

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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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 October 2, 1998, 12:00 a.m., and October 15, 1998, 11:59 p.m., are included in this, the November 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 Rules being repealed are completely struck out.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 December 1, 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 March 1, 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.

Commerce, Corporations and Commercial Code
R154-10
Utah Digital Signature Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21533
FILED: 10/09/1998, 08:48
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Provide more detailed procedures for applying for CA license and renewal, and foreign recognition of licenses.

SUMMARY OF THE RULE OR CHANGE: Provide more detailed procedures for applying for Certification Authority (CA) license and renewal, and foreign recognition of licenses.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 46-3-104(3)

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: None--it does not affect state or local government, and no additional costs will be incurred.
LOCAL GOVERNMENTS: None--it does not affect state or local government, and no additional costs will be incurred.
OTHER PERSONS: \$250 for the additional cost of filing a Recognition of Repository application.
COMPLIANCE COSTS FOR AFFECTED PERSONS: It does not affect state or local government, and no additional costs will be incurred. However, individual applicants will need to pay \$250 for Recognition of Repositories applications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No significant impact is projected on Certification Authorities except of additional nominal filing fee for Recognition as a Repository.

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

Commerce
Corporations and Commercial Code
Second Floor, Heber M. Wells Building
160 East 300 South
Box 146705
Salt Lake City, UT 84114-6705, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kenneth Allen at the above address, by phone at (801) 530-6135, by FAX at (801) 530-6438, or by Internet E-mail at brsec.kallen@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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Kenneth Allen, Utah Digital Signature Coordinator

R154. Commerce, Corporations and Commercial Code.
R154-10. Utah Digital Signature Act Rules.

.....

R154-10-102. Certification Authority Filing Amounts.

A certification authority, upon filing an application for a license or renewal, shall pay the following amounts annually:

- (1) a \$500.00 filing fee; and
(2) additional costs that reflect expenses incurred to evaluate software and hardware systems if they have not been previously approved by the division.

Additional amount(s) shall be paid when the actual cost is incurred by the division to have an information systems consultant evaluate whether the software and hardware systems utilized by the certification authority are trustworthy systems and meet prevailing national and international standards.

R154-10-103. Application or Renewal for Certification Authority License.

Any person applying or renewing to be licensed as a certification authority must file an application pursuant to this chapter demonstrating compliance with the requirements of the Utah Digital Signature Act (U.C.A. Section 46-2-101, et al). To apply for a license or renewal, an applicant must submit in writing (in light of the Utah Digital Signature Act, documents submitted electronically and digitally signed are considered written) all of the following to the Utah Digital Signature Program, Division of Corporations and Commercial Code, Utah Department of Commerce, 160 East 300 South, Box 146705, Salt Lake City, Utah 84114-6705, or E-mail: DigSig@state.ut.us:

- (1) The name of the applicant;
(2) The distinguished name of the applicant, in accordance with Utah Administrative Code R154-10-101(1);
(3) The mailing and physical business address of the applicant;
(4) The telephone number of the applicant and the facsimile transmission machine;
(5) The electronic mail address of the applicant;
(6) The name and address of the applicant's Utah registered agent for service of process and documentation certifying acceptance as applicant's registered agent;
(7) A certificate issued by a licensed certification authority that shows the applicant as subscriber and is published in a recognized repository, pursuant U.C.A. Section 46-2-201(1)(a).
(8) A written acknowledgment certifying that all the operative personnel employed by the applicant have undergone a criminal background check demonstrating that they have not been convicted of a felony or a crime involving fraud, false statement, or deception within the past fifteen years, pursuant to U.C.A. Section 46-2-201(1)(b) and Utah Administrative Code R154-10-107;
(9) A written acknowledgment certifying that all the operative personnel employed by the applicant have demonstrated knowledge and proficiency in the requirements of the Utah Digital Signature

Act and Administrative Rules, pursuant to U.C.A. Section 46-2-201(1)(c) and Utah Administrative Code R154-10-107;

(10) A filing fee of five hundred dollars (\$500.00), pursuant to Utah Administrative Code R154-10-102;

(11) A suitable guarantee in the amount of seventy-five thousand dollars (\$75,000.00), pursuant to Utah Administrative Code R154-10-201, unless the applicant is the governor, a department or division of state government, the attorney general, state auditor, state treasurer, the judicial council, a city, a county, or the Legislature or its staff office;

(12) A written acknowledgment certifying that the applicant has working capital reasonably sufficient to conduct business for a period of at least one year and no less than ten thousand dollars (\$10,000.00) in working capital, pursuant to Utah Administrative Code R154-10-203;

(13) Documentation in the form of an information systems audit report from a qualified, independent third-party information systems auditor establishing that the applicant has the right to use a trustworthy system as defined by Utah Administrative Code R154-10-106, including a secure means for controlling usage of its private key. The information systems audit report is not required to establish anything more than that the applicant has the use of a trustworthy system and is signed by the information systems auditor;

(14) The applicant's written certification practice statement, its location in the form of a Universal Resource Locator, and method or procedure by which it may be retrieved, in accordance with Utah Administrative Code R154-10-302; and

(15) The current public key(s) of the applicant on a floppy disk, in addition to an electronic document digitally signed by the applicant, by which its digital signature(s) may be verified.

R154-10-104. Issuance of License or Renewal.

(1) The division shall, within a reasonable time, issue or renew a license as a certification authority if the applicant has:

(a) complied with and submitted all documentation and fees required by Utah Administrative Code R154-10-103; and

(b) the division has determined that the applicant meets all requirements for licensure pursuant to U.C.A. Section 46-3-201.

(2) Issuance or renewal of a license shall be valid for a period of one year.

(3) The division shall not provide a notice of expiration of the certification authority license. It is the applicant's responsibility to renew their license within 30 days prior to the expiration of their license.

(4) Failure to receive a notice of the need to renew a license is an insufficient reason for failing to file the required application for renewal.

(5) If any of the information presented on the application changes, the certification authority has ten days to submit information to the division to update its record. There is no fee for the amendment.

R154-10-105. Revocation or Suspension of Certification Authority License.

(1) The Division may revoke or suspend a license, pursuant to U.C.A. Section 46-3-201(4)(a), for failure to comply with any

requirement of chapter 3, title 46, entitled, Utah Digital Signature Act or this chapter, for failure to remain qualified for a license pursuant to chapter 3, title 46, or this chapter, or for failure to comply with a lawful order of the division pursuant to U.C.A. Section 46-3-203(2).

(2) The division shall inform a licensed certification authority by written order, by mail directed to the mailing address or electronic mail address listed on the licensee's application, of a decision to revoke or suspend the license. The notification shall state when the revocation or suspension shall be effective, which shall not be less than 30 days following the issuance of the order.

R154-10-106. Trustworthy System.

A system shall be regarded as trustworthy if it materially satisfies the most current adopted version of Common Criteria (CC) Protection Profile (PP) for Commercial Security 2 (CS2), (CCPPCS), developed by the National Institute of Standards and Technology (NIST). The determination of whether a departure from CCPPCS is material shall be governed by Utah Administrative Code R154-10-403. For purposes of this chapter, CCPPCS shall be interpreted in a manner that is reasonable in the context in which a system is used and is consistent with other state and federal laws. Until such time as the referenced standard is adopted by NIST, the standard applicable for purposes of this rule shall be the most current draft of CCPPCS.

R154-10-107. Certification of Operative Personnel.

The certification authority shall be responsible for determining whether an individual employed or acting as operative personnel qualifies to act as operative personnel. The determination must be made after a criminal background check of the individual and based on the individual's knowledge of chapter 3, title 46, entitled, Utah Digital Signature Act, this chapter and other information pertinent to asymmetric cryptosystems. The steps that a certification authority takes to assess an individual's qualification to be employed as operative personnel must be disclosed in the certification practice statement.

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R154-10-203. Certification Authority Proof of Sufficient Working Capital.

A certification authority, upon filing an application for a license or renewal, shall provide the division with a written acknowledgment stating the following:

(1) that the certification authority has working capital reasonably sufficient to conduct business as a certification authority for a period of one year; and

(2) that the certification authority has no less than [~~\$5,000.00~~]\$10,000.00 in working capital.

R154-10-204. Recovery Against Suitable Guaranty.

(1) To recover a qualified right to payment against a surety or issuer of a suitable guaranty, pursuant to U.C.A. Section 46-3-310, the claimant must:

(a) File a signed notice of the claim with the division stating the name and address of the claimant, the amount claimed, the grounds for the qualified right to payment, the date of the occurrence of the violation forming the basis of the claim; and

(b) Append to the notice a certified copy of the judgment on which the qualified right to payment is based, except as provided in paragraph (2) of this section.

(2) If the notice pursuant to paragraph (1)(a) of this section is filed prior to entry of judgment, the division shall hold such notice on file, without further action, until the claimant files a copy of the judgment. If the division determines that the litigation identified in the notice has been finally resolved without a judgment providing the claimant with a qualified right to payment, the division may expunge the notice from their records. The division shall not expunge a notice until two years have elapsed since it was first filed.

(3) The division shall reject a notice for filing if the date of the occurrence of the violation is more than two years prior to the filing of the notice.

(4) If a notice and judgment are filed pursuant to paragraph (1) of this section, the division shall provide the notice and judgment to the surety or issuer.

R154-10-301. Certificate Content and Form.

(1) A certificate[~~other than a transactional certificate;~~] issued by a licensed certification authority shall contain or incorporate by reference:

- (a) an indication that the form and type of the certificate is in accordance with this rule;
- (b) an indication that the certification authority issuing the certificate is licensed by this state;
- (c) the serial number of the certificate, which must be unique among the certificates issued by the certification authority;
- (d) the name by which the subscriber is generally known;
- (e) the distinguished name of the subscriber;
- (f) a public key corresponding to a private key held by the subscriber;
- (g) an identifier of the algorithms with which the subscriber's public key was intended to be used;
- (h) the date and time on which the certificate was both issued and accepted;
- (i) the date and time on which the certificate expires;
- (j) the distinguished name of the certification authority issuing the certificate;
- (k) an identifier of the algorithm(s) used to sign the certificate, in the form generally accepted in the subscriber's industry;
- (l) the recommended reliance limit for the certificate;
- (m) either the distinguished name of one or more repositories designated for publication of notice of revocation or suspension, or a specification of the method by which notice of revocation or suspension is to be given pursuant to Subsections 46-3-306(3) and 46-3-307(5);
- (n) if a primary certification practice statement applies to the certificate, an indication of its location, the method or procedure by which it may be retrieved, its form and structure, its authorship, and its date as prescribed in Section R154-10-302.

(2) A transactional certificate shall substantially comply with these requirements, and may include additional data.

(3) A certificate issued by a licensed certification authority may, at the option of the subscriber and certification authority, contain or incorporate by reference additional information as determined by the licensed certification authority.

(4) The data in a certificate shall be specified in the form generally accepted for the transactions for which the subscriber expects that the certificate will be used. Further, unless another form is generally accepted for such transactions:

(a) the certificate shall be in the form specified by standard X.509v.3 of the International Telecommunication Union.

(5) The contents of the certificate shall be in a form and method specified by the Division.

.....

R154-10-401. Recognition of Repositories.

(1) For a repository to be recognized as provided in Section 46-3-501, the licensed certification authority operating the repository shall file with the Division a request which:

(a) states the full name, postal mailing address, address for service of process, physical location of hardware containing the repository, telephone number, electronic mail address, and distinguished name of the person or entity filing the application;

(b) states the full name, address, telephone number, electronic mail address, and distinguished name of the licensed certification authority under whose direction the repository is operated;

(c) describes in detail, noting compliance with any applicable technical standards:

(i) the design and implementation of the repository's trustworthy system;

(ii) the contents of the repository;

(iii) all form requirements applicable to contents of the repository;

(iv) the criteria for determining who may publish information in the repository;

(v) procedures for processing newly published certificates and notices of suspension and revocation;

(vi) processes to account for usage of the repository and access to the information published in it; and

(vii) fees to be charged, if any for access to certification authority disclosure records and orders or advisory statements issued by the Division, if recognition is granted.

(d) promises, if recognition is granted, to effect prompt publication of:

(i) all certification authority disclosure records published in the repository by the Division;

(ii) all updates or cancellations of existing certification authority disclosure records published in the repository by the Division;

(iii) all orders or advisory statements published in the repository by the Division.

(e) includes a copy of all applicable certification practice statements of the repository and the repository's archival policy. However, nothing in this section requires a repository to disclose trade secrets or information that could adversely affect the security of the trustworthy system[-];

(f) acknowledges that the licensed certification authority operating the repository has and will continuously maintain in this state:

(i) an office or a registered agent who is either an individual resident in this state, a domestic corporation, or a foreign corporation authorized to transact business in this state; and

(ii) a custodian of the data and records of the repository (regardless of whether the hardware containing the repository is located outside of the State of Utah), upon whom any process, notice, or demand required or permitted by law may be served. The custodian of the records may be the same person or entity as the registered agent.

(g) states the full name, address, telephone number, electronic mail address and address for service of process of the agent and the custodian referred to in the preceding subsection;

(h) acknowledges that the licensed certification authority operating the repository submits the repository data to all lawful process, notice, demand, and orders issued by the State of Utah and its political subdivisions;

(i) the licensed certification authority operating the repository shall promptly notify the Division of any changes in the information required by this rule[-]; and

(j) includes an annual filing fee of \$250.00.

(2) The Division will proceed in the manner provided for formal adjudicative proceedings in the Utah Administrative Procedures Act, title 63, chapter 46b, to review the request for recognition and the evidence supporting it, unless:

(a) the request is to renew recognition;

(b) the request is filed within three months of the date on which recognition is scheduled to expire; and

(c) the Division determines in light of the repository's prior record of service and performance that a hearing is not necessary.

(3) The Division hereby delegates to each recognized repository all privileges held by the Division at common law with respect to the publication of certification authority disclosure records and the orders or advisory statements of the Division.

.....

R154-10-403. Performance Audit.

(1) A licensed certification authority shall obtain a performance audit at least once every year pursuant to U.C.A. Section 46-3-202. The qualified auditor shall issue an opinion evaluating the degree to which the certification authority conforms to the requirements of this chapter and of chapter 3, title 46, entitled, Utah Digital Signature Act. If the certification authority is also a recognized repository, the audit must include the repository.

(2) For purposes of the opinion required by this section, the qualified auditor shall exercise reasonable professional judgment as to whether a condition that does not strictly comply with legal requirements is or is not material, taking into consideration the circumstances and context. Noncompliance as to any of the following shall be deemed material, in addition to any others the qualified auditor may judge to be material:

(a) any condition of noncompliance with statute or rule that relates to the validity of a certificate;

(b) any employee performing the functions of operative personnel who has not qualified pursuant to U.C.A. section 46-3-201(1)(c); or

(c) any material indication that the certification authority has used any system other than a trustworthy system.

(3) An audit may be performed by a qualified auditor pursuant to Utah Administrative Code R154-10-402. Any qualified auditor, or group of qualified auditors, performing an audit pursuant to this section shall include at least one individual who has been issued a

current and valid certificate as either a Certified Information Systems Auditor, by the Information Systems Audit and Control Foundation, or as a Certified Information Systems Security Professional, by the International Information Systems Security Certification Consortium. The names of all individuals possessing such certificates shall be disclosed in the audit report, or in a cover letter accompanying that report.

(4) The certification authority shall file a copy of the performance audit report with the Division, 30 days prior to the date the certification authority must renew its license pursuant to Utah Administrative Code R154-10-104. At the certification authority's option, it shall be sufficient to file a portion of the report if that report summarizes all audit exceptions and conditions of noncompliance (including, but not limited to, those stated in paragraph (2) of this section) stated in the full report, and bears the auditor's signature. The report may be filed electronically, if it is validly digitally signed by the auditor, using a licensed certification authority. The Division shall publish the report, or summary, in the certification authority disclosure record it maintains for the certification authority.

R154-10-404. Recognition of Foreign Licenses.

(1) A certification authority licensed as such by a governmental entity other than the State of Utah, may act as a licensed certification authority in Utah only if, in addition to meeting any other requirements established by law for the transaction of business, it either:

(a) obtains a license as a certification authority from the Division; or

(b) provides to the Division a certified copy of a license issued by a governmental entity whose licensing or authorization requirements the Division has found to be substantially similar to those of Utah, together with the fee required by Utah Administrative Code R154-10-102. A license recognized under this subsection shall be valid in Utah only during the time it is valid in the issuing jurisdiction.

(2) The Division may certify that the requirements of another jurisdiction are substantially similar to those of Utah if, in order to obtain a license, the controlling law of the other jurisdiction requires that a licensed certification authority:

(a) issues certificates based upon a system of public key cryptography using a trustworthy system;

(b) provides for a suitable guaranty in an amount of at least \$25,000;

(c) employs as operative personnel only individuals who have demonstrated knowledge and proficiency in the requirements of the law regarding digital signatures, and who are free of felony criminal conviction for a minimum of fifteen years; and

(d) is subject to a legally established system of enforcement of licensure requirements.

(3) The Division shall make available upon request, a list of those jurisdictions which the Division has certified pursuant to paragraph (2) of this section. If a jurisdiction is not included in the list, the Division shall consider whether certification of such jurisdiction should be added, upon request of either the jurisdiction or a certification authority licensed by that jurisdiction and upon receipt of an English language copy of the applicable laws and regulations of that jurisdiction.

R154-10-405. Revocation of Recognition of a Repository.

(1) This rule describes the Division's procedure for revoking the recognition of a repository, without also revoking the license of the certification authority that operates the repository. Because a valid license as a certification authority is a statutory requirement for recognition of a repository, the Division shall automatically revoke the recognition of any repository operated by a certification authority whose license is revoked, expired, or otherwise inoperative.

(2) The Division may revoke recognition of a repository, pursuant to U.C.A. Section 46-3-501(4), for failure to comply with any requirement for recognition of a repository pursuant to Utah Administrative Code R154-10-401, or for failure to comply with a lawful order of the Division.

(3) The Division shall inform a licensed certification authority that operates a recognized repository by written order, by mail directed to the mailing address listed on the licensee's application, of a decision to revoke recognition of the repository. The notification shall state when the revocation shall be effective, which shall not be less than 30 days following the issuance of the order.

(4) If the certification authority files an application for an adjudicative hearing, pursuant to Title 63, Chapter 46b, entitled Administrative Procedures Act, prior to the effective date of revocation, the revocation shall not take effect until so ordered by the presiding officer.

R154-10-406. Procedure upon discontinuance of business as a Recognized Repository.

A licensed certification authority that discontinues providing services as a recognized repository shall notify the Division of its discontinuance at least 30 days before discontinuance pursuant to U.C.A. Section 46-3-501(3), and republish the records published in their repository into another recognized repository.

R154-10-407. Renewal of Recognition of a Repository.

(1) The Division shall, within a reasonable time, renew a request for recognition of a repository from a licensed certification authority if the applicant has:

(a) complied with and submitted all documentation and fees required by Utah Administrative Code R154-10-401; and

(b) the Division has determined that the applicant meets all requirements for recognition pursuant to U.C.A. Section 46-3-501.

(2) Renewal for recognition of a repository shall be valid for a period of one year.

(3) The Division shall not provide a notice of expiration of recognition as a repository. It is the applicant's responsibility to renew their recognition as a repository within 30 days prior to the expiration of the recognition.

(4) Failure to receive a notice of the need to renew a recognition of a repository is an insufficient reason for failing to file the required application for renewal.

(5) If any of the information presented on the application changes, the certification authority has ten days to submit information to the Division to update its record. There is no fee for the amendment.

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KEY: commerce, electronic commerce, digital signature
[November 1, 1997]1998 **46-3-102(4)**



Commerce, Occupational and Professional Licensing
R156-17a
Pharmacy Practice Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21555
FILED: 10/15/1998, 14:33
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes needed to be made with respect to jurisprudence examinations due to a new national examination and to update an incorporation by reference document.

SUMMARY OF THE RULE OR CHANGE: Deleted the requirement for pharmacists applying for licensure to take the Federal Drug Law Examination (FDLE) and the Utah Pharmacy Jurisprudence Examination. Added the requirement for pharmacists to take the Multistate Pharmacy Jurisprudence Examination with a minimum passing score of 75. Updated the 1995 United States Pharmacopeia/National Formulary (USP/NF) through Supplement 9, dated November 15, 1998.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-17a-101 and 58-37-1, and Subsections 58-1-106(1) and 58-1-202(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 1995 edition of USP/NF to include through Supplement 9, dated November 15, 1998

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There is no cost or savings impact to the state budget because test administration including registration and score reporting is outsourced to NAI Block.

❖**LOCAL GOVERNMENTS:** Rule changes do not affect local governments; therefore, no costs or savings are anticipated.

❖**OTHER PERSONS:** There is a savings of approximately \$50 to the pharmacist applicant by combining the two examinations. This action also facilitates mobility of licensees since the FDLE was only required in 13 of the 50 states. Also, no additional costs will be incurred by updating the USP/NF as the supplements are included in yearly subscription renewal fees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a savings of approximately \$50 to the pharmacist applicant by combining the two examinations. Also, no additional costs will be incurred by updating the USP/NF as the supplements are included in yearly subscription renewal fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule change is to eliminate the two law examinations now required for license candidates and substitute a single multi-state jurisprudence examination. Since testing is outsourced there would be no impact upon the state budget, and there would continue to be no impact on local governments. In addition to the time saved by applicants needing to study and take only one jurisprudence examination, there will be a savings of approximately \$50 per license candidate from the combining of the two law examinations. Another benefit to prospective licensees is the wider national acceptance of the proposed examination among licensing bodies in other states which will assist licensees with license portability to other jurisdictions--Douglas C. Borba, Executive Director.

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

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Karen Reimherr at the above address, by phone at (801) 530-6767, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.kreimher@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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-17a. Pharmacy Practice Act Rules.

R156-17a-302. Qualifications for Licensure - Pharmacist - Examinations.

In accordance with Subsection 58-17a-302(1)(e), the examinations which must be successfully passed by applicants for licensure as a pharmacist are:

- (1) the NAPLEX with a passing score as established by the NABP;
- (2) ~~[the FDLE with a passing score as established by the NABP; and~~
- ~~—(3) the Utah Pharmacy Jurisprudence Examination with a passing score of at least 75]~~the Multistate Pharmacy Jurisprudence Examination with a minimum passing score of 75.

R156-17a-612. Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah.

In accordance with Subsection 58-17a-601(1), the operating standards for pharmaceutical wholesaler/distributor and pharmaceutical manufacturer licensee includes the following:

(1) A separate license shall be obtained for each separate location engaged in the distribution or manufacturing of prescription drugs.

(2) A separate license shall be obtained for wholesale distribution activity and manufacturing activity.

(3) The licensee need not be under the supervision of a licensed pharmacist, but shall be under the supervision of a responsible officer or management employee.

(4) There has not been established minimum requirements for persons employed by persons engaged in the distribution or manufacture of prescription drugs; however, this does not relieve the person who engages in the distribution of prescription drugs within the state or in interstate commerce into or from the state, or those engaged in the manufacture of prescription drugs in the state or in interstate commerce into or from the state from ensuring that persons employed by them have appropriate education, experience, or both to engage in the duties to which they are assigned and do so in a manner which does not jeopardize the public health, safety or welfare.

(5) All facilities associated with the distribution or manufacture of prescription drugs shall:

(a) be of suitable size and construction to facilitate cleaning, maintenance and proper operations;

(b) have storage areas designed to provide adequate lighting, ventilation, sanitation, space, equipment and security conditions;

(c) have the ability to control temperature and humidity within tolerances required by all prescription drugs and prescription drug precursors handled or used in the distribution or manufacturing activities of the applicant or licensee;

(d) provide for a quarantine area for storage of prescription drugs and prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated, opened or unsealed containers that have once been appropriately sealed or closed, or in any other way unsuitable for use or entry into distribution or manufacture;

(e) be maintained in a clean and orderly condition, and

(f) be free from infestation by insects, rodents, birds, or vermin of any kind.

(6) In regard to security, all facilities used for wholesale drug distribution or manufacturing of prescription drugs shall:

(a) be secure from unauthorized entry;

(b) limit access from the outside to a minimum in conformance with local building and life/safety codes, and control access of persons to ensure unauthorized entry is not made;

(c) limit entry into areas where prescription drugs or prescription drug precursors are held to authorized persons who have a need to be in those areas;

(d) be well lighted on the outside perimeter;

(e) be equipped with an alarm system to permit detection of entry and notification to appropriate authorities at all times when the facility is not occupied for the purpose of engaging in distribution or manufacture of prescription drugs; and

(f) be equipped with security measures, systems and procedures necessary to provide reasonable security against theft and diversion of prescription drugs or alteration or tampering with computers and records pertaining to prescription drugs or prescription drug precursors.

(7) In regard to storage, all facilities shall provide for storage of prescription drugs and prescription drug precursors in accordance with the following:

(a) all prescription drugs and prescription drug precursors shall be stored at appropriate temperature, humidity and other conditions in accordance with labeling of such prescription drugs or prescription drug precursors or with requirements in the United States Pharmacopeia/National Formulary (USP/NF), 1995 edition, through Supplement [7]2, dated November 15, [~~1997~~]1998, which is hereby incorporated by reference;

(b) if no storage requirements are established for a specific prescription drug or prescription drug precursor, the products shall be held in a condition of controlled temperature and humidity as defined in the USP/NF to ensure that its identity, strength, quality, and purity are not adversely affected; and

(c) there shall be established a system of manual, electromechanical or electronic recording of temperature and humidity in the areas in which prescription drugs or prescription drug precursors are held to permit review of the record and ensure that the products have not been subjected to conditions which are outside of established limits.

(8) In regard to examination of materials, each facility shall provide that:

(a) upon receipt, each outside shipping container containing prescription drugs or prescription drug precursors shall be visually examined for identity and to prevent the acceptance of prescription drugs or prescription drug precursors that are contaminated, reveal damage to the containers or are otherwise unfit for distribution; and

(b) each outgoing shipment shall be carefully inspected for identity of the prescription drug products and to ensure that there is no delivery of prescription drugs that have been damaged in storage or held under improper conditions.

(9) In regard to returned, damaged, and outdated prescription drugs, each facility shall provide that:

(a) prescription drugs or prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated, or in any other way unfit for distribution or use in manufacturing shall be quarantined and physically separated from other prescription drugs or prescription drug precursors until they are appropriately destroyed or returned to their supplier;

(b) any prescription drug or prescription drug precursor whose immediate sealed or outer secondary sealed container has been opened or in any other way breached shall be identified as such and shall be quarantined and physically separated from other prescription drugs and prescription drug precursors until they are appropriately destroyed or returned to their supplier; and

(c) if the condition or circumstances surrounding the return of any prescription drug or prescription drug precursor cast any doubt on the product's safety, identity, strength, quality, or purity, then the drug shall be appropriately destroyed or returned to the supplier,

unless examination, testing, or other investigation proves that the product meets appropriate and applicable standards related to the product's safety, identity, strength, quality, and purity.

(10) In regard to record keeping, pharmaceutical wholesaler/distributors and pharmaceutical manufacturers shall establish and maintain records of all transactions regarding the receipt and distribution or other disposition of prescription drugs and prescription drug precursors and shall make inventories of prescription drugs and prescription drug precursors and required records available for inspection by authorized representatives of the federal, state and local law enforcement agencies in accordance with the following:

(a) there shall be a record of the source of the prescription drugs or prescription drug precursors to include the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped;

(b) there shall be a record of the identity and quantity of the prescription drug or prescription drug precursor received, manufactured, distributed or shipped, or otherwise disposed of by specific product and strength;

(c) there shall be a record of the dates of receipt and distribution or other disposal of any product;

(d) there shall be a record of the identity of persons to whom distribution is made to include name and principal address of the receiver, and the address of the location to which the products were shipped;

(e) inventories of prescription drugs and prescription drug precursors shall be made available during regular business hours to authorized representatives of federal, state and local law enforcement authorities;

(f) required records shall be made available for inspection during regular business hours to authorized representatives of federal, state and local law enforcement authorities, and such records shall be maintained for a period of two years following disposition of the products; and

(g) records that are maintained on site or immediately retrievable from computer or other electronic means shall be made readily available for authorized inspection during the retention period; or if records are stored at another location, they shall be made available within two working days after request by an authorized law enforcement authority during the two year period of retention.

(11) In regard to written policies and procedures, pharmaceutical wholesaler/distributors and pharmaceutical manufacturers shall establish, maintain, and adhere to written policies and procedures which shall be followed for the receipt, security, storage, inventory, manufacture, distribution or other disposal of prescription drugs or prescription drug precursors, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. In addition, the policies shall include the following:

(a) a procedure whereby the oldest approved stock of a prescription drug or precursor product is distributed or used first, with a provision for deviation from the requirement if such deviation is temporary and appropriate;

(b) a procedure to be followed for handling recalls and withdrawals of prescription drugs adequate to deal with recalls and withdrawals due to:

(i) any action initiated at the request of the Food and Drug Administration of other federal, state or local law enforcement or other authorized administrative or regulatory agency;

(ii) any voluntary action by the pharmaceutical wholesaler/distributor or pharmaceutical manufacturer to remove defective or potentially defective drugs from the market; or

(iii) any action undertaken to promote public health, safety or welfare by replacing of existing product with an improved product or new package design;

(c) a procedure to ensure that a pharmaceutical wholesaler/distributor or pharmaceutical manufacturer prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state or national emergency;

(d) a procedure to ensure that any outdated prescription drugs or prescription drug precursors shall be segregated from other drugs or precursors and either returned to the manufacturer, other appropriate party or appropriately destroyed;

(e) a procedure providing for documentation of the disposition of outdated, adulterated or otherwise unsafe prescription drugs or prescription drug precursors and the maintenance of that documentation available for inspection by authorized federal, state, or local authorities for a period of two years after disposition of the product.

(12) In regard to responsible persons, pharmaceutical wholesaler/distributors and pharmaceutical manufacturers shall establish, maintain and make available for inspection by authorized federal, state and local law enforcement authorities, lists of all officers, directors, managers, and other persons in charge of wholesale drug distribution, manufacture, storage, and handling, which lists shall include a description of their duties and a summary of their background and qualifications.

(13) In regard to compliance with law, pharmaceutical wholesalers/distributors and pharmaceutical manufacturers shall:

(a) operate in compliance with applicable federal, state and local laws and regulations;

(b) permit the state licensing authority and authorized federal, state, and local law enforcement officials, upon presentation of proper credentials, to enter and inspect their premises and delivery vehicles, and to audit their records and written operating policies and procedures, at reasonable times and in a reasonable manner, to the extent authorized by law; and

(c) obtain a controlled substance license from the division and register with the Drug Enforcement Administration (DEA) if they engage in distribution or manufacture of controlled substances, and shall comply with all federal, state and local regulations applicable to the distribution or manufacture of controlled substances.

(14) In regard to salvaging and processing, pharmaceutical wholesalers/distributors and pharmaceutical manufacturers shall be subject to and shall abide by applicable federal, state and local laws that relate to the salvaging or reprocessing of prescription drug products.

KEY: pharmacists, licensing, pharmacies*
[February 24, 1998]

58-17a-101
58-37-1
58-1-106(1)
58-1-202(1)



Commerce, Occupational and Professional Licensing

R156-55b

Electricians Licensing Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21542

FILED: 10/15/1998, 10:10

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: After Division and Board review, changes are being made in the rule to delete unnecessary sections of information that are already in the statute (Title 58, Chapter 55) and to simplify the rule overall.

SUMMARY OF THE RULE OR CHANGE: Updated the National Electrical Code to the 1996 edition. Deleted the following definitions: "apprentice in the fourth year of training," "practical experience," "satisfactory evidence," and "training." Added definitions for the following: "In or out of the immediate presence of the supervising person," "residential project," and "unprofessional conduct." Deleted section regarding application requirements as the information is already contained in Subsections 58-55-302(3)(c) through 58-55-302(3)(g). Examination requirements section was entirely rewritten. Added names of examinations required for electricians for licensing. Minimum passing score remains at 70% for each section of each examination. Updated education requirements section. Experience requirements section was renamed "Work Experience." The entire section was rewritten and simplified. Added a new section regarding renewal cycle and procedures. Added a new section requiring 16 hours of continuing education every two years as a condition of renewal or reinstatement for all classifications of electricians. A minimum of eight hours shall be on the current (1996) edition of the National Electrical Code. Added a new section regarding scope of practice. Information contained in this section was in other sections which are being deleted. Section contains it is the responsibility of an electrician to insure that work installed by himself or an apprentice under his supervision is properly installed and information regarding the supervision of apprentices. Added an unprofessional conduct section. It provides that failure of a licensee to carry a copy of their current license at all times when performing electrical work is considered unprofessional conduct. The following sections were deleted in their entirety: "Unlawful Conduct," "Apprenticeship Program Approval," "Responsibility," "Supervision of Apprentice Electricians," and "Display of License."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-55-308(1), 58-1-106(1), and 58-1-202(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 1996 edition of the National Electrical Code

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Any costs to the Division of random audits that will be done on electricians to verify completion of the continuing education hours will be absorbed within its current budget. No other costs or savings are anticipated to other state agencies unless a state agency determines that they want to pay for continuing education hours for licensed electricians that are employed by the state.

❖LOCAL GOVERNMENTS: No costs or savings are anticipated for local governments unless a local government determines that they want to pay for continuing education hours for licensed electricians that are employed by their jurisdiction.

❖OTHER PERSONS: Estimated costs of \$50 to \$200 per electrician licensee per licensing cycle (2 years) to obtain required 16 hours of continuing education. Aggregate impact would be \$190,000 to \$760,000 per year based on \$50 to \$200 multiplied by 7,600 licensed electricians.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost to electrician licensees of \$50 to \$200 per licensee per licensing cycle (2 years) to obtain 16 hours of continuing education hours.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of the amendments to the Electricians Licensing Rules is to consolidate and simplify the rules. The only new requirement imposed by these rules will be a requirement for licensees to obtain 16 hours of continuing education during each two year licensing cycle which will result in an expenditure of \$50 to \$200 per licensee per licensing cycle. There are approximately 7,600 licensed electricians in the state of Utah so the aggregate impact of the rule amendment to those practicing the occupation will be approximately \$190,000 to \$760,000 per year. There will be no impact upon the state budget or that of local governments as a result of the amendment to the licensing rules--Scott Dansie, Acting Executive Director

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

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jud Weiler at the above address, by phone at (801) 530-6731, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.jweiler @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 12/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 11/19/1998, 9:00 a.m., Conference

Room 4A (Fourth Floor), 160 East 300 South, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-55b. Electricians Licensing Rules.

R156-55b-101. Title.

These rules ~~are~~ shall be known as the "Electricians Licensing Rules".

R156-55b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapter ~~[s 1 and]~~ 55 or these rules:

(~~2~~)1 "Electrical work" as used in Subsection 58-55-102(8)(a) and in these rules means installation, fabrication or assembly of equipment or systems included in "Premises Wiring" as defined in the [~~1993~~]1996 edition of the National Electrical Code, which is hereby adopted and incorporated by reference. Electrical work includes installation of raceway systems used for any electrical purpose, and installation of field-assembled systems such as ice and snow melting, pipe-tracing, manufactured wiring systems, and the like. Electrical work does not include installation of factory-assembled appliances or machinery that are not part of the premises wiring unless wiring interconnections external to the equipment are required in the field, and does not include cable-type wiring that does not pose a hazard from a shock or fire initiation standpoint as defined in the National Electrical Code. Wiring covered by the National Electrical Code that does not pose a hazard as described above includes Class 2 wiring as defined in Article 725, Power-Limited circuits as defined in Article 760 and wiring methods covered by Chapter 8. Other wiring, including wiring under 50 volts is subject to licensing requirements.

~~—(1) "Apprentice in the fourth year of training" as used in Subsection 58-55-302(3)(f)(i) means a licensed apprentice who has completed three years of training in an approved apprenticeship program. An apprentice shall not be considered to be a fourth year apprentice for more than three years after completing three years of training. Apprentices who have been apprentices for more than three years after completing three years of training shall be supervised according to the rules for first, second or third year apprentices.]~~

(2) "In or out of the immediate presence of the supervising person" as used in Subsection 58-55-102(14) means that the apprentice and the supervising electrician may or may not be within sight of one another, but will still be physically present on the same project or jobsite.

(3) "Minor electrical work incidental to a mechanical or service installation" as used in Subsection 58-55-305(~~13~~)14) means the electrical work involved in installation, replacement or repair of appliances or machinery that utilize electrical power. These installations do not include modification or repair of "Premises Wiring" as defined in the National Electrical Code. Electrical work is minor and incidental only when wiring is extended no more than ten feet in length from an outlet or disconnect provided specifically for the piece of equipment.

[— (4) "Practical experience" as used in Subsections 58-55-302(3)(c), (d) and (e) and in these rules means electrical construction experience while in the employ of or as an electrical contractor. Other forms of experience will be given consideration, but may not receive full credit. It shall be the responsibility of the applicant for credit to establish that the experience for which credit is requested is equivalent to the required electrical construction experience. No credit will be granted for experience gained while in violation of licensing regulations or other local, state or federal laws.

— (5) "Satisfactory evidence" as used in Subsections 58-55-302(3)(c), (d) and (e) means notarized letters or letters on company letterhead from former employers, as well as phone numbers and addresses and the name and title of former employers or appropriate individuals to one contracted to validate applicant's experience. If previous employers are deceased or otherwise unavailable, other forms of documentation may be considered by the board. Satisfactory evidence of related classroom training shall be in the form of an official transcript or certificate of completion from the organization from which the related training was received.

— (6) "Training" as used in Subsections 58-55-302(3)(c) through (f) and in these rules includes "practical experience" as defined in these rules, along with the related classroom instruction required as part of an approved apprenticeship program as defined in these rules.]

(4) "Residential project" as used in Subsection 58-55-302(3)(g)(ii) means electrical work performed in residential dwellings under four stories and will include single family dwellings, apartment complexes, condominium complexes and plated subdivisions.

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-55b-502.

[(7)6] "Work commonly done by unskilled labor" as used in Subsection 58-55-102(8)(b)(iii) means work such as digging, sweeping, hammering, carrying, drilling holes, or other tasks that do not directly involve the installation of raceways, conductors, cables, wiring devices, overcurrent devices, or distribution equipment. Tasks such as handling wire on large wire pulls or assisting in moving heavy electrical equipment may utilize unlicensed persons in accordance with Subsections 58-55-102(8)(b)(i) and (ii) when the task is performed in the immediate presence of and supervised by properly licensed persons. Tasks that are normally performed by the skilled labor of other trades, such as operating heavy equipment, driving, forming and pouring concrete, welding and erecting structural steel shall not be considered part of the electrical trade.

[R156-55b-302a. Qualifications for Licensure - Application Requirements.

— In accordance with Subsections 58-1-203(2) and 58-1-301(3), the application requirements for licensure in Section 58-55-302 are defined, clarified, or established as follows:

— (1) Apprentice electricians:

— (a) All applicants for licensure as an apprentice electrician shall submit an application prescribed by the division and the date upon which the applicant is approved for licensure by the division shall be the beginning date of the apprenticeship or training period:

— (b) Applicants who have commenced an electrical apprentice in another state may request the division and the board to give them

credit for that portion of the apprenticeship or traineeship completed in the other state upon a finding by the division and the board that the program in the other state is equal to the apprenticeship or traineeship program required in the State of Utah.

— (c) The burden for demonstrating equivalency of the out-of-state apprenticeship or traineeship program lies with the applicant. Equivalency may be demonstrated by documentation of the curriculum and training which is required as a part of the program of the other state:

— (2) Master electrician:

— (a) All applicants for licensure as a master electrician shall submit an application prescribed by the division on which is clearly demonstrated the following:

— (i) satisfactory completion of education, experience, or both as required for licensure as a master electrician under the provisions of Subsection 58-55-302(3)(c); and

— (ii) successful completion of the master electricians examination established by the division in collaboration with the board:

— (b) Completion of an apprenticeship and two years experience does not qualify an applicant for the masters examination if the individual does not graduate from an electrical trade school with an associated degree or the equivalent:

— (3) Journeyman electrician:

— (a) All applicants for licensure as a journeyman electrician shall submit an application prescribed by the division on which is clearly demonstrated the following:

— (i) satisfactory completion of an apprenticeship or experience as required for licensure as a journeyman electrician under the provisions of Subsection 58-55-302(3)(d); and

— (ii) successful completion of the journeyman electricians examination established by the division in collaboration with the board:

— (4) Residential journeyman electrician:

— (a) All applicants for licensure as a residential journeyman electrician shall submit an application prescribed by the division on which is clearly demonstrated the following:

— (i) satisfactory completion of traineeship or experience as required for licensure as a residential journeyman electrician under the provisions of Subsection 58-55-302(3)(e); and

— (ii) successful completion of the residential journeyman electricians examination established by the division in collaboration with the board:

— (5) Master residential electrician:

— (a) All applicants for licensure as a master residential electrician shall submit an application prescribed by the division on which is clearly demonstrated the following:

— (i) satisfactory completion of experience as required for licensure as a master residential electrician under the provisions of Subsection 58-55-302(3)(c)(vi); and

— (ii) successful completion of the master residential electrician examination established by the division in collaboration with the board.]

R156-55b-302[d]a. Qualifications for Licensure - Examination Requirements.

[— In accordance with Subsections 58-1-203(2) and 58-1-301(3), the examination requirements for licensure in Section 58-55-302 are defined, clarified, or established as follows:

~~— (1) All applicants for licensure, except those exempted under the provisions of these rules under Subsection R156-55b-302d(8) or Section R156-55b-302e, shall be required to successfully complete an examination according to the following:~~

TABLE	
Exam	Passing Score
a. Theory	70%
b. Code	70%
c. Practical	Pass

~~— (2) Prior to taking an examination, the applicant shall have completed the apprenticeship, traineeship or experience required for licensure under the provisions of Subsection 58-55-302(3):~~

~~— (3) Admission to the examination shall be made by filing an application in accordance with current publications of the division:~~

~~— (4) If an examinee passes any portion of an examination and fails any one or more of the other portions, the examinee need only retake the portion of the examination failed:~~

~~— (5) Examinations will be given monthly or as often as necessary to meet the demand of licensing applications as determined by the division. All applicants will be allowed to take the examinations up to a maximum number of six times within 12 months. Failure to pass all of the portions of the examination in six consecutive examinations shall result in denial of the applicant's application for licensure. An applicant continuing to seek licensure must reapply for licensure by filing a new application with the required fee and may do so only after successfully completing a remedial program of education or experience of up to one year in length as determined by the division and the board:~~

~~— (6) An applicant for a master electrician license shall be exempted from the practical portion of the licensing examination if the applicant documents:~~

~~— (a) satisfactory evidence that they have previously successfully completed the Utah practical examination for a journeyman electrician license; or~~

~~— (b) completion of 6,000 hours of work experience as a licensed journeyman electrician or licensed master electrician.]~~

~~(1) In accordance with Subsection 58-55-302(1)(c)(i), the following examinations, each consisting of a theory section, a code section and a practical section, are approved by the division in collaboration with the board:~~

~~(a) Utah Electrical Licensing Examination for Master Electricians;~~

~~(b) Utah Electrical Licensing Examination for Master Residential Electricians;~~

~~(c) Utah Electrical Licensing Examination for Journeyman Electricians; and~~

~~(d) Utah Electrical Licensing Examination for Residential Journeyman Electricians.~~

~~(2) The minimum passing score for each section of each examination is 70%.~~

~~(3) If an applicant passes any one section of the examination and fails any one or more of the other sections, he is only required to retake the section of the examination failed.~~

R156-55b-302b. Qualifications for Licensure - Education Requirements.

~~[— In accordance with Subsections 58-1-203(2) and 58-1-301(3), the education requirements for licensure in Section 58-55-302 are defined, clarified, or established as follows:~~

~~— (1) An apprentice electrician program to be approved by the division and the board shall consist of both a formal program of classroom related instruction and on-the-job training in accordance with the following:~~

~~— (a) Formal classroom related instruction:~~

~~— (i) The apprentice shall be registered with the Division of Occupational and Professional Licensing:~~

~~— (ii) The classroom related instruction shall be conducted by an approved Local Education Agency (LEA) apprenticeship program or any other program that has been approved by the division. The division with the concurrence of the board shall approve the accreditation of the LEA or any other program and the curriculum for electricians:~~

~~— (iii) The apprentice electrician applying for a journeyman electrician license shall successfully complete 576 clock hours of approved classroom related instruction and accomplish competencies and mastery of related instruction by demonstrations or tests to measure the student's achievement level. Classroom hours may be attributed to the level of competency based on the Division of Occupational and Professional Licensing's determination of how long it requires an individual to master the related training tasks:~~

~~— (iv) The apprentice electrician applying for a residential journeyman electrician license shall complete 288 clock hours of approved classroom related instruction and accomplish competencies and mastery of related instruction by demonstrations or tests to measure the student's achievement level. Classroom hours may be attributed to the level of competency based on the Division of Occupational and Professional Licensing's determination of how long it takes an individual to master the related training tasks:~~

~~— (v) Successful completion of the formal classroom related instruction and on-the-job training shall be evidenced by a competent examination. The apprentice shall receive a passing grade as a condition for completing the apprenticeship:~~

~~— (vi) The completed classroom related instruction for an apprentice electrician shall be considered to be equivalent to 58 quarter hours of instruction in technical subjects directly related to electrical construction including electrical codes, theory, practical methods, equipment, and safety. Credit for previous schooling from a technical school or college approved by the board may be allowed to the extent that it covers the above subject areas. Credit for the schooling may be granted for both classroom time and work experience or for classroom time only as determined by the board.]~~

~~(1) In accordance with Subsection 58-55-302(f)(i), the approved electrical training program for licensure as a residential journeyman electrician consists of:~~

~~(a) a curriculum of electrical study approved by the Utah Board of Regents or other curriculum that is deemed substantially equivalent; and~~

(b) at least two years of work experience as a licensed apprentice consistent with Section R156-55b-302c.

(2) In accordance with Subsection 58-55-302(e)(i), the approved four year planned training program for licensure as a journeyman electrician consists of:

(a) a curriculum of electrical study approved by the Utah Board of Regents or other curriculum that is deemed substantially equivalent; and

(b) at least four years of work experience as a licensed apprentice consistent with Section R156-55b-302c.

(3) In accordance with Subsections 58-55-302(c)(ii) and (iii), an approved course of study for a graduate of an electrical trade school is a curriculum of electrical study approved by the Utah Board of Regents or other curriculum that is deemed substantially equivalent.

(4) It shall be the responsibility of the applicant to provide adequate documentation to establish equivalency.

(5) In accordance with Subsection 58-55-302(c)(i), an approved college or university shall be accredited by the Engineering Accreditation Commission/Accreditation Board for Engineering and Technology or the Canadian Engineering Accrediting Board.

R156-55b-302c. Qualifications for Licensure - Work Experience[Requirements].

[In accordance with Subsections 58-1-203(2) and 58-1-301(3), the experience requirements for licensure in Section 58-55-302 are defined, clarified, or established as follows:

- (1) On-the-Job Training
 - (a) Training shall be provided under the direct supervision of a licensed journeyman electrician or a licensed master electrician.
 - (b) Training for an apprentice electrician applying for a journeyman electrical license shall not be less than 8,000 clock hours of supervised work experience, and the sponsor will recommend the apprentice for journeyman status based on demonstrated competency and mastery of the trade in accordance with requirements established by the board.
 - (c) Training for an apprentice electrician applying for a residential journeyman electrician license shall not be less than 4,000 clock hours of supervised work experience and the sponsor will recommend the apprentice for journeyman status based on demonstrated competency and mastery of the trade in accordance with requirements established by the board.
 - (d) Competencies and mastery of on-the-job training can be accomplished by demonstrations or tests to measure the apprentice's achievement level. On-the-job training hours may be attributed to the level of competency based on the determination of the board.
 - (e) All on-the-job training shall be under circumstances in which the ratio of apprentices to supervisors is in accordance with a ratio of one-to-one on non-residential work and up to three apprentices to one supervisor on residential projects.
- (2) Practical experience qualifying one for licensure to be approved by the division and the board shall be provided with on-the-job training substantially equivalent to one of the following:

TABLE Work Experience	
Work Process	Approximate Hours
RESIDENTIAL wiring of residences, duplexes, small apartment buildings and necessary shop work and preparation	500
COMMERCIAL wiring of public commercial, school and hospital buildings; the installation and repair of all equipment therein; and necessary shop work and preparation	3,500
INDUSTRIAL wiring of all industrial buildings and equipment; the maintenance, repair, and alteration of the same; and the necessary shop work and preparation	3,000
SPECIALIZED SYSTEMS wiring of systems which include: sound, data transmission, telephone, fire alarm, fiber optics, energy management, closed circuit television, programmable controllers, and nurse call systems	1,000
TOTAL HOURS	8,000

OR the work experience shall be provided with on-the-job training in the following categories and approximate amounts:

TABLE Work Experience	
Work Process	Approximate Hours
RESIDENTIAL INSTALLATIONS Rigid conduit and EMT (thin wall); flexible conduit and cable; connecting and testing; service and distribution; signal systems	1,100
RESIDENTIAL MAINTENANCE AND REPAIR Adding circuits; trouble-shooting; signal systems	1,400
COMMERCIAL INSTALLATIONS Exposed rigid conduit and EMT; concealed rigid conduit and EMT; surface raceways; wire and cables; wiring devices; fixtures; panelboards; etc.	1,900
INDUSTRIAL INSTALLATION AND CONNECTIONS Conductors; distribution panels; switchboards	1,200
MAINTENANCE AND REPAIR Industrial and commercial	1,400
SPECIALIZED WORK Temperature and refrigeration controls; specialized fixtures and welding; automatic controls; signal systems; grounding	1,000
TOTAL HOURS	8,000

OR the work experience shall be provided with on-the-job training in the following categories and approximate percentages:

TABLE	
Work Experience	
Work Process	Approximate Percentages
RACEWAYS, BOXES AND FITTINGS, WIRE AND CABLE - Conduit, wireways, cableways and other raceways and associated fittings, individual conductors and multiconductor cables, and nonmetallic sheathed cable.	50-80%
WIRE AND CABLE - Individual conductors and multi-conductor cables.	10-20%
DISTRIBUTION AND UTILIZATION EQUIPMENT - Transformers, panel boards, switchboards, control panels, disconnects, motor starters, lighting fixtures, heaters, appliances, motors, and other distribution and utilizations equipment.	5-15%
SPECIALIZED WORK - Grounding, wiring of systems for sound, data, communications, alarms, automated systems, generators, batteries, computer equipment, etc.	5-15%

- The above percentages are of a total of:
- (a) 8,000 hours for apprentices in a four year apprenticeship program;
 - (b) 12,000 hours for apprentices in a six year practical experience program;
 - (c) 4,000 hours for apprentices in a two year residential apprenticeship program; or
 - (d) 8,000 hours for apprentices in a four year residential practical experience program.

(1) In accordance with Subsections 58-55-302(3)(c), (d), (e) and (f), the practical electrical experience, course of study, practical experience, planned training program, or electrical training program shall include on-the-job work experience in the following categories and approximate percentages:

- (a) 50-80% in raceways, boxes and fittings, wire and cable to include conduit, wireways, cableways and other raceways and associated fittings, individual conductors and multiconductor cables, and nonmetallic-sheathed cable;
- (b) 10-20% in wire and cable to include individual conductors and multi-conductor cables;
- (c) 5-15% in distribution and utilization equipment to include transformers, panel boards, switchboards, control panels, disconnects, motor starters, lighting fixtures, heaters, appliances, motors, and other distribution and utilizations equipment; and
- (d) 5-15% in specialized work to include grounding, wiring of systems for sound, data, communications, alarms, automated systems, generators, batteries, computer equipment, etc.

(2) Each year of work experience shall include at least 2000 hours and may be obtained in one or more years. No more than one year of work experience may be credited for each 12 month period.

(3) No credit will be given for work experience performed illegally.

R156-55b-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 55 is established by rule in Section R156-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

R156-55b-304. Continuing Education.

(1) In accordance with Subsections 58-1-203(7) and 58-1-308(3)(b), there is created a continuing education requirement as a condition for renewal or reinstatement of master, journeyman, residential master, residential journeyman and apprentice electrician licenses issued under Title 58, Chapter 55.

(2) Continuing education shall consist of 16 hours of course work related to the electrical trade in each preceding two year period of licensure or expiration of licensure.

(3) If a renewal period is shortened or extended to effect a change of renewal cycle, the continuing education hours required for that renewal period shall be increased or decreased accordingly as a pro rata amount of the requirements of a two-year period.

(4) A minimum of eight hours shall be on the 1996 edition of the National Electrical Code.

(5) The licensee is responsible for maintaining competent records of completed qualified continuing education for a period of four years after the close of the two year renewal period to which the records pertain.

R156-55b-401. Scope of Practice.

In accordance with Subsection 58-55-308(1), the following shall apply:

(1) It shall be the responsibility of the journeyman, residential journeyman, master or residential master electrician who is licensed by the division to insure that the work installed by himself, as well as by any apprentice under his supervision, is properly installed. Proper and safe installations shall be the responsibility of the supervising party or parties.

(2) An apprentice in a planned training program as set forth in Subsection 58-55-302(3)(e)(i) may be supervised as a fourth year apprentice in the fifth and sixth year of apprenticeship; however, in the seventh and succeeding years of apprenticeship, he shall be under immediate supervision as set forth in Subsection 58-55-302(3)(g)(i).

(3) All other apprentices shall be under immediate supervision as set forth in Subsection 58-55-302(3)(g).

(4) For the purposes of Subsections 58-55-102(23), 58-55-501(14) and 58-55-302(3)(g), apprentices and the licensed electricians responsible for their supervision shall be employees of the same contractor, or the employers of the supervising employees shall have a contractual responsibility for the performance of both the supervised and supervising employees. Employees of licensed employee leasing companies who provide workers under a contract with an electrical contractor shall be considered to be the employees of the electrical contractor for the purposes of this rule.

R156-55b-501. Unprofessional Conduct.

"Unprofessional conduct" includes failure of a licensee to carry a copy of their current license at all times when performing electrical work.

~~R156-55b-302c. Qualifications for Licensure - Applicants Licensed in Another Jurisdiction:~~

~~— In accordance with the provisions of Section 58-1-302, an individual currently licensed in a state, local jurisdiction of a state, district, or territory of the United States as a master electrician, journeyman electrician, or residential journeyman electrician may obtain licensure in the state in the same license classification by meeting the following requirements:~~

~~— (1) Each applicant shall meet the requirements of Subsection 58-55-302(1);~~

~~— (2) Each applicant for a journeyman electrician license shall:~~

~~— (a) provide verification that the applicant holds a current master electrician or journeyman electrician license in good standing issued by a state, local jurisdiction of a state, district, or territory of the United States; and~~

~~— (b) if licensed in the states or district of Alaska, Arkansas, Colorado, Connecticut, District of Columbia, Idaho, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, North Dakota, Oklahoma, South Dakota, Washington, or any other state found by the division and board to have training and examination requirements equivalent to Utah, document 6,000 hours of work as a licensed master or journeyman electrician; or~~

~~— (c) pass the examinations required under R156-55b-302d(1).~~

~~— (3) Each applicant for a master electrician, residential master electrician, or residential journeyman electrician license shall:~~

~~— (a) provide verification that the applicant holds a current master electrician, residential master electrician, or residential journeyman electrician license in good standing issued by a state, local jurisdiction of a state, district, or territory of the United States;~~

~~— (b) document completion of an apprenticeship, traineeship, or experience equivalent to that required for licensure under Utah law; and~~

~~— (c) document successful passing of examinations equivalent to the examinations required under Subsection R156-55b-302d(1); or~~

~~— (d) pass the examinations required under R156-55b-302d(1).~~

~~— (4) The burden for demonstrating equivalency of apprenticeship, traineeship, or experience, and examinations under Subsections (3)(b) and (c) lies with the applicant. The fact that an applicant is licensed by any other jurisdiction or the fact that the applicant has practiced in an electrical trade for a length of time shall not demonstrate equivalency with Subsections (3)(b) and (c). The applicant must present evidence demonstrating the content of the apprenticeship, traineeship, or experience, and examination completed by the applicant are equivalent in scope with that required by this state.~~

~~R156-55b-502. Unlawful Conduct:~~

~~— Unlawful conduct includes any person who engages in an electrical trade in the state of Utah unless that person is currently licensed in the state as an apprentice electrician, residential electrician trainee, residential journeyman electrician, journeyman electrician, master residential electrician, or master electrician when practicing within the scope of practice under his license.~~

~~R156-55b-601. Apprenticeship Program Approval:~~

~~— An approved apprentice training program must be under the supervision of an approved supervisor of apprenticeship who shall be the contractor, a qualified employee of the contractor, or a~~

~~qualified organization empowered by the contractor that supervises the training of apprentices. The program must include all of the elements in Sections R156-55b-302a and R156-55b-302b. Apprenticeship programs in electrical construction that are registered under the Federal Bureau of Apprenticeship and Training (BAT) shall be approved programs if they meet the requirements of these rules. BAT registration does not replace state licensure. For BAT registered apprenticeship programs, the supervisor of apprenticeship shall be the registered supervisor of the program.~~

~~R156-55b-602. Responsibility:~~

~~— It shall be the responsibility of the journeyman, residential journeyman, master or residential master electrician who is licensed by the division to insure that the work installed by himself as well as by any apprentice under his supervision is properly installed. Proper and safe installations shall be the responsibility of the supervising party or parties. Improper or unsafe installations in violation of law will result in action being taken against the responsible party or parties for unprofessional conduct as defined herein.~~

~~R156-55b-603. Supervision of Apprentice Electricians:~~

~~— (1) Apprentices shall be under the immediate supervision of a journeyman, residential journeyman, residential master, or master electrician as applicable to the specific project, and shall perform all work under the instruction of the supervising electrician. The supervising electrician of an apprentice shall be physically present on the job site or premises on other than residential projects with sufficient frequency to provide instructions and personally check the performance of the apprentice under their supervision; except for apprentices who are in their fourth year of training must have their work checked at least once on each day they perform electrical work. Apprentices on residential projects may receive personal instructions at a location other than the premises of the residential project.~~

~~— (2) For the purposes of Subsections 58-55-102(23), 58-55-501(14) and 58-55-302(3)(f), apprentices and the licensed electricians responsible for their supervision shall be employees of the same contractor, or the employers of the supervising employees shall have a contractual responsibility for the performance of both the supervised and supervising employees. Employees of licensed employee leasing companies who provide workers under a contract with an electrical contractor shall be considered to be the employees of the electrical contractor for the purposes of this rule.~~

~~R156-55b-604. Display of License:~~

~~— It shall be the responsibility of the apprentice, journeyman, master, residential journeyman or master residential electrician who is licensed by the division to carry a copy of their current license at all times when performing electrical work. Failure to have a copy of their current license shall be considered unprofessional conduct.]~~

KEY: occupational licensing, licensing, contractors, electricians*

**~~[December 13, 1996]1998~~ 58-1-106(1)
 Notice of Continuation February 18, 1997 58-1-202(1)
 58-55-308(1)**



Environmental Quality, Drinking Water **R309-104** Monitoring, Reporting and Public Notification

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21553
FILED: 10/15/1998, 11:32
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to clarify and align the Division's monitoring waiver program with the Division's source protection program.

SUMMARY OF THE RULE OR CHANGE: This rule change will clarify how the Division's waiver and source protection programs work together. The affected water systems will be clearer on the requirements for both programs.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: No impact--the Division will continue to administer both the source protection program and the waiver program with no change as a result of this amendment.
- ❖LOCAL GOVERNMENTS: No impact--municipalities and districts operating public water systems are not subject to any additional requirements.
- ❖OTHER PERSONS: No impact--owners and operators of other public water systems are not subject to any additional requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change will not impose any additional requirements to any public water system or individual. The rule change simply clarifies how these existing programs work together.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments regarding costs and savings.

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

Environmental Quality
Drinking Water
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ken Bousfield or Patti Fauver at the above address, by phone at (801) 536-4207 or (801) 536-4196, by FAX at (801) 536-4211, or by Internet E-mail at kbousfie@deq.state.ut.us or pfauver@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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Kevin W. Brown, Director and Executive Secretary of the Drinking Water Board

R309. Environmental Quality, Drinking Water. R309-104. Monitoring, Reporting and Public Notification.

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R309-104-3. Approved Laboratories.

For the purpose of determining compliance, samples may be considered only if they have been analyzed by the State of Utah primacy laboratory or a laboratory certified by the Utah State Health Laboratory. However, measurements for pH, temperature, turbidity and disinfectant residual may, under the direction of the direct responsible charge operator, be performed by any water supplier or their representative.

All samples must be marked either: routine, repeat, check or investigative before submission of such samples to a certified lab. Routine, repeat, and check samples shall be considered compliance purposes samples.

All public water systems must either: contract with a certified laboratory to have the laboratory send all compliance purposes sample results, with the exception of Lead/Copper data, to the Division of Drinking Water, or must inform the Division of Drinking Water that they intend to forward all compliance purposes samples to the Division. Each public water system must furnish the Division of Drinking Water a copy of the contract with their certified laboratory[tabatory] or inform the Division in writing of the public water system's intent to forward the data to the Division.

Lead/Copper data must be submitted to the Division of Drinking Water using forms provided by the Division.

All sample results can be sent either electronically or in hard copy form.

R309-104-4. Water Quality Monitoring Requirements.

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4.3 Organic Contaminants

For the purposes of R309-101. through R309-113., organic chemicals are divided into three categories: Pesticides/PCBs/SOCs, volatile organic contaminants (VOCs) and total trihalomethanes.

4.3.1 Pesticides/PCBs/SOCs monitoring requirements.

Analysis of the contaminants listed in R309-103-2.3.a for the purposes of determining compliance with the maximum contaminant level shall be conducted as follows:

- a. Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

b. Surface water systems shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. (Note: For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.)

c. If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

d. Monitoring frequency:

1. Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in R309-103-2.3.a during each compliance period beginning with the compliance period starting January 1, 1993. For systems serving less than 3,300, this requirement may be reduced to one sample if the sample is taken prior to October 1, 1993.

2. Systems serving more than 3,300 persons which do not detect a contaminant in the initial compliance period, may reduce the sampling frequency to a minimum of two quarterly samples in one year during each repeat compliance period.

3. Systems serving less than or equal to 3,300 persons which do not detect a contaminant in the initial compliance period may reduce the sampling frequency to a minimum of one sample during each repeat compliance period.

e. Each community and non-transient non-community water system may apply to the Executive Secretary for a waiver from the requirement of paragraph 4.3.1.d of this section. A system must reapply for a waiver for each compliance period.

f. The Executive Secretary may grant: a use waiver, a susceptibility waiver or a reliably and consistently waiver. The use and susceptibility waivers shall be granted in accordance with R309-113-15. The reliably and consistently waiver shall be based on a minimum of three rounds of monitoring where the results of analysis for all constituents show that no contaminant is detected, or that the detected amount of a contaminant is less than half the MCL.

If a use waiver is granted no monitoring for pesticides/PCBs/SOCs will be required, provided documentation consistent with R309-113-15 and justifying the continuence of a use waiver is submitted to the Executive Secretary at least every six years.

If a susceptibility waiver or a reliably and consistently waiver is granted, monitoring for pesticides/PCBs/SOCs shall be preformed as listed below, provided documentation consistent with R309-113-15 and justifying the continuence of a susceptibility waiver is submitted to the Executive Secretary at least every six years or in the case of a reliably and consistently waiver that the analytical results justify the continuence of the reliably and consistently waiver.

1. For community and non-transient non community systems serving populations greater than 3,300 people, samples for pesticides/PCBs/SOCs shall be taken in two consecutive quarters every three years.

2. For community and non-transient non community systems serving populations less than 3,301 people, samples for pesticides/PCBs/SOCs shall be taken every three years. [a waiver after evaluating the following factor(s): Knowledge of previous use (including transport, storage, or disposal) of the contaminant within the watershed or zone of influence of the system. If a determination by the Executive Secretary reveals no previous use of the contaminant within the watershed or zone of influence, a waiver may be granted. If previous use of the contaminant is unknown or it has been used previously, then the following factors shall be used to determine whether a waiver is granted:

— 1. Previous analytical results.

— 2. The proximity of the system to a potential point or non-point source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at manufacturing, distribution, or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities. Non-point sources include the use of pesticides to control insect and weed pests on agricultural areas, forest lands, home and gardens, and other land application uses.

— 3. The environmental persistence and transport of the pesticide or PCBs:

— 4. How well the water source is protected against contamination due to such factors as depth of the well and the type of soil and the integrity of the well casing and sanitary seal:

— 5. Elevated nitrate levels at the water supply source:

— 6. Use of PCBs in equipment used in the production, storage, or distribution of water (i.e., PCBs used in pumps, transformers, etc.):]

g. If an organic contaminant listed in R309-103-2.3.a is detected in any sample, then:

1. Each system must monitor quarterly at each sampling point which resulted in a detection.

2. The Executive Secretary may decrease the quarterly monitoring requirement specified in paragraph 4.3.1.g.1 of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case shall the Executive Secretary make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

3. After the Executive Secretary determines the system is reliably[reliably] and consistently below the maximum contaminant level the Executive Secretary may allow the system to monitor annually. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

4. Systems which have 3 consecutive annual samples with no detection of a contaminant may apply to the Executive Secretary for a waiver as specified in paragraph 4.3.1.f of this section.

5. If monitoring results in detection of one or more of certain related contaminants (aldicarb, aldicarb sulfone, aldicarb sulfoxide and heptachlor, heptachlor epoxide), then subsequent monitoring shall analyze for all related contaminants.

h. Systems which violate the maximum contaminant levels of R309-103-2.3.a as determined by paragraph 4.3.1.j of this section must monitor quarterly. After a minimum of four quarterly samples show the system is in compliance and the Executive Secretary determines the system is reliably and consistently below the MCL, as specified in paragraph 4.3.1.j of this section, the system shall

monitor at the frequency specified in paragraph 4.3.1.g.3 of this section.

i. The Executive Secretary may require a confirmation sample for positive or negative results. If a confirmation sample is required by the Executive Secretary, the result must be averaged with the first sampling result and the average used for the compliance determination as specified by paragraph 4.3.1.j of this section. The Executive Secretary has the discretion to delete results of obvious sampling errors from this calculation.

j. Compliance with the maximum contaminant levels in R309-103-2.3.a shall be determined based on the analytical results obtained at each sampling point.

1. For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.

2. If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the Executive Secretary, the determination of compliance will be based on the average of two samples.

3. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the Executive Secretary may allow the system to give public notice to only that portion of the system which is out of compliance.

k. If monitoring data collected after January 1, 1990, are generally consistent with the other requirements of this section, then the Executive Secretary may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period beginning January 1, 1993.

l. The Executive Secretary may increase the required monitoring frequency, where necessary, to detect variations within the system (e.g., fluctuations in concentration due to seasonal use, changes in water source).

m. The Executive Secretary has the authority to determine compliance or initiate enforcement action based upon analytical results and other information compiled by their sanctioned representatives and agencies.

n. Each public water system shall monitor at the time designated by the Executive Secretary within each compliance period.

4.3.2 Volatile organic contaminants monitoring requirements.

Analysis of the contaminants listed in R309-103-2.3.b for the purpose of determining compliance with the maximum contaminant level shall be conducted as follows:

a. Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant or within the distribution system.

b. Surface water systems (or combined surface/ground) shall take a minimum of one sample at points in the distribution system

that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant, or within the distribution system.

c. If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

d. Each community and non-transient non-community water system shall initially take four consecutive quarterly samples for each contaminant listed in R309-103-2.3.b.2 through b.21. during each compliance period beginning in the initial compliance period. For systems serving a population of less than 3,300, this requirement may be reduced to one sample if the sample is taken prior to October 1, 1993.

e. If the initial monitoring for contaminants listed in R309-103-2.3.b.2 through b.21. as allowed in paragraph 4.3.2.o has been completed by December 31, 1992, and the system did not detect any contaminant listed in R309-103-2.3.b, then each ground and surface water system shall take one sample annually beginning with the initial compliance period.

f. After a minimum of three years of annual sampling, the Executive Secretary may allow groundwater systems with no previous detection of any contaminant listed in R309-103-2.3.b to take one sample during each compliance period.

g. Each community and non-transient non-community water system which does not detect a contaminant listed in R309-103-2.3.b may apply to the Executive Secretary for a waiver from the requirements of paragraph 4.3.2.e and 4.3.2.f of this section after completing the initial monitoring. (For the purposes of this section, detection is defined as greater than or equal to 0.0005 mg/l.) A waiver shall be effective for no more than six years (two compliance periods). The Executive Secretary may also issue waivers for the initial round of monitoring for 1,2,4-trichlorobenzene.

h. The Executive Secretary may grant: a use waiver, a susceptibility waiver or a reliably and consistently waiver. The use and susceptibility waivers shall be granted in accordance with R309-113-15. The reliably and consistently waiver shall be based on a minimum of three rounds of monitoring where the results of analysis for all constituents show that no contaminant is detected, or that the detected amount of a contaminant is less than half the MCL. To maintain a use waiver or a susceptibility waiver a system shall submit documentation consistent with R309-113-15 which justifies the continuance of a use or a susceptibility waiver at least every six years. For a reliably and consistently waiver, the analytical results for all constituents of all samples must justify its continuance. If a waiver is granted, monitoring for VOCs will be required at least every six years.~~[a waiver after evaluating the following factor(s):~~

~~1. Knowledge of previous use (including transport, storage, or disposal) of the contaminant within the watershed or zone of influence of the system. If a determination by the Executive Secretary reveals no previous use of the contaminant within the watershed or zone of influence, a waiver may be granted.~~

~~2. If previous use of the contaminant is unknown or it has been used previously, then the following factors shall be used to determine whether a waiver is granted:~~

~~— (a) Previous analytical results:
 — (b) The proximity of the system to a potential point or non-point source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at manufacturing, distribution, or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities:
 — (c) The environmental persistence and transport of the contaminants:
 — (d) How well the water source is protected against contamination such as whether it is a surface or groundwater system. Groundwater systems must consider factors such as depth of the well, the type of soil, and drinking water source protection. Surface water systems must consider watershed protection:]~~

~~i. As a condition of the waiver a groundwater system must take one sample at each sampling point during the time the waiver is effective (i.e., one sample during two compliance periods or six years) and update its source protection plan in accordance with R309-113.[vulnerability assessment considering the factors listed in paragraph 4.3.2.h of this section. Based on this vulnerability assessment the Executive Secretary must confirm that the system is non-vulnerable. If the Executive Secretary does not make this reconfirmation within three years of the initial determination, then the waiver is invalidated and the system is required to sample annually as specified in paragraph 4.3.2.e of this section.~~

~~j. Each community and non-transient non-community surface water system which does not detect a contaminant listed in R309-103-2.3.b may apply to the Executive Secretary for a waiver from the requirements of 4.3.2.e of this section after completing the initial monitoring. Systems meeting this criteria must be determined by the Executive Secretary to be non-vulnerable based on a vulnerability assessment during each compliance period. Each system receiving a waiver shall sample at the frequency specified by the Executive Secretary.]~~

l.[k] If a contaminant listed in R309-103-2.3.b.2 through b.21 is detected at a level exceeding 0.0005 mg/l in any sample, then:

1. The system must monitor quarterly at each sampling point which resulted in a detection.
2. The Executive Secretary may decrease the quarterly monitoring requirement specified in paragraph 4.3.2.k.1 of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case shall the Executive Secretary make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.
3. If the Executive Secretary determines that the system is reliably and consistently below the MCL, the Executive Secretary may allow the system to monitor annually. Systems which monitor annually must monitor during the quarter(s) which previously yielded the highest analytical result.
4. Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Executive Secretary for a waiver as specified in paragraph 4.3.2.g of this section.
5. Groundwater systems which have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one

or more of the two-carbon organic compounds were detected. If the results of the first analysis do not detect vinyl chloride, the Executive Secretary may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride as specified by the Executive Secretary.

k.[f] Systems which violate the maximum contaminant levels as required in R309-103-2.3.b as determined by paragraph 4.3.2.n of this section must monitor quarterly. After a minimum of four consecutive quarterly samples shows the system is in compliance as specified in paragraph 4.3.2.n of this section, and the Executive Secretary determines that the system is reliably and consistently below the maximum contaminant level, the system may monitor at the frequency and time specified in paragraph 4.3.2.k.3 of this section.

l.[m] The Executive Secretary may require a confirmation sample for positive or negative results. If a confirmation sample is required by the Executive Secretary, the result must be averaged with the first sampling result and the average is used for the compliance determination as specified by paragraph 4.3.2.n of this section. The Executive Secretary has the discretion to delete results of obvious sampling errors from this calculation.

m.[n] Compliance with R309-103-2.3.b shall be determined based on the analytical results obtained at each sampling point.

1. For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.

2. If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the Executive Secretary, the determination of compliance will be based on the average of two samples.

3. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the Executive Secretary may allow the system to give public notice to only that area served by that portion of the system which is out of compliance.

n.[o] The Executive Secretary may allow the use of monitoring data collected after January 1, 1988 for purposes of monitoring compliance providing that the data is generally consistent with the other requirements in this section, the Executive Secretary may use that data (i.e., a single sample rather than four quarterly samples) to satisfy the initial monitoring requirement of paragraph 4.3.2.d of this section. Systems which use grandfathered samples and did not detect any contaminant listed in R309-103-2.3.b shall begin monitoring annually in accordance with 4.3.2.e of this section.

o.[p] The Executive Secretary may increase required monitoring where necessary to detect variations within the system.

p.[q] Each public water system shall monitor at the time designated by the Executive Secretary within each compliance period.

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R309-104-5. Unregulated Contaminants.

5.1 Monitoring Requirements

5.1.1. Contaminants.

a. List 1:

1. Chloroform
2. Bromodichloromethane
3. Chlorodibromomethane
4. Bromoform
5. Chlorobenzene
6. m-Dichlorobenzene
7. 1,1-Dichloropropene
8. 1,1-Dichloroethane
9. 1,1,2,2-Tetrachloroethane
10. 1,3-Dichloropropane
11. Chloromethane
12. Bromomethane
13. 1,2,3-Trichloropropane
14. 1,1,1,2-Tetrachloroethane
15. Chloroethane
16. 2,2-Dichloropropane
17. o-Chlorotoluene
18. p-Chlorotoluene
19. Bromobenzene
20. 1,3-Dichloropropene

b. List 2:

1. Aldrin
2. Butachlor
3. Carbaryl
4. Dicamba
5. Dieldrin
6. 3-Hydroxycarbofuran
7. Methomyl
8. Metolachlor
9. Metribuzin
10. Propachlor

5.1.2. Monitoring of the contaminants listed in R309-104-5.1.1. shall be conducted as follows:

a. Each community and non-transient, non-community water system shall take four consecutive quarterly samples at each sampling point for each contaminant listed in R309-104-5.1.1. and report the results to the Executive Secretary. Monitoring must be completed by December 31, 1995. For systems serving a population of less than 3,300, this requirement may be reduced to one sample if the sample is taken prior to October 1, 1993.

b. Each community and non-transient non-community water system may apply to the Executive Secretary for a waiver from the requirements of R309-104-5.1.2.a.

c. The Executive Secretary may grant a use waiver or a susceptibility waiver for the requirement of R309-104-5.1.2. in accordance with R309-113-5.~~[based on the criteria specified in R309-104-4.3.1.f and R309-104-4.3.2.h.]~~ If a waiver is granted, no monitoring for unregulated contaminants shall be required.

d. Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

e. Surface water systems shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. (For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.)

f. If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

g. The Executive Secretary may require a confirmation sample for positive or negative results.

h. Instead of performing the monitoring required by this section, a community water system or non-transient non-community water system serving fewer than 150 service connections may send a letter to the Executive Secretary stating that the system is available for sampling. This letter must be sent to the Executive Secretary by January 1, 1994. The system shall not send such samples to the Executive Secretary, unless requested to do so by the Executive Secretary.

5.2 Other contaminants

Viruses, protozoans, and other chemical and biological substances which may be present in waters exposed to the environment are presently impractical to monitor on a routine basis. Monitoring programs are not now required.

5.3 Treatment

Surface water sources or ground water sources contaminated by surface sources shall be subjected to complete treatment as described in R309-108, or by its equivalent as approved by the Executive Secretary.

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KEY: drinking water, environmental protection, administrative procedure

~~[March 12, 1997]~~**December 2, 1998** **19-4-104**
Notice of Continuation May 15, 1996 **63-46b-4**



Environmental Quality, Drinking Water
R309-113
Drinking Water Source Protection

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21554

FILED: 10/15/1998, 11:32

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to clarify and align the Division's monitoring waiver program with the Division's source protection program.

SUMMARY OF THE RULE OR CHANGE: This rule change will clarify how the Division's waiver and source protection programs work together. The affected water systems will be clearer on the requirements for both programs.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No impact--the Division will continue to administer both the source protection program and the waiver program with no change as a result of this amendment.

❖LOCAL GOVERNMENTS: No impact--municipalities and districts operating public water systems are not subject to any additional requirements.

❖OTHER PERSONS: No impact--owners and operators of other public water systems are not subject to any additional requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change will not impose any additional requirements to any public water system or individual. The rule change simply clarifies how these existing programs work together.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments regarding costs and savings.

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

Environmental Quality
Drinking Water
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sumner Newman or Bob Lowe at the above address, by phone at (801) 536-4195 or (801) 536-4194, by FAX at (801) 536-4211, or by Internet E-mail at snewman@deq.state.ut.us or blowe@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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Kevin W. Brown, Director and Executive Secretary of the Drinking Water Board

**R309. Environmental Quality, Drinking Water.
R309-113. Drinking Water Source Protection.**

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R309-113-6. Definitions.

(1) The following terms are defined for the purposes of this rule:

(a) "Collection area" means the area surrounding a ground-water source which is underlain by collection pipes, tile, tunnels, infiltration boxes, or other ground-water collection devices.

(b) "Controls" means the codes, ordinances, rules, and regulations currently in effect to regulate a potential contamination source.

(c) "Criteria" means the conceptual standards that form the basis for DWSP area delineation to include distance, ground-water time of travel, aquifer boundaries, and ground-water divides.

(d) "Criteria threshold" means a value or set of values selected to represent the limits above or below which a given criterion will cease to provide the desired degree of protection.

(e) "DDW" means Division of Drinking Water.

(f) "DWSP Program" means the program to protect drinking water source protection zones and management areas from contaminants that may have an adverse effect on the health of persons.

(g) "DWSP Zone" means the surface and subsurface area surrounding a ground-water source of drinking water supplying a PWS, through which contaminants are reasonably likely to move toward and reach such ground-water source.

(h) "Designated person" means the person appointed by a PWS to ensure that the requirements of R309-113 are met.

(i) "Executive Secretary" means the individual authorized by the Drinking Water Board to conduct business on its behalf.

(j) "Existing ground-water source of drinking water" means a public supply ground-water source for which plans and specifications were submitted to DDW on or before July 26, 1993.

(k) "Ground-water Source" means any well, spring, tunnel, adit, or other underground opening from or through which ground-water flows or is pumped from subsurface water-bearing formations.

(l) "Hydrogeologic methods" means the techniques used to translate selected criteria and criteria thresholds into mappable delineation boundaries. These methods include, but are not limited to, arbitrary fixed radii, analytical calculations and models, hydrogeologic mapping, and numerical flow models.

(m) "Land management strategies" means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground-water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

(n) "Land use agreement" means a written agreement wherein the owner(s) agrees not to locate or allow the location of uncontrolled potential contamination sources or pollution sources within zone one of new wells in protected aquifers. The owner(s) must also agree not to locate or allow the location of pollution sources within zone two of new wells in unprotected aquifers and new springs unless the pollution source agrees to install design standards which prevent contaminated discharges to ground water. This restriction must be binding on all heirs, successors, and assigns. Land use agreements must be recorded with the property description in the local county recorder's office. Refer to R309-113-13(2)(d).

Land use agreements for protection areas on publicly owned lands need not be recorded in the local county recorder office.

However, a letter must be obtained from the Administrator of the land in question and meet the requirements described above.

(o) "Management area" means the area outside of zone one and within a two-mile radius where the Optional Two-mile Radius Delineation Procedure has been used to identify a protection area.

For wells, land may be excluded from the DWSP management area at locations where it is more than 100 feet lower in elevation than the total drilled depth of the well.

For springs and tunnels, the DWSP management area is all land at elevation equal to or higher than, and within a two-mile radius, of the spring or tunnel collection area. The DWSP management area also includes all land lower in elevation than, and within 100 horizontal feet, of the spring or tunnel collection area. The elevation datum to be used is the point of water collection. Land may also be excluded from the DWSP management area at locations where it is separated from the ground-water source by a surface drainage which is lower in elevation than the spring or tunnel collection area.

(p) "New ground-water source of drinking water" means a public supply ground-water source of drinking water for which plans and specifications are submitted to DDW after July 26, 1993.

(q) "Nonpoint source" means any conveyance not meeting the definition of point source.

(r) "PWS" means public water system.

(s) "Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, animal feeding operation with more than ten animal units, landfill, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(t) "Pollution source" means point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions are part of R309-113 and clarify the meaning of "pollution source:"

(i) "Animal feeding operation" means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

(ii) "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number

of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(iii) "Extremely hazardous substances" means those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 550-B-96-015). A copy of this document may be obtained from: NCEPI, PO Box 42419, Cincinnati, OH 45202. Online ordering is also available at <http://www.epa.gov/ncepihom/orderpub.html>.

(u) "Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.

(v) "Protected aquifer" means a producing aquifer in which the following conditions are met:

(i) A naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;

(ii) the PWS provides data to indicate the lateral continuity of the clay layer to the extent of zone two; and

(iii) the public-supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer.

(w) "Replacement well" means a public-supply well drilled for the sole purpose of replacing an existing public-supply well which is impaired or made useless by structural difficulties and in which the following conditions are met:

~~— (i) no new right in the use of water accrues;~~

(i[r]) the proposed well location shall be within a radius of 150 feet from an existing ground-water supply well, as defined in R309-113-6(1)(j); and

(ii[r]) the PWS provides a copy of the replacement application approved by the State Engineer (refer to Section 73-3-28 of the Utah Code Annotated), ~~and~~

~~— (iv) the existing well(s) that is being replaced must be permanently abandoned in accordance with R655-4-7.12 and R655-4-12 through R655-4-12.12;~~

(x) "Time of travel" means the time required for a particle of water to move in the producing aquifer from a specific point to a ground-water source of drinking water.

(y) "Unprotected aquifer" means any aquifer that does not meet the definition of a protected aquifer.

(z) "Wellhead" means the physical structure, facility, or device at the land surface from or through which ground-water flows or is pumped from subsurface, water-bearing formations.

R309-113-7. DWSP Plans.

(1) Each PWS shall develop, submit, and implement a DWSP Plan for each of its ground-water sources of drinking water.

Required Sections for DWSP Plans - DWSP Plans should be developed in accordance with the "Standard Report Format for Existing Wells and Springs." This document may be obtained from DDW. DWSP Plans must include the following seven sections:

(a) DWSP Delineation Report - A DWSP Delineation Report in accordance with R309-113-9(5) is the first section of a DWSP Plan.

(b) Potential Contamination Source Inventory and Assessment of Controls - A Prioritized Inventory of Potential Contamination

Sources and an assessment of their controls in accordance with R309-113-10 is the second section of a DWSP Plan.

(c) Management Program to Control Each Preexisting Potential Contamination Source - A Management Program to Control Each Preexisting Potential Contamination Source in accordance with R309-113-11 is the third section of a DWSP Plan.

(d) Management Program to Control or Prohibit Future Potential Contamination Sources~~[for Existing Drinking Water Sources]~~ - A Plan for Controlling or Prohibiting Future Potential Contamination Sources is the fourth section of a DWSP Plan. This must be in accordance with R309-113-12, consistent with the general provisions of this rule, and implemented to an extent allowed under the PWS's authority and jurisdiction.

(e) Implementation Schedule - Each PWS shall develop a step-by-step implementation schedule which lists each of its proposed land management strategies with an implementation date for each strategy.

(f) Resource Evaluation - Each PWS shall assess the financial and other resources which may be required for it to implement each of its DWSP Plans and determine how these resources may be acquired.

(g) Recordkeeping - Each PWS shall document changes in each of its DWSP Plans as they are continuously updated to show current conditions in the protection zones and management areas. As a DWSP Plan is executed, the PWS shall document any land management strategies that are implemented. These documents may include any of the following: ordinances, codes, permits, memoranda of understanding, public education programs, and so forth.

(2) DWSP Plan Administration - DWSP Plans shall be submitted, corrected, retained, implemented, updated, and revised according to the following:

(a) Submitting DWSP Plans - Each PWS shall submit a DWSP Plan to DDW in accordance with the schedule in R309-113-3(2) for each of its ground-water sources of drinking water.

(b) Correcting Deficiencies - Each PWS shall correct any deficiencies in a disapproved DWSP Plan and resubmit it to DDW within 90 days of the disapproval date.

(c) Retaining DWSP Plans - Each PWS shall retain on its premises a current copy of each of its DWSP Plans. DWSP Plans shall be made available to the public upon request.

(d) Implementing DWSP Plans - Each PWS shall begin implementing each of its DWSP Plans in accordance with its schedule in R309-113-7(1)(e), within 180 days after submittal if they are not disapproved by DDW.

(e) Updating and Resubmitting DWSP Plans - Each PWS shall update its DWSP Plans as often as necessary to ensure they show current conditions in the DWSP zones and management areas. Updated plans also document the implementation of land management strategies in the recordkeeping section. DWSP Plans are initially due according to the schedule in R309-113-3. Thereafter, updated DWSP Plans are due every six years from their original due date. This applies even though a PWS may have been granted an extension beyond the original due date.

(f) Revising DWSP Plans - Each PWS shall submit a revised DWSP Plan to DDW within 180 days after the reconstruction or redevelopment of any ground-water source of drinking water which addresses changes in source construction, source development,

hydrogeology, delineation, potential contamination sources, and proposed land management strategies.

R309-113-8. DWSP Plan Review.

(1) DDW shall review each DWSP Plan submitted by PWSs and "concur," "concur with recommendations," "conditionally concur" or "disapprove" the plan.

(2) DDW may "disapprove" DWSP Plans for any of the following reasons:

(a) An inaccurate DWSP Delineation Report, a report that uses a non-applicable delineation method, or a DWSP Plan that is missing this report or any of the information and data required in it (refer to R309-113-9(5));

(b) an inaccurate Prioritized Inventory of Potential Contamination Sources or a DWSP Plan that is missing this report or any of the information required in it (refer to R309-113-10(1));

(c) an inaccurate assessment of current controls~~[or a DWSP Plan that is missing this assessment or any of the information required in it]~~ (refer to R309-113-10(2));

(d) a missing Management Program to Control Each Preexisting Potential Contamination Source which has been assessed as "not adequately controlled" by the PWS (refer to R309-113-11(1));

(e) a missing Management Program to Control or Prohibit Future Potential Contamination Sources (refer to R309-113-12);

(f) a missing Implementation Schedule, Resource Evaluation, Recordkeeping Section, or Contingency Plan (refer to R309-113-7(1)(e)-(g) and R309-113-14).

(3) DDW may "concur with recommendations" when PWSs propose management programs to control preexisting potential contamination sources or management programs to control or prohibit future potential contamination sources for existing or new drinking water sources which appear inadequate or ineffective.

(4) DDW may "conditionally concur" with a DWSP Plan or PER. The PWS must implement the conditions and report compliance the next time the DWSP Plan is due and submitted to DDW.

R309-113-9. Delineation of Protection Zones and Management Areas.

(1) PWSs shall delineate protection zones or a management area around each of their ground-water sources of drinking water using the Preferred Delineation Procedure or the Optional Two-mile Radius Delineation Procedure. The hydrogeologic method used by PWSs shall produce protection zones or a management area in accordance with the criteria thresholds below. PWSs may also choose to verify protected aquifer conditions to reduce the level of management controls applied in applicable protection areas.

(2) Criteria Thresholds for Ground-water Sources of Drinking Water:

(a) Preferred Delineation Procedure - Four zones are delineated for management purposes:

(i) Zone one is the area within a 100-foot radius from the wellhead or margin of the collection area.

(ii) Zone two is the area within a 250-day ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer. If the available data indicate a zone of increased ground-water velocity

within the producing aquifer(s), then time-of-travel calculations shall be based on this data.

(iii) Zone three (waiver criteria zone) is the area within a 3-year ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer. If the available data indicate a zone of increased ground-water velocity within the producing aquifer(s), then time-of-travel calculations shall be based on this data.

(iv) Zone four is the area within a 15-year ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer. If the available data indicate a zone of increased ground-water velocity within the producing aquifer(s), then time-of-travel calculation shall be based on this data.

(b) Optional Two-mile Radius Delineation Procedure - In place of the Preferred Delineation Procedure, PWSs may choose to use the Optional Two-mile Radius Delineation Procedure to delineate a management area. This procedure is best applied in rural areas where few if any potential contamination sources are located. Refer to R309-113-6(1)(o) for the definition of a management area.

(3) Protected Aquifer Classification - PWSs may choose to verify protected aquifer conditions to reduce the level of management controls for a public-supply well which produces water from a protected aquifer(s) or to meet one of the requirements of a VOC or pesticide susceptibility waiver (R309-113-15(4)). Refer to R309-113-6(1)(v) for the definition of a "protected aquifer."

(4) Special Conditions - Special scientific or engineering studies may be conducted to support a request for an exception (refer to R309-113-4) due to special conditions. These studies must be approved by DDW before the PWS begins the study. Special studies may include confined aquifer conditions, ground-water movement through protective layers, wastewater transport and fate, etc.

(5) DWSP Delineation Report - Each PWS shall submit a DWSP Delineation Report to DDW for each of its ground-water sources using the Preferred Delineation Procedure or the Optional Two-mile Radius Delineation Procedure.

(a) Preferred Delineation Procedure - Delineation reports for protection zones delineated using the Preferred Delineation Procedure shall include the following information and a list of all sources or references for this information:

(i) Geologic Data - A brief description of geologic features and aquifer characteristics observed in the well and area of the potential protection zones. This should include the formal or informal stratigraphic name(s), lithology of the aquifer(s) and confining unit(s), and description of fractures and solution cavities (size, abundance, spacing, orientation) and faults (brief description of location in or near the well, and orientation). Lithologic descriptions can be obtained from surface hand samples or well cuttings; core samples and laboratory analyses are not necessary. Fractures, solution cavities, and faults may be described from surface outcrops or drill logs.

(ii) Well Construction Data - If the source is a well, the report shall include the well drillers log, elevation of the wellhead, borehole radius, casing radius, total depth of the well, depth and length of the screened or perforated interval(s), well screen or

perforation type, casing type, method of well construction, type of pump, location of pump in the well, and the maximum projected pumping rate of the well. The maximum pumping rate of the well must be used in the delineation calculations. Averaged pumping rate values shall not be used.

(iii) Spring Construction Data - If the source is a spring or tunnel the report shall include a description or diagram of the collection area and method of ground-water collection.

(iv) Aquifer Data for New Wells - A summary report including the calculated hydraulic conductivity of the aquifer, transmissivity, hydraulic gradient, direction of ground-water flow, estimated effective porosity, and saturated thickness of the producing aquifer(s). The PWS shall obtain the hydraulic conductivity of the aquifer from a constant-rate aquifer test and provide the data as described in R309-204-6(10)(b). Estimated effective porosity must be between 1% and 30%. Clay layers shall not be included in calculations of aquifer thickness or estimated effective porosity. This report shall include graphs, data, or printouts showing the interpretation of the aquifer test.

(v) Aquifer Data for Existing Wells - A summary report including the calculated hydraulic conductivity of the aquifer, transmissivity, hydraulic gradient, direction of ground-water flow, estimated effective porosity, and saturated thickness of the producing aquifer(s). The PWS shall obtain the hydraulic conductivity of the aquifer from a constant-rate aquifer test using the existing pumping equipment. Aquifer tests using observation wells are encouraged, but are not required. If a previously performed aquifer test is available and includes the required data described below, data from that test may be used instead. Estimated effective porosity must be between 1% and 30%. Clay layers shall not be included in calculations of aquifer thickness or estimated effective porosity. This report shall include graphs, data, or printouts showing the interpretation of the aquifer test.

If a constant-rate aquifer test is not practical, then the PWS shall obtain hydraulic conductivity of the aquifer using another appropriate method, such as data from a nearby well in the same aquifer, specific capacity of the well, published hydrogeologic studies of the same aquifer, or local or regional ground-water models. A constant-rate test may not be practical for such reasons as insufficient drawdown in the well, inaccessibility of the well for water-level measurements, or insufficient overflow capacity for the pumped water.

The constant-rate test shall:

(A) Provide for continuous pumping for at least 24 hours or until stabilized drawdown has continued for at least six hours. Stabilized drawdown is achieved when there is less than one foot of change of ground-water level in the well within a six-hour period.

(B) Provide data as described in R309-204-6(10)(b)(v) through (vii).

(vi) Additional Data for Observation Wells - If the aquifer test is conducted using observation wells, the report shall include the following information for each observation well: location and surface elevation; total depth; depth and length of the screened or perforated intervals; radius, casing type, screen or perforation type, and method of construction; prepumping ground-water level; the time-drawdown or distance-drawdown data and curve; and the total drawdown.

(vii) Hydrogeologic Methods and Calculations - These include the ground-water model or other hydrogeologic method used to

delineate the protection zones, all applicable equations, values, and the calculations which determine the delineated boundaries of zones two, three, and four. The hydrogeologic method or ground-water model must be reasonably applicable for the aquifer setting. For wells, the hydrogeologic method or ground-water model must include the effects of drawdown (increased hydraulic gradient near the well) and interference from other wells.

(viii) Map Showing Boundaries of the DWSP Zones - A map showing the location of the ground-water source of drinking water and the boundary for each DWSP zone. The base map shall be a 1:24,000-scale (7.5-minute series) topographic map, such as is published by the U.S. Geological Survey. Although zone one (100-foot radius around the well or margin of the collection area) need not be on the map, the complete boundaries for zones two, three, and four must be drawn and labeled. More detailed maps are optional and may be submitted in addition to the map required above.

The PWS shall also include a written description of the distances which define the delineated boundaries of zones two, three, and four. These written descriptions must include the maximum distances upgradient from the well, the maximum distances downgradient from the well, and the maximum widths of each protection zone.

(b) Optional Two-Mile Radius Delineation Procedure - Delineation Reports for protection areas delineated using the Optional Two-mile Radius Delineation Procedure shall include the following information:

(i) Map Showing Boundaries of the DWSP Management Area - A map showing the location of the ground-water source of drinking water and the DWSP management area boundary. The base map shall be a 1:24,000-scale (7.5-minute series) topographic map, such as is published by the U.S. Geological Survey. Although zone one (100-foot radius around the well or margin of the collection area) need not be on the map, the complete two-mile radius must be drawn and labeled. More detailed maps are optional and may be submitted in addition to the map required above.

(ii) Hydrogeologic Report [~~for~~to Exclude a Potential Contamination Source[s] - To exclude a potential contamination source from the inventory which is required in R309-113-10(1), a hydrogeologic report is required which clearly demonstrates that the potential contamination source has no capacity to contaminate the source.~~Unless the PWS chooses the option in R309-113-9(5)(b)(iii) below, it shall submit a hydrogeologic report for each potential contamination source within zone one and the management area. This report must explain the potential for contamination to move from the contamination source to the ground-water source and its potential impact on the drinking water quality of the ground-water source.~~

~~—(iii) Hydrogeologic Report Not Required—A hydrogeologic report for pollution sources within zone one and the management area is not required if these pollution sources implement design standards which prevent contaminated discharges to ground water. Additionally, a hydrogeologic report is not required for potential contamination sources if the PWS meets the requirements in R309-113-11 and 12.]~~

(6) Protected Aquifer Conditions - If a PWS chooses to verify protected aquifer conditions, it shall submit the following additional data to DDW for each of its ground-water sources for which the protected aquifer conditions apply. The report must state that the

aquifer meets the definition of a protected aquifer based on the following information:

- (a) thickness, depth, and lithology of the protective clay layer;
- (b) data to indicate the lateral continuity of the protective clay layer over the extent of zone two. This may include such data as correlation of beds in multiple wells, published hydrogeologic studies, stratigraphic studies, potentiometric surface studies, and so forth; and
- (c) evidence that the well has been grouted or otherwise sealed from the ground surface to a depth of at least 100 feet and for a thickness of at least 30 feet through the protective clay layer in accordance with R309-113-6(1)(v) R309-204-6(6)(i).

.....

R309-113-13. New Ground-water Sources of Drinking Water.

(1) Prior to constructing a new ground-water source of drinking water, each PWS shall develop a PER which demonstrates whether the source meets the requirements of this section and submit it to DDW. Additionally, engineering information in accordance with R309-204-6(5)(a) or R309-204-7(4) must be submitted to DDW. DDW will not grant plan approval until both source protection and engineering requirements are met. Construction standards relating to protection zones and management areas (fencing, diversion channels, sewer line construction, and grouting, etc.) are found in R309-204. After the source is constructed a DWSP Plan must be developed, submitted, and implemented accordingly.

(2) Preliminary Evaluation Report for New Sources of Drinking Water - PERs shall cover all four zones or the entire management area. PERs should be developed in accordance with the "Standard Report Format for New Wells and Springs." This document may be obtained from DDW. PWSs shall include the following four sections in each PER:

(a) Delineation Report for Estimated DWSP Zones - The same requirements apply as in R309-113-9(5), except that the hydrogeologic data for the PER must be developed using the best available data which may be obtained from: surrounding wells, published information, or surface geologic mapping. PWSs must use the Preferred Delineation Procedure to delineate protection zones for new wells.

(b) Inventory of Potential Contamination Sources and Identification and Assessment of Controls - The same requirements apply as in R309-113-10(1) and (2). Additionally, the PER must demonstrate that the source meets the following requirements:

(i) Protection Areas Delineated using the Preferred Delineation Procedure in Protected Aquifers - A PWS shall not locate a new ground-water source of drinking water where an uncontrolled potential contamination source or a pollution source exists within zone one.

(ii) Protection Areas Delineated using the Preferred Delineation Procedure in Unprotected Aquifers - A PWS shall not locate a new ground-water source of drinking water where an uncontrolled potential contamination source or an uncontrolled pollution source exists within zone one. Additionally, a new ground-water source of drinking water may not be located where a pollution source exists within zone two unless the pollution source implements design standards which prevent contaminated discharges to ground water.

(iii) Management Areas Delineated using the Optional Two-Mile Radius Delineation Procedure - A PWS shall not locate a new spring where an uncontrolled potential contamination source or a pollution source exists within zone one. Additionally, a new spring may not be located where a pollution source exist within the management area unless: a hydrogeologic report in accordance with R309-113-9(5)(b)(ii) which verifies that it does not impact the spring; or the pollution source implements design standards which prevent contaminated discharges to ground water.

(c) Land Ownership Map - A land ownership map which includes all land within zones one and two or the entire management area. Additionally, include a list which exclusively identifies the land owners in zones one and two or the management area, the parcel(s) of land which they own, and the zone in which they own land. A land ownership map and list are not required if ordinances are used to protect these areas.

(d) Land Use Agreements, Letters of Intent, or Zoning Ordinances - Land use agreements which meet the requirements of the definition in R309-113-6(1)(n). Zoning ordinances which are already in effect or letters of intent may be substituted for land use agreements; however, they must accomplish the same level of protection that is required in a land use agreement. Letters of intent must be notarized, include the same language that is required in land use agreements, and contain the statement that "the owner agrees to record the land use agreement in the county recorder's office, if the source proves to be an acceptable drinking water source." The PWS shall not introduce a new source into its system until copies of all applicable recorded land use agreements are submitted to DDW.

(3) Sewers Within DWSP Zones and Management Areas - Sewer lines may not be located within zones one and two or a management area unless the criteria identified below are met. If sewer lines are located or planned to be located within zones one and two or a management area, the PER must demonstrate that they comply with this criteria. Sewer lines that comply with this criteria may be assessed as adequately controlled potential contamination sources.

(a) Zone One - If the conditions specified in R309-113-13(3)(a)(i and ii) below are met, all sewer lines within zone one shall be constructed in accordance with R309-204-6(4) and must be at least 10 feet from the wellhead.

(i) There is at least 5 feet of suitable soil between the bottom of the sewer lines and the top of the maximum seasonal ground-water table or perched water table. (Suitable soils contain adequate sand/silt/clay to act as an effective effluent filter within its depth for the removal of pathogenic organisms and fill the voids between coarse particles such as gravel, cobbles, and angular rock fragments); and

(ii) there is at least 5 feet of suitable soil between the bottom of the sewer lines the top of any bedrock formations. (For the purposes of this rule, unsuitable soils or bedrock formations shall include soil or bedrock formations which have such low permeability that they prevent downward passage of effluent, or soil or bedrock formations with open joints or solution channels which permit such rapid flow that effluent is not renovated. This includes coarse particles such as gravel, cobbles, or angular rock fragments with insufficient soil to fill the voids between the particles. Solid or fractured bedrock such as shale, sandstone, limestone, basalt, or granite are unacceptable.)

(b) Zones One and Two - If the conditions identified in R309-113-13(3)(a)(i and ii) above cannot be met, any sewer lines with zones one and two or a management area shall be constructed in accordance with R309-204-6(4) and must be at least 300 feet from the wellhead or margin of the collection area.

(4) Use waivers for the VOC and pesticide parameter groups may be issued if the inventory of potential contamination sources indicates that the chemicals within these parameter groups are not used, disposed, stored, transported, or manufactured within zones one, two, and three or the management area.

(5) Replacement Wells - A PER is not required for proposed wells, if the PWS receives written notification from DDW that the well is classified as a replacement well. The PWS must submit a letter requesting that the well be classified as a replacement well and include documentation to show that the conditions required in R309-113-6(1)(w) are met. If a proposed well is classified as a replacement well, the PWS is still required to submit and obtain written approval for all other information as required in:

(a) DWSP Plan for New Sources of Drinking Water (refer to R309-113-13(6), and

(b) the Outline of Well Approval Process (refer to R309-204-6(5)).

(6) DWSP Plan for New Sources of Drinking Water - The PWS shall submit a DWSP Plan in accordance with R309-113-7(1) for any new ground-water source of drinking water within one year after the date of DDW's concurrence letter. In developing this DWSP Plan, PWSs shall refine the information in the PER by applying any new, as-constructed characteristics of the source (i.e., pumping rate, aquifer test, etc.).

.....

R309-113-15. Monitoring Reduction Waivers.

(1) Three types of monitoring waivers are available to PWSs. They are: a) reliably and consistently, b) use, and c) susceptibility. The criteria for establishing a reliably and consistently waiver is set forth in R309-104. The criteria for use and susceptibility waivers follows.

(2) If a source's DWSP plan is due according to the schedule in R309-113-3, and is not submitted to DDW, its use and susceptibility waivers for the VOC and pesticide parameter groups (refer to R309-104-4.3.1 e and f; and R309-104-4.3.2 h and i) will expire unless an exception (refer to R309-113-4) for a new due date has been granted. Additionally, current use and susceptibility waivers for the VOC, pesticide and unregulated parameter groups will expire upon review of a DWSP plan, if these waivers are not addressed in the plan.

(3) Use Waivers - If the chemicals within the VOC and/or pesticide parameter group(s) (refer to R309-103 table 103-3 and 103-2) have not been used within the past five years within zones one, two, and three, the source may be eligible for a use waiver. To qualify for a VOC and/or pesticide use waiver, a PWS must complete the following two steps:

(a) List the chemicals which are used, disposed, stored, transported, and manufactured at each potential contamination source within zones one, two, and three where the use of the chemicals within the VOC and pesticide parameter groups are likely; and

(b) submit a dated statement which is signed by the system's designated person that none of the VOCs and pesticides within these respective parameter groups have been used, disposed, stored, transported, or manufactured within the past five years within zones one, two, and three.

(4) Susceptibility Waivers - If a source does not qualify for use waivers, and if reliably and consistently waivers have not been issued, it may be eligible for susceptibility waivers. Susceptibility waivers tolerate the use, disposal, storage, transport, and manufacture of chemicals within zones one, two, and three as long as the PWS can demonstrate that the source is not susceptible to contamination from them. To qualify for a VOC and/or pesticide susceptibility waiver, a PWS must complete the following steps:

(a) Submit the monitoring results of at least one applicable sample from the VOC and/or pesticide parameter group(s) that has been taken within the past five years. A non-detectable analysis for each chemical within the parameter group(s) is required;

(b) submit a dated statement from the designated person verifying that the PWS is confident that a susceptibility waiver for the VOC and/or pesticide parameter group(s) will not threaten public health; and

(c) verify that the source is developed in a protected aquifer, as defined in R309-113-6(1)(v), and have a public education program which addresses proper use and disposal practices for pesticides and VOCs which is described in the management sections of the DWSP plan.

(5) Special Waiver Conditions - Special scientific or engineering studies or best management practices may be developed to support a request for an exception to paragraph R309-113-15(4)(c) due to special conditions. These studies must be approved by DDW before the PWS begins the study. Special waiver condition studies may include:

(a) geology and construction/grout seal of the well to demonstrate geologic protection;

(b) memoranda of agreement which addresses best management practices for VOCs and/or pesticides with industrial, agricultural, and commercial facilities which use, store, transport, manufacture, or dispose of the chemicals within these parameter groups;

(c) public education programs which address best management practices for VOCs and/or pesticides;

(d) contaminant quantities;

(e) affected land area; and/or

(f) fate and transport studies of the VOCs and/or pesticides which are listed as hazards at the PCSs within zones one, two, and three, and any other conditions which may be identified by the PWS and approved by DDW. [Current use and susceptibility waivers for the VOC, pesticide, and unregulated parameter groups will expire, if they are not addressed in a source's DWSP Plan. Guidance for addressing waivers is found in the "Source Protection User's Guide." This document may be obtained from DDW.]

KEY: drinking water, environmental health
[June 15, 1998]December 2, 1998 **19-4-104(1)(a)(iv)**
Notice of Continuation April 10, 1997



Environmental Quality, Radiation Control

R313-16

General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21535

FILED: 10/13/1998, 09:22

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The major reason for rule change is to address a need for change in the inspection frequency of radiation machines and to allow employees of the state to accept work performed by individuals who meet the qualifications in Section R313-16-400. Other changes are made to effectively register particle accelerators, recognize radiation machines registered in another jurisdiction, and to make improvements for clarity.

SUMMARY OF THE RULE OR CHANGE: Section R313-16-215 is changed to delete the definition of "clinic," clarify the definition of "facility," and add a definition for "sorting center." An exemption from the requirements to register radiation machines is added in Section R313-16-220 for manufacturers, assemblers, and sorting centers as well as machines owned by a Federal agency. Section R313-16-231 has been added to effectively register particle accelerators used for purposes other than therapy. Requirements have been stated in Section R313-16-240 for recognizing the use of radiation machines registered in another jurisdiction. Section R313-16-290 is being changed to eliminate the facility category of "clinic." This category is replaced by two types of medical facilities. Namely, those using fluoroscopic or computed tomography units and those using general radiographic devices. Industrial facilities for materials testing are eliminated and replaced with industrial facilities that have high or very high radiation areas and industrial facilities using other industrial types of X-ray units. The qualifications an individual may have to perform radiation safety inspections are listed in Section R313-16-400.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-104 and 19-3-108

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: It is projected that inspection fees collected by the Division will decrease by approximately \$9,000 per fiscal year as a result of changes in the facility classification system, the inspection frequency for the various facility classifications, and because of the number of facilities likely to be inspected by third party medical physics consultants.

❖LOCAL GOVERNMENTS: Changes in the rule do not affect local governments, so there will be no cost or savings impacts.

❖OTHER PERSONS: Individuals who perform consultation services for owners of radiation machines are estimated to see as much as a 20% increase in the number of service opportunities due to the change. Because the fee for consultation services varies from individual to individual, we are unable to project the total revenue they may generate from the change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Regulated facilities formerly classified as "clinics" and now classified as "medical facilities using general purpose radiographic devices" will experience a cost savings of \$115 for each X-ray tube registered because the frequency of inspection will change from once per year to once per two year period. Those facilities formerly classified as "medical" and who have registered either a fluoroscopic or computed tomography (CT) X-ray unit with the Division will experience a cost increase of \$105 per fluoroscopic or CT tube because the inspection frequency will increase from once per two years to once per year. Industrial facilities without the presence of high or very high radiation areas have a cost savings as the inspection frequency moves from once per two years to once per five years. The cost saving will be approximately \$105 per industrial X-ray tube.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rulemaking will have no new fiscal impact on businesses. The overall impact will be more appropriate "lesser" regulation for some facilities.

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

Environmental Quality
Radiation Control
Bldg. 2, State of Utah Office Park
168 North 1950 West
PO Box 144850
Salt Lake City, UT 84114-4850, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig W. Jones at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at cjones@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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/11/1998

AUTHORIZED BY: William J. Sinclair, Executive Secretary

R313. Environmental Quality, Radiation Control.

R313-16. General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines.

R313-16-200. Purpose and Authority.

(1) The purpose of this rule is to prescribe requirements governing the installation, registration, inspection, and use of sources of electronically produced ionizing radiation.

(2) The rules set forth herein are adopted pursuant to the provisions of Section 19-3-104(3).

R313-16-215. Definitions.

(1) "Clinic" means a medical practice which employs two or more full time physicians:

(2) "Facility" means the location, building, vehicle, or complex under one administrative control, at which one or more radiation machines are installed, located or used. ~~[, under the same administrative control and of the same facility type, are installed or located within one building, vehicle, under one roof or at one localized site.]~~

"Sorting Center" means a facility in which radiation machines are in storage until they are shipped out of state.

(3) "Storage" means a condition in which a radiation machine is not being used for an extended period of time, and has been made inoperable.

R313-16-220. Exemptions.

(1) Electronic equipment that produces radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of Rule R313-16, providing the dose equivalent rate averaged over an area of ten square centimeters does not exceed 0.5 mrem (5.0 uSv) per hour at five centimeters from accessible surfaces of the equipment.

(2) Radiation machines while in transit are exempt from the requirements of Section R313-16-230. See Section R313-16-250 for other applicable requirements.

(3) Television receivers are exempt from the requirements of Rule R313-16.

(4) Radiation machines while in the possession of a manufacturer, assembler, or a sorting center are exempt from the requirements of Section R313-16-230.

(5) Radiation machines owned by an agency of the Federal Government are exempt from the requirements of Rule R313-16.

R313-16-225. Responsibility for Radiation Safety Program.

(1) The ~~[owner]~~registrant shall be ultimately responsible for radiation safety, but may designate another person ~~[qualified by training and experience]~~ to implement the radiation safety program. When, in the Executive Secretary's opinion, neither the ~~[owner]~~registrant nor ~~[an individual he has designated]~~the registrant's designee is sufficiently qualified to insure safe use of the machine; the Executive Secretary may order the ~~[owner]~~registrant to designate another individual who has adequate qualifications.

(2) The ~~[owner]~~registrant or ~~[his]~~the registrant's designee shall:

(a) develop a detailed program of radiation safety that assures compliance with the applicable requirements of these rules, including Section R313-15-101;

(b) have instructions given concerning radiation hazards and radiation safety practices to individuals who may be occupationally exposed ~~to radiation~~; ~~and~~

(c) have surveys made and other procedures carried out as required by these rules ~~;~~ ~~and~~

(d) keep a copy of all reports, records, and written policies and procedures required by these rules.

R313-16-230. Registration of Radiation Machines.

(1) ~~The owner of an~~ ionizing radiation producing machines not exempted by Section R313-16-220 shall be registered ~~the machine~~ with the Department.

(2) Registration renewal shall be required annually. The registration interval is July 1 through June 30 of the following year. The annual registration anniversary date shall be July 1 ~~of each year~~. Renewal application will be considered late and late fees may be assessed if not received by the last day of August.

(3) Registration for the facility is achieved when ~~;~~ the Executive Secretary receives the following:

(a) a current and complete application form DRC-10 for registration of radiation machines; and

(b) annual registration fees.

(4) Registration for the current fiscal year shall be acknowledged by the Executive Secretary through receipts for the remittance of the registration fee.

R313-16-231. Additional Requirements for the Issuance of a Registration for Particle Accelerators Excluding Therapeutic Radiation Machines (See Rule R313-30).

(1) In addition to the requirements of Section R313-16-230, a registrant who proposes to use a particle accelerator shall submit an application to the Executive Secretary containing the following:

(a) information demonstrating that the applicant, by reason of training and experience, is qualified to use the accelerator in question for the purpose requested in a manner that will minimize danger to public health and safety or the environment;

(b) a discussion which demonstrates that the applicant's equipment, facilities, and operating and emergency procedures are adequate to protect health and minimize danger to public health and safety or the environment;

(c) the name and qualifications of the individual, appointed by the applicant, to serve as radiation safety officer pursuant to Section R313-35-140;

(d) a description of the applicant's or the staff's experience in the use of particle accelerators and radiation safety training; and

(e) a description of the radiation safety training the applicant will provide to particle accelerator operators.

(2) Registrants who possess and use a particle accelerator that has been registered with the Department prior to January 1, 1999 shall submit a registration application that contains the information in R313-16-231(1)(a) through (e). The application shall be submitted by July 1, 1999.

~~R313-16-231.~~R313-16-233. Notification of Intent to Provide Servicing and Services.

(1) ~~A~~ Persons ~~who is~~ engaged in the business of installing or offering to install radiation machines or ~~is~~ engaged in the business of furnishing or offering to furnish radiation machine servicing or services in this State shall notify the Executive Secretary of the intent to provide these services within 30 days following the effective date of this rule or, thereafter, prior to furnishing or offering to furnish these services.

(2) The notification shall specify:

(a) that ~~he has read and understands~~ the applicable requirements of these rules have been read and understood;

(b) the services which ~~he is~~ will be ~~providing~~ provided;

(c) the training and experience that qualify ~~him to~~ for the discharge of the services; and

(d) the type of measurement instrument to be used, frequency of calibration, and source of calibration.

(3) For the purpose of Section R313-16-231, services may include but shall not be limited to:

(a) installation or servicing of radiation machines and associated radiation machine components;

(b) calibration of radiation machines or radiation measurement instruments or devices; and

(c) ~~radiation protection or health physics~~ consultations or surveys for radiation protection or health physics ~~;~~ (See Section R313-16-400).

(4) ~~An~~ Individuals shall not perform the services listed in Subsection ~~R313-16-231(3)~~ R313-16-233(3) unless they are specifically stated for that individual on the notification of intent required in Subsection ~~R313-16-231(1)~~ R313-16-233(1) and the complete information required by Subsection ~~R313-16-231(2)~~ R313-16-233(2) has been received by the Executive Secretary.

R313-16-235. Designation of Registrant.

The owner or lessee of a radiation machine is the registrant. The registrant shall be responsible for penalties imposed under the Executive Secretary's escalated enforcement authority, see Rule R313-14.

R313-16-240. Reciprocal Recognition of Registration or License.

Radiation machines from jurisdictions other than the State of Utah may be operated in this state for a period of less than 30 days providing that the requirements of Section R313-16-280 have been met and providing they are properly registered or licensed with the State Agency having jurisdiction over the office directing the activities of the individuals operating the radiation machines. Radiation machines operating under reciprocity may be inspected pursuant to Section R313-16-290.

.....

R313-16-270. Transferor, Assembler, or Installer Obligation.

(1) ~~A~~ Persons who sell[s], lease[s], transfer[s], lend[s], dispose[s], assemble[s], or install[s] a radiation machine in this state shall notify the Executive Secretary within 14 working days of the following:

(a) the name and address of ~~the~~ the person who ~~has~~ received the machine and also the name and address of the new ~~owner~~ registrant of the machine if ~~he is~~ not the same;

(b) the manufacturer, model, and serial number of the master control of the radiation machine and the number of x-ray tubes transferred; and

(c) the date of transfer of the radiation machine.

(2) Radiation machine equipment or accessories shall not be installed if the equipment will not meet the requirements of these rules when installation is completed.

(3) Reporting Compliance. ~~An~~ Assemblers who install ~~s~~ one or more components into a radiation machine system or subsystem, shall certify that the equipment meets the standards of these rules. A copy of this certification shall be transmitted to the purchaser and to the Executive Secretary within 14 working days following the completion of the installation.

(4) Certification can be accomplished by providing the following in conjunction with the information required by Section R313-16-250 and Subsection R313-16-270(1):

(a) the full name and address of the assembler and the date of assembly or installation;

(b) a statement as to whether the equipment is a replacement for other equipment, in addition to other equipment, or new equipment in a new facility;

(c) an affirmation that the applicable rules have been met;

(d) a statement of the type and intended use of the radiation machine system or subsystem, for example "radiographic-stationary general purpose x-ray;"

(e) a list of the components which were assembled or installed into the radiation machine system or subsystem, identifying the components by type, manufacturer, model number, and serial number;

(f) a list of the equipment or components which were replaced, identifying the components by type, manufacturer, model number, and serial number, and a statement as to their intended disposal or use;

(g) the reports or inspection results of the qualified expert utilized.

R313-16-275. Obligation of Equipment ~~Owner~~ Registrant or Recipient of New Equipment.

The ~~owner~~ registrant of a radiation machine shall not allow the equipment to be put into operation until ~~he~~ it has been determined that the facility in which it is installed meets the shielding and design requirements of Rule R313-28; see Sections R313-28-32, R313-28-200 and R313-28-450.

R313-16-280. Out-of-State Radiation Machines.

(1) Whenever a radiation machine is to be brought into the state, for either temporary or extended use, the person proposing to bring the machine into the state shall give written notice to the Executive Secretary at least three working days before the machine is to be used in the state. The notice shall include the type of radiation machine; the manufacturer model and serial number of the master control; the nature, duration, and scope of use; and the exact location where the radiation machine is to be used. If, for a specific case, the three working-day period would impose an undue hardship, the person may, upon application to the Executive Secretary, obtain permission to proceed sooner.

(2) In addition the out-of-state person shall:

(a) comply with the applicable portions of these rules;

(b) supply the Executive Secretary other information as the Executive Secretary ~~may reasonably~~ requests.

R313-16-290. Inspection of Radiation Machines and Facilities.

(1) ~~Except for those registrants in facilities registered as HOSPITALS or CLINICS, the registrant shall have inspections made by representatives of the Executive Secretary. Registrants in facilities registered as HOSPITALS or CLINICS shall have inspections made by representatives of the Executive Secretary or by a qualified expert approved by the Radiation Control Board. These inspections are to assure compliance with these rules, to assist in improving radiographic imaging, and to assist in lowering radiation exposure to as low as reasonably achievable levels, see Section R313-15-101. Inspections performed by representatives of the Executive Secretary may be scheduled by alphabetical listing, district, area, city, or building, to facilitate efficiency.~~

~~(2) The inspections shall include machine function, facility design including shielding, operator procedures, a review of the documentation of operator qualifications, and some comparison of patient exposure. Registrants shall assure that radiation machines registered pursuant to R313-16-230 are compliant with these rules. Radiation machines, facilities, and radiation safety programs are subject to inspection to assure compliance with these rules, to assist in improving radiographic imaging and to assist in lowering radiation exposure to as low as reasonably achievable levels, see R313-15-101. During an inspection of a facility, representatives of the Executive Secretary may, as a part of the inspection, accept work, performed by a person who meets the qualifications in R313-16-400, that demonstrates compliance with these rules.~~

~~(3) The elapsed time between inspection shall not exceed that shown in the following chart.~~

(2) Inspections may, at the Executive Secretary's discretion, ~~also~~ be done ~~immediately~~ after the installation of equipment, or after a change in the facility or equipment which might cause a significant change in radiation output or hazards. Inspections may be completed in accordance with the schedule as defined in Table I.

TABLE I

FACILITY TYPE	MAXIMUM TIME BETWEEN INSPECTIONS
Hospital or Clinic <u>Radiation Therapy Facility</u>	one year
Educational	two years
<u>Medical Facility using Fluoroscopic or Computed Tomography (CT) Units</u>	one year
<u>Medical Facility Using General Radiographic Devices</u>	two years
Chiropractic	two years
Medical	two years
Dental	five years
Podiatry	five years
Veterinary	five years
Industrial (Materials Testing)	two years
<u>Industrial Facility with High or Very High Radiation Areas Accessible to Individuals</u>	one year
<u>Industrial Facility Using Cabinet X-Ray Units or Units Designed for Other Industrial Purposes</u>	five years
Other	two one to five years

~~[(4)] Registrants in facilities registered as HOSPITALS or CLINICS, who have a qualified expert perform the inspection of their facility, shall obtain a written report for the radiation machines from the qualified expert within 30 working days after completion of the inspection. The report shall indicate the instances of violation of these rules, cite the section violated, and list those recommendations of an advisory nature made to the facility. A copy of this report shall be transmitted by the registrant to the Executive Secretary within 14 working days after the registrant receives the report.~~

~~— (5) The appropriate inspection fee shall be received by the Executive Secretary within 30 days of the date of inspection. [(3) The registrant, in a timely manner, shall pay the appropriate inspection fee after completion of the inspection.~~

~~[(6)](4) Ionizing radiation producing machines which have been officially placed in storage are exempt from inspection fees but are subject to visual verification of their status by representatives of the Executive Secretary [of their status].~~

R313-16-400. [Requirements for Qualified Expert Status As Related to the Inspection of X-Ray Equipment and Facilities.]Qualifications an Individual May Have to Perform Radiation Safety Inspections for a Registrant.

The following are representative, but not exclusive, lists of the qualifications of those individuals who may have sufficient experience or training to ~~[be given qualified expert status in the areas of expertise designated:]~~perform radiation safety inspections for a registrant. ~~[The qualifications of individual applicants will be presented to the Radiation Control Board, for their review and approval. Continued approval will depend upon performance. Inactivity or failure to comply with these rules or Executive Secretary requirements shall result in review by the Board and may result in removal from the list of qualified experts.]~~These individuals shall submit a statement of their training and experience to the Executive Secretary.

(1) Radiation therapy:
(a) Certified by the American Board of Radiology (A.B.R.) ~~[certification]~~in radiation therapy;

(b) Certified by the American Board of Medical Physics in radiation therapy;

~~[(b)](c) Ph.D. plus two years of clinical therapy experience;~~
~~[(c)](d) M.S. plus three years of clinical therapy experience;~~

or

~~[(d)](e) B.S. plus five years of clinical therapy experience.~~

(2) Radiation therapy safety and leakage survey only:

(a) Certified by the American Board of Health Physics (A.B.H.P.);or

~~(b) [certified or e]~~Eligible for admission to A.B.H.P. certification test.

(3) Diagnostic x-ray:

(a) Certified by the A.B.R. certification in diagnostic radiology (physics);

(b) Certified by the American Board of Medical Physics in radiation therapy;

~~[(b)](c) A.B.H.P. comprehensive certification;~~

~~[(c)](d) Ph.D. plus one year clinical experience or two years general experience;~~

~~[(d)](e) M.S. plus one year clinical experience or two years general experience;~~

~~[(e)](f) B.S. plus two years clinical experience or four years general experience;~~

~~[(f)](g) Eligible for admission to A.B.R. certification test, M.S. plus two years experience; or~~

~~[(g)](h) Eligible for admission to A.B.H.P. certification test:~~
(i) B.S. plus five years health physics, preferably in diagnostic x-ray surveys experience;

(ii) M.S. in physical sciences plus four years health physics, preferably in diagnostic x-ray surveys experience;

(iii) M.S. in health physics or medical physics plus 3-1/2 years health physics, preferably in diagnostic x-ray surveys experience;

(iv) Ph.D. in physical sciences plus 3-1/2 years health physics, preferably in diagnostic x-ray surveys experience; or

(v) Ph.D. in health physics or medical physics plus three years health physics, preferably in diagnostic x-ray surveys experience; ~~or].~~

~~— (h) National Registry of Radiation Protection Technologists certification plus three years experience in diagnostic x-ray surveys;~~

~~— (i) National Registry of Radiation Protection Technologists (NRRPT) certification or eligible for admission to NRRPT examination.]~~

KEY: x-ray, inspection

~~[1992]1998~~

19-3-104

Notice of Continuation March 26, 1997



Health, Health Care Financing,
Coverage and Reimbursement Policy

R414-303

Coverage Groups

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21529

FILED: 10/08/1998, 08:19

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was transferred to the Department of Health (DOH) from the Department of Workforce Services. The intent was to provide home- and community-based services for adults with physical disabilities in lieu of placing these individuals in nursing homes.

SUMMARY OF THE RULE OR CHANGE: Section R414-303-15 entitled "Personal Assistance Waiver for Adults with Physical Disabilities" was added to the rule. The numbering system was modified to conform to Department of Health standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18

FEDERAL REQUIREMENT FOR THIS RULE: 42 CFR 441, Subpart G, Section 1915(c) of the Act

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The best estimate is the saving of from three to five thousand dollars per client per year from the cost if the client were in a nursing home.

❖LOCAL GOVERNMENTS: This rule does not apply to local governments, therefore there will be no fiscal impact.

❖OTHER PERSONS: The only persons affected by the rule are Medicaid clients who will continue to receive the same benefits. Because of the waiver, they will receive the benefits under a home health environment instead of in a nursing home. There is no fiscal impact on these persons. It is possible that this action could impact the occupancy rate in nursing homes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Under the waiver, clients will receive benefits via home health care, rather than in nursing homes. This could have a negative fiscal impact on nursing homes that will no longer have these clients in their facilities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Providing Medicaid nursing home eligible recipients the option of receiving home health rather than nursing home care is a possible cost savings to the state. More importantly it may avoid unnecessarily institutionalizing the recipients and extend the time that the recipients can continue residing in their own homes. This possible option for recipients more than offsets any possible negative impact on nursing homes--Rod L. Betit

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Richard Nelson at the above address, by phone at (801) 538-6494, by FAX at (801) 538-6952, or by Internet E-mail at rnelson@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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-303. Coverage Groups.

R414-303-[30]1. A, B and D Medicaid and A, B and D Institutional Medicaid Coverage Groups.

The definitions in R414-1 apply to this rule.

(1[-]) The [d]Department shall provide Medicaid coverage to individuals as described in 42 CFR 435.116, 435.120, 435.122, 435.131 through 435.133, 435.135, 435.138, 435.210, 435.211, 435.301, 435.320, 435.322, 435.324, 435.340, and 435.541, 199[2] ed., which are incorporated by reference. The [d]Department shall provide coverage to individuals as described in 20 CFR 416.901 through 416.1094, 199[2] ed., which is incorporated by reference. The [d]Department shall provide coverage to individuals as required by Sections 470 through 479, 1634(b), (c) and (d), 1902(a)(10)(E) and 1902(e) of the Compilation of the Social Security Laws, 1995 ed. The [d]Department shall provide coverage to individuals as required by Pub. L. No. 105-33, Sections 4732 and 4913 which is incorporated by reference.

(2[-]) Current [d]Department practices:

(a[-]) Proof of disability includes a certification of disability from the State Medicaid Disability Office, Supplemental Security Income (SSI) status, or proof that a disabled client is recognized as disabled by the Social Security Administration (SSA).

(b[-]) A client who earns more than \$500 a month will be denied disability without being reviewed by the State Medicaid Disability Office.

(c[-]) If a client has been denied SSI or SSA and claims to have become disabled since the SSI or SSA decision, the State Medicaid Disability Office shall review current medical information to determine if the client is disabled.

(d[-]) The age requirement for A Medicaid is 65 years of age.

(e[-]) For children described in Pub. L. No. 105-33, Section 4913, periodic redeterminations shall be conducted as determined by the state to assure that the child continues to meet the SSI eligibility criteria as required by such section.

(f[-]) Coverage for qualifying individuals described in Pub. L. No. 105-33, Section 4732, is limited to the amount of funds allocated under such section for a given year. Applicants will be denied coverage when the uncommitted allocated funds are insufficient to provide such coverage.

R414-303-[30]2. Family Medicaid and Family Institutional Medicaid Coverage Groups.

(1[-]) The [d]Department shall provide Medicaid coverage to individuals who are eligible as described in 42 CFR 435.110, 435.113 through 435.115, 435.211, 435.217, 435.223, 435.233.9, 435.233.90, and 435.300 through 435.310, 199[+] ed., and 45 CFR 211, 199[2] ed., which are incorporated by reference.

(2[-]) The [d]Department provides Medicaid coverage to individuals who satisfy AFDC rules for age, family composition, relationship, and deprivation of support and to families receiving financial assistance from the Emergency Work Program (EWP) as described in 45 CFR 233.39 and 233.90, 199[+] ed., which is incorporated by reference.

(3[-]) The [d]Department elects to include children age 18 who are full-time students in a secondary school or in the equivalent level of vocational or technical training, and who may reasonably be expected to complete the program before age 19.

(4[-]) A specified relative, other than the child's parents, may apply for assistance for a child. In addition to other Family Medicaid requirements, all the following rules apply to a Family Medicaid application by a specified relative:

(a[-]) The child must be currently deprived of support because both parents are absent from the home where the child lives.

(b[-]) The child must be currently living with, not just visiting, the specified relative.

(c[-]) The parents' obligation to financially support their child shall be enforced.

(d[-]) The income and resources of the specified relative will not be counted unless the specified relative is also included in the Medicaid coverage group.

(e[-]) If the specified relative is currently an AFDC or Family Medicaid household, the child will be included in the case of the specified relative.

(f[-]) The specified relative may choose to be excluded from the Medicaid coverage group. The ineligible children of the specified relative must be excluded. The specified relative will not be included in the income standard calculation.

(g[-]) The specified relative may choose to exclude any child from the Medicaid coverage group. If a child is excluded from coverage, that child's income and resources will not be used to determine eligibility or spenddown.

(h[-]) If the specified relative does not meet deprivation of support criteria and elects to be included in the Medicaid coverage group, the following income rules apply:

(i[-]) The monthly gross earned income of the specified relative and spouse shall be counted.

(ii[-]) The unearned income of the relative and the excluded spouse shall be counted.

(iii[-]) For each employed person, \$90 will be deducted from the monthly gross income.

(iv[-]) Child care expenses necessary for employment will be deducted for only the specified relative's children. The maximum allowable deduction will be \$200.00 per child under age two and \$175.00 per child age two and older each month for full-time employment or \$160.00 per child under age two and \$140.00 per child age two and older each month for part-time employment.

(5[-]) An American Indian child in a boarding school and a child in a school for the deaf and blind are considered temporarily absent from the household.

(6[-]) Temporary absence from the home for purposes of schooling, vacation, or medical treatment shall not constitute non-resident status. The following situations do not meet the definition of absence for purposes of determining deprivation of support:

(a[-]) parental absences which are caused solely by reason of employment, school, or training;

(b[-]) an absent parent who will return home to live within 30 days from the date of application;

(c[-]) an absent parent is the primary child care provider for the children, and the child care is frequent enough that the children are not deprived of parental support, care, or guidance.

(7[-]) Joint custody situations are evaluated based on the actual circumstances that exist for a dependent child. The same policy is applied in joint custody cases as is applied in other absent parent cases.

(8[-]) The Department imposes no suitable home requirement.

(9[-]) Medicaid assistance is not continued for a temporary period while the effects of deprivation of support are being overcome.

(10[-]) Full-time employment nullifies a person's claim to incapacity. To claim an incapacity a parent must meet one of the following criteria:

(a[-]) receive SSI;

(b[-]) be recognized as 100% disabled by the Veteran's Administration or the Social Security Administration;

(c[-]) have an incapacity that is visually observable;

(d[-]) provide a Medical Report Form 21 completed by a physician or licensed/certified psychologist which indicates that the incapacity is expected to last at least 30 days. The medical report must also state that the incapacity will substantially reduce the parent's ability to work or care for the child.

(11[-]) Medicaid for families with an unemployed parent may be provided when a family does not receive AFDC cash assistance.

(a[-]) The parent who has made the most money in the previous 24 months is the primary wage earner.

(b[-]) The [d]Department shall not require the primary wage earner to have an employment history.

(c[-]) The primary wage earner must not have refused work in the past 30 days.

(d[-]) The primary wage earner must have worked less than 100 hours in the last 30 days or must have worked less than 100 hours in the 30 day period immediately preceding a point of eligibility.

(e[-]) A person who has worked 100 hours or more in one month shall be deemed to be working less than 100 hours if that person is expected to work less than 100 hours next month and that person worked less than 100 hours in the previous two months.

R414-303-[30]3. 12 Month Transitional Family Medicaid.

(1[-]) The [d]Department requires compliance with Public Law 74-271(1925).

(2[-]) The following definition applies to this section:

(a[-]) "Good cause" means an acceptable reason or reasons, as allowed by the [d]Department, for not complying with one or more factors of eligibility.

(3[-]) Current [d]Department practices:

(a[-]) Individuals receiving 12 month continued medical assistance are required to report quarterly gross earnings and child care expenses paid by the household.

(b[-]) The parent must have earnings in each month of the first, second and third quarters of the 12 month continued medical assistance period or the parent must have good cause for no earnings.

(c[-]) The household's gross income, less employment related child care paid by the household, must average 185% or less of the federal poverty level in the second and third quarters.

(d[-]) New household members will not be added to the transitional medical assistance program if they would be considered part of the AFDC or AF/EWP household if they were applying in the current month. Newborn babies are considered household members even if they were unborn in the month the household became ineligible for AFDC. New members added to the case will lose eligibility when the household loses eligibility. Assistance shall be terminated for members who leave the household.

(e[-]) Income from new household members must be reported at the time the household files its quarterly report. Income from new household members will be counted, regardless of program participation, if a new household member has legal responsibility for any household member receiving 12 month continued medical assistance.

R414-303-[30]4. Four Month Transitional Family Medicaid.

(1[-]) The [d]Department adopts 42 CFR 435.112, 199[+7] ed., which is incorporated by reference.

(2[-]) Current [d]Department practices:

(a[-]) Changes in household composition do not affect eligibility for the four month extension period. New household members may be added to the case only if they would be considered part of the AFDC or AF/EWP household if they were applying in the current month. Newborn babies are considered household members even if they were unborn the month the household became ineligible for AFDC. New members added to the case will lose eligibility when the household loses eligibility. Assistance shall be terminated for household members who leave the household.

R414-303-[30]5. Foster Care.

The [d]Department adopts 42 CFR 435.119, 199[+7] ed., which is incorporated by reference. The [d]Department requires compliance with Public Law 74-271(472).

R414-303-[30]6. Subsidized Adoptions.

The [d]Department adopts 42 CFR 435.119, 199[07] ed., which is incorporated by reference. The [d]Department requires compliance with Public Law 74-271(472).

R414-303-[30]7. Child Medicaid.

(1[-]) The [d]Department adopts 42 CFR 435.222 and 435.301 through 435.308, 199[+7] ed., which are incorporated by reference.

(2[-]) Current [d]Department practices:

(a[-]) The [d]Department elects to cover all individuals under age 18 who would be eligible for AFDC but do not qualify as dependent children. Individuals who are 18 years old may be covered if they would be eligible for AFDC except for not living with a specified relative or not being deprived of support.

(b[-]) If a child receiving SSI elects to receive Child Medicaid or receives benefits under the Home and Community Based Services Waiver, the child's SSI income shall be counted with other household income.

R414-303-[30]8. Refugee Medicaid.

(1[-]) The [d]Department adopts 45 CFR 400.90 through 400.107, 199[47] ed., which are modified by the Federal Register 60 FR 33584, published Wednesday, June 28, 1995, and 45 CFR 401, 199[47] ed., all of which are incorporated by reference.

(2[-]) Current [d]Department practices:

(a[-]) Specified relative rules do not apply.

(b[-]) Child support enforcement rules do not apply.

(c[-]) The sponsor's income and resources are not counted. In-kind service or shelter provided by the sponsor is not counted.

(d[-]) Initial settlement payments made to a refugee from a resettlement agency are not counted.

(e[-]) Refugees may qualify for medical assistance for eight months after entry into the United States.

R414-303-[30]9. Prenatal and Newborn Medicaid.

(1[-]) The [d]Department requires compliance with Section 1902(a) and (l) of the Compilation of the Social Security Laws, 1993 ed., Public Law 74-271(1902)(K)(1) and Section 26-18-3.1.

(2[-]) Current [d]Department practices:

(a[-]) The [d]Department elects to impose a resource standard on Newborn Medicaid coverage for children age six to the month in which they turn age 19. The resource standard is the same as other Family Medicaid Categories.

(b[-]) The [d]Department elects to provide Prenatal Medicaid coverage to pregnant women whose countable income is equal to or below 133% of poverty.

(c[-]) At the initial determination of eligibility for Prenatal Medicaid applicants who have \$5,000 or more of assets, the Department will require the applicant to pay four percent of countable resources to become eligible for Prenatal Medicaid. This payment amount shall not exceed \$3,367. The payment must be met with cash; incurred medical bills and medical expenses are not allowed to meet this payment.

(d[-]) In subsequent months, through the 60 day postpartum period, the Department disregards all excess resources.

(e[-]) This resource payment applies only to pregnant women covered under Sections 1902(a)(10)(A)(i)(IV) and 1902(a)(10)(A)(ii)(IX)(A) of the Social Security Act.

(f[-]) No resource payment will be required when the Department makes a determination based on information received from a medical professional that social, medical, or other reasons place the woman in a high risk category.

(g[-]) Children born after September 30, 1983 may qualify for the newborn program through the month in which they turn 19.

(h[-]) Children born before October 1, 1983 may qualify for the Newborn program through the month in which they turn 18.

R414-303-[3]10. PG Medicaid.

The [d]Department requires compliance with Public Law 74-271(1902)(a)(10)(A)(i)(III).

R414-303-[3]11. DD/MR Home and Community Based Services Waiver.

(1[-]) The [d]Department adopts 42 CFR 441.301 and 435.726, 199[+7] ed., which are incorporated by reference. The [d]Department requires compliance with Public Law 74-271(1915)(c).

(2[-]) Current [d]Department practices:

(a[-]) Medicaid Eligibility for Developmentally Disabled Mentally Retarded (DD/MR) Home and Community-Based Services is limited to mentally retarded and developmentally disabled individuals. Eligibility is limited to those referred by the Division of Services to People with Disabilities (DSPD) or any DD/MR worker.

(b[-]) Medicaid eligibility for DD/MR Home and Community-Based Services is limited to individuals who qualify for a regular Medicaid coverage group.

(c[-]) A client's resources must be equal to or less than the regular Medicaid resource limit. The spousal impoverishment resource provisions for married, institutionalized individuals in R414-305-[50]3 apply.

(d[-]) All of the client's income is countable.

(e[-]) To determine spenddown the [d]Department will deduct \$500 of earned income for disabled individuals and \$810 for blind individuals.

(f[-]) Deductions for any health insurance or medical expenses for the waiver eligible client shall be allowed.

(g[-]) The spousal impoverishment provisions for Institutional Medicaid income apply.

(h[-]) The client obligation for spenddown will be the amount of income that exceeds the personal needs allowance after allowable deductions.

(i[-]) Parental and spousal income shall be counted only if the client is given a cash contribution from a parent or spouse.

(j[-]) A client who transfers resources for less than fair market value for the purpose of obtaining Medicaid may be ineligible for an indefinite period of time. If the transfer occurred prior to August 11, 1993, the period of ineligibility shall not exceed 30 months.

R414-303-[3]12. Aging Home and Community Based Services Waiver.

(1[-]) The [d]Department adopts 42 CFR 441.301 and 435.726, 199[+] ed., which are incorporated by reference. The [d]Department requires compliance with Public Law 74-271(1915)(c).

(2[-]) Current [d]Department practices:

(a[-]) Medicaid eligibility for Aging Home and Community-Based Services is limited to individuals eligible for Aged Medicaid, except that the spousal impoverishment resource limits apply, who could qualify for skilled nursing home care. Eligibility is limited to those referred by the Division of Aging or a county aging worker.

(b[-]) A client's resources must be equal to or less than the regular Medicaid resource limit. The spousal impoverishment resource provisions for married, institutionalized individuals in R414-305-[50]3 apply.

(c[-]) All income is counted. Spenddown is determined counting only the client's income less allowable deductions.

(d[-]) The spousal impoverishment provisions for Institutional Medicaid income apply. Income deductions include health insurance premiums, medical expenses, a percentage of shelter costs and an aging waiver deduction.

(e[-]) A client who transfers resources for less than fair market value for the purpose of obtaining Medicaid may be ineligible for an indefinite period of time. If the transfer occurred prior to August 11, 1993, the period of ineligibility shall not exceed 30 months.

(f[-]) Spousal income shall be counted only if the client is given a cash contribution from a spouse.

R414-303-[3]13. Technologically Dependent Child Waiver/Travis C. Waiver.

(1[-]) The [d]Department will operate this program statewide initially with a limited number of available slots.

(2[-]) Current [d]Department practices:

(a[-]) Eligibility for services under this waiver require that the individual have a medical need. This means that the individual must be in need of skilled nursing or rehabilitation services and of being dependent on medical technology for life support. A medical need determination will be established through the Department of Health, Family Health Services.

(b[-]) To qualify for services under this waiver, the individual must be considered a child. This means the individual must be

under age 21. An individual is considered to be under age 21 until the month after the month in which the twenty first birthday falls.

(c[-]) All other eligibility requirements follow the rules for the DD/MR Home and Community Based Services Waiver found in R414-303-[3]11.

R414-303-[3]14. Persons with Brain Injury Home and Community Based Services Waiver.

(1[-]) The [d]Department will operate this program statewide initially with a limited number of available slots.

(2[-]) Current [d]Department practices:

(a[-]) Eligibility for services under this waiver require that the individual has medical need resulting from a brain injury. This means that the individual must be in need of skilled nursing or rehabilitation services as a result of the damage sustained because of the brain injury. A medical need determination will be established through the Department of Human Services, Division of Services for People with Disabilities.

(b[-]) To qualify for services under this waiver, the individual must be 18 years old or older. The person is considered to be 18 in the month in which the 18th birthday falls.

(c[-]) All other eligibility requirements follow the rules for the Aging Home and Community Based Services Waiver found in R414-303-[3]12.

(d[-]) The spousal impoverishment provisions for Institutional Medicaid income apply, with one exception: An individual who has a dependent family member living in the home is allowed a deduction for a dependent family member even if the individual is not married or is not living with the spouse.

R414-303-15. Personal Assistance Waiver for Adults with Physical Disabilities.

(1) The Department adopts 42 CFR 435.726 and 435.217, 1997 ed., which are incorporated by reference. The Department requires compliance with Section 1915(c) of the Compilation of the Social Security Laws, 1995 ed.

(2) The waiver shall be limited to individuals 18 years of age and over.

(3) The individual must meet non-financial criteria for Aged, Blind, or Disabled Medicaid.

(4) A client must qualify for a nursing home level of care. Eligibility is limited to those referred by the Division of Services to People with Disabilities and determined medically eligible by the Bureau of Medicare/Medicaid Program Certification and Resident Assessment.

(5) A client's resources must be equal to or less than \$2000. The spousal impoverishment resource provisions for married, institutionalized in R414-305-3 apply.

(6) Countable income is determined using income rules of Aged, Blind, or Disabled Institutional Medicaid. After determining countable income, eligibility is determined counting only the gross income of the client.

(7) The client's income can not exceed three times the SSI benefit amount payable under Section 1611(b)(1) of the Social Security Act, except that individuals with income over this amount can spenddown to the Medicaid Basic Maintenance Standard for a household of one.

(8) Transfer of resource provisions described in R414-305-506 apply to this rule.

KEY: income, coverage groups