04/98	98-6/59
R861-1A-32	Mediation Process Pursuant to Utah Code Section 63-46b-1	20824	AMD	05/04/98	98-6/60
R861-1A-32	Mediation Process Pursuant to Utah Code Section 63-46b-1	21091	NSC	05/21/98	Not Printed
Auditing					
R865-4D-2	Clean Special Fuel Certificate, Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304	20392	AMD	02/24/98	98-1/112
R865-4D-2	Clean Special Fuel Certificate, Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304	21193	NSC	06/17/98	Not Printed
R865-13G-14	Environmental Assurance Fee Pursuant to Utah Code Ann. Section 19-6-410.5	21194	AMD	08/11/98	98-13/19
R865-19S-58	Materials and Supplies Sold to Owners, Contractors and Repairmen of Real Property Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103	20828	AMD	05/04/98	98-6/61
R865-19S-90	Telephone Service Defined Pursuant to Utah Code Ann. Section 59-12-103	21195	AMD	08/11/98	98-13/20
R865-19S-103	Municipal Energy Sales and Use Tax Pursuant to Utah Code Ann. Sections 10-1-303 and 10-1-306	21220	AMD	08/11/98	98-13/22
R865-25X-1	Brine Shrimp Royalty Procedures Pursuant to Utah Code Ann. Section 59-23-4	21219	AMD	08/11/98	98-13/22
Motor Vehicle					
R873-22M-38	Procedures for Reinstatement of Registration Revoked for Lack of Owner's or Operator's Security Pursuant to Utah Code Ann. Section 41-1a-1220	21221	AMD	08/11/98	98-13/23
Motor Vehicle Enforcement					
R877-23V-17	Reasonable Cause for Denial, Suspension, or Revocation of License Pursuant to Utah Code Ann. Sections 41-3-105 and 41-3-209	20393	AMD	02/24/98	98-1/113
R877-23V-17	Reasonable Cause for Denial, Suspension, or Revocation of License Pursuant to Utah Code Ann. Sections 41-3-105 and 41-3-209	21196	AMD	08/11/98	98-13/24
Property Tax					
R884-24P-7	Assessment of Mining Properties Pursuant to Utah Code Ann. Section 59-2-201	20177	AMD	01/06/98	97-22/75
R884-24P-7	Assessment of Mining Properties Pursuant to Utah Code Ann. Section 59-2-201	20649	AMD	03/10/98	98-3/81
R884-24P-7	Assessment of Mining Properties Pursuant to Utah Code Ann. Section 59-2-201	20897	AMD	05/04/98	98-7/65

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R884-24P-19	Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702	21097	AMD	08/11/98	98-11/198
R884-24P-24	Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924	20394	AMD	02/24/98	98-1/114
R884-24P-58	One-Time Decrease in Certified Rate Based on Estimated County Option Sales Tax Pursuant to Utah Code Ann. Section 59-2-924	20203	AMD	02/24/98	97-23/96
R884-24P-59	One-Time Decrease in Certified Rate Based on Estimated Additional Resort Communities Sales Tax Pursuant to Utah Code Ann. Section 59-2-924	20204	AMD	02/24/98	97-23/96
R884-24P-60	Age-Based Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.1	21222	AMD	08/11/98	98-13/25
R884-24P-61	1.5 Percent Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Sections 41-1a-202, 59-2-104, 59-2-401, 59-2-402, and 59-2-405	21223	AMD	08/11/98	98-13/26
TRANSPORTATION					
Motor Carrier					
R909-1	Safety Regulations for Motor Carriers	20276	AMD	01/15/98	97-24/111
R909-1	Safety Regulations for Motor Carriers	20827	AMD	05/01/98	98-6/62
R909-1	Safety Regulations for Motor Carriers	21089	AMD	06/16/98	98-10/132
R909-1	Safety Regulations for Motor Carriers	21281	AMD	09/01/98	98-15/69
R909-4-11	Maximum Towing and Storage Rates	20271	AMD	02/27/98	97-24/112
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	20676	NSC	01/21/98	Not Printed
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	20918	AMD	05/28/98	98-7/67
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	21282	AMD	09/01/98	98-15/70
Motor Carrier, Ports of Entry					
R912-4	Limitation of Special Permit Vehicles in Provo Canyon. Legal and Permitted Vehicles	20646	5YR	01/12/98	98-3/104
Operations, Maintenance					
R918-2-3	Criteria	20628	NSC	01/21/98	Not Printed
Operations, Traffic and Safety					
R920-5-6	On Premise School Bus Loading Zones	20730	AMD	04/01/98	98-5/47
R920-50	Tramway Operations Safety Rules	20807	NSC	03/05/98	Not Printed

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Program Development					
R926-2	Evaluation of Proposed Additions to the State Highway System	20942	AMD	05/29/98	98-8/47
Preconstruction					
R930-1	Installation of New Mailboxes and Correction of Nonconforming Mailboxes	20881	5YR	03/11/98	98-7/78
R930-1	Installation of New Mailboxes and Correction of Nonconforming Mailboxes	20882	NSC	03/17/98	Not Printed
R930-5	Implementation of Agreements, Participation, Maintenance and Public Notice Responsibilities Relating to Railway-Highway Projects	20544	R&R	03/11/98	98-2/69
Preconstruction, Right-of-Way Acquisition					
R933-4	Bus Shelters	21177	NEW	07/16/98	98-12/21
WORKERS' COMPENSATION FUND					
Administration					
R980-1	Workers' Compensation Fund of Utah Dispute Resolution	21214	REP	08/07/98	98-13/28
WORKFORCE SERVICES					
Administration					
R982-301	Councils	20927	AMD	05/18/98	98-8/48
R982-401	JTPA Fiscal Procedures	21251	5YR	06/29/98	98-14/105
R982-501	JTPA Procurement/Property Management Procedures	21252	5YR	06/29/98	98-14/105
Employment Development					
R986-211	Financial Assistance General Provisions	20845	NSC	04/01/98	Not Printed
R986-212	Financial Assistance Coverage and Conditions of Eligibility	20846	NSC	04/01/98	Not Printed
R986-213	Financial Assistance Need and Amount of Assistance	20847	NSC	04/01/98	Not Printed
R986-214	Financial Assistance Applications, Redeterminations, and Change Reporting	20848	NSC	04/01/98	Not Printed
R986-215	Financial Assistance Verification and Safeguarding Requirements	20849	AMD	05/18/98	98-7/68
R986-216	Financial Assistance Emergency Work Program (EWP)	20850	NSC	04/01/98	Not Printed
R986-218	Financial Assistance General Assistance/Self-Sufficiency Program	20851	NSC	04/01/98	Not Printed
R986-219	Financial Assistance Notice, Hearings, and Conciliation	20852	NSC	04/01/98	Not Printed
R986-220	Financial Assistance Tables	20853	NSC	04/01/98	Not Printed
R986-220	Financial Assistance Tables	21013	AMD	06/25/98	98-10/134
R986-221	Demonstration Programs	20742	5YR	02/06/98	98-5/69
R986-221	Demonstration Programs	20854	NSC	04/01/98	Not Printed
R986-222	Adoption Assistance Program	20855	NSC	04/01/98	Not Printed

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R986-301	Medicaid General Provisions	20743	5YR	02/06/98	98-5/70
R986-301	Medicaid General Provisions	20769	AMD	04/01/98	98-5/48
R986-302	Eligibility Requirements	20224	AMD	01/02/98	97-23/97
R986-302	Eligibility Requirements	20744	5YR	02/06/98	98-5/70
R986-303	Coverage Groups	20745	5YR	02/06/98	98-5/71
R986-303-301	A, B, and D Medicaid and A, B, and D Institutional Medicaid Coverage Groups	20319	AMD	02/03/98	98-1/116
R986-304	Income and Budgeting	20746	5YR	02/06/98	98-5/71
R986-304	Income and Budgeting	20738	EMR	02/12/98	98-5/60
R986-304	Income and Budgeting	20739	AMD	04/01/98	98-5/49
R986-305	Resources	20726	EMR	02/12/98	98-4/123
R986-305	Resources	20747	5YR	02/06/98	98-5/72
R986-305	Resources	20770	AMD	04/01/98	98-5/55
R986-305	Resources	20675	AMD	05/28/98	98-3/84
R986-306	Program Benefits	20748	5YR	02/06/98	98-5/72
R986-306	Program Benefits	20777	AMD	04/01/98	98-5/57
R986-307	Eligibility Determination and Redetermination	20749	5YR	02/06/98	98-5/73
R986-307	Eligibility Determination and Redetermination	20774	AMD	04/01/98	98-5/58
R986-308	Record Management	20750	5YR	02/06/98	98-5/73
R986-309	Utah Medical Assistance Program (UMAP)	20751	5YR	02/06/98	98-5/74
R986-309-901	UMAP General Eligibility Requirements	20732	EMR	02/12/98	98-5/62
R986-309-901	UMAP General Eligibility Requirements	20960	AMD	05/18/98	98-8/50
R986-310	Demonstration Programs	20752	5YR	02/06/98	98-5/74
R986-411	General Provisions	20856	NSC	04/01/98	Not Printed
R986-412	Conditions of Eligibility	20206	AMD	01/02/98	97-23/98
R986-412	Conditions of Eligibility	20857	NSC	04/01/98	Not Printed
R986-413	Program Standards	20858	NSC	04/01/98	Not Printed
R986-414	Income	20207	AMD	01/02/98	97-23/99
R986-414	Income	20859	NSC	04/01/98	Not Printed
R986-414	Income	21419	EMR	10/01/98	98-19/97
R986-415	Assets	20860	NSC	04/01/98	Not Printed
R986-416	Benefits	20861	NSC	04/01/98	Not Printed
R986-417	Documentation	20208	AMD	see CPR	97-23/100
R986-417	Documentation	20208	CPR	02/03/98	98-1/120
R986-417	Documentation	20862	NSC	04/01/98	Not Printed
R986-417	Documentation	21420	EMR	10/01/98	98-19/98
R986-418	Case Management	20863	NSC	04/01/98	Not Printed
R986-419	Income Limits	20209	AMD	01/02/98	97-23/102
R986-419	Income Limits	20864	NSC	04/01/98	Not Printed
R986-419	Income Limits	21421	EMR	10/01/98	98-19/99
R986-420	Maximum Allotments	20210	AMD	01/02/98	97-23/102
R986-420	Maximum Allotments	20865	NSC	04/01/98	Not Printed
R986-420	Maximum Allotments	21422	EMR	10/01/98	98-19/101
R986-421	Demonstration Programs	20211	AMD	01/02/98	97-23/103
R986-421	Demonstration Programs	20753	5YR	02/06/98	98-5/75
R986-421	Demonstration Programs	20866	NSC	04/01/98	Not Printed

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R986-421	Demonstration Programs	21423	EMR	10/01/98	98-19/102
R986-501	Displaced Homemaker Program	20867	NSC	04/01/98	Not Printed
R986-601	Authority and Definitions for Programs Authorized under JTPA	21253	5YR	06/29/98	98-14/106
R986-602	General Administrative Provisions	20868	NSC	04/01/98	Not Printed
R986-602	General Administrative Provisions	21254	5YR	06/29/98	98-14/106
R986-603	Participant Data System Procedures	20869	NSC	04/01/98	Not Printed
R986-603	Participant Data System Procedures	21255	5YR	06/29/98	98-14/106
R986-701	Child Care Assistance General Provisions	20754	5YR	02/06/98	98-5/75
R986-701	Child Care Assistance General Provisions	20870	NSC	04/01/98	Not Printed
R986-702	Conditions of Eligibility and Client Payment Amount	20755	5YR	02/06/98	98-5/76
R986-702	Conditions of Eligibility and Client Payment Amount	20871	NSC	04/01/98	Not Printed
R986-703	Child Care Programs	20756	5YR	02/06/98	98-5/77
R986-703	Child Care Programs	20872	NSC	04/01/98	Not Printed
R986-704	Income Rules and Eligibility Calculations	20757	5YR	02/06/98	98-5/77
R986-704	Income Rules and Eligibility Calculations	20873	NSC	04/01/98	Not Printed
R986-705	Resources	20758	5YR	02/06/98	98-5/78
R986-705	Resources	20874	NSC	04/01/98	Not Printed
R986-706	Provider Payment and Contracting	20759	5YR	02/06/98	98-5/78
R986-706	Provider Payment and Contracting	20875	NSC	04/01/98	Not Printed
R986-707	Eligibility	20760	5YR	02/06/98	98-5/79
R986-707	Eligibility	20876	NSC	04/01/98	Not Printed
R986-709	Cash Out Child Care Program	20877	NSC	04/01/98	Not Printed
Workforce Information and Payment Services					
R994-201	Definition of Terms in Employment Security Act	21178	5YR	05/29/98	98-12/38
R994-202	Employing Units	21179	5YR	05/29/98	98-12/38
R994-208	Definition of Wages	21180	5YR	05/29/98	98-12/39
R994-306	Charging Benefit Costs to Employers	21209	5YR	06/12/98	98-13/34
R994-307	Social Costs -- Relief of Charges	21210	5YR	06/12/98	98-13/34
R994-315	Centralized New Hire Registry Reporting	21012	NEW	06/25/98	98-10/135
R994-508	Appeal Procedures	21211	5YR	06/12/98	98-13/35
R994-600	Dislocated Workers	21181	5YR	05/29/98	98-12/39
WORKFORCE SERVICES (CHANGED TO HEALTH -- 06/01/98)					
Employment Development (Changed to Health Care Financing, Coverage and Reimbursement Policy -- 06/01/98)					
R986-301 (Changed to R414-301)	Medicaid General Provisions	21164	NSC	06/01/98	Not Printed
R986-302 (Changed to R414-302)	Eligibility Requirements	21165	NSC	06/01/98	Not Printed
R986-303 (Changed to R414-303)	Coverage Groups	21166	NSC	06/01/98	Not Printed

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R986-304 (Changed to R414-304)	Income and Budgeting	21167	NSC	06/01/98	Not Printed
R986-305 (Changed to R414-305)	Resources	21168	NSC	06/01/98	Not Printed
R986-306 (Changed to R414-306)	Program Benefits	21169	NSC	06/01/98	Not Printed
R986-307 (Changed to R414-307)	Eligibility Determination and Redetermination	21170	NSC	06/01/98	Not Printed
R986-308 (Changed to R414-308)	Record Management	21171	NSC	06/01/98	Not Printed
R986-309 (Changed to R414-309)	Utah Medical Assistance Program (UMAP)	21172	NSC	06/01/98	Not Printed
R986-310 (Changed to R414-310)	Demonstration Programs	21173	NSC	06/01/98	Not Printed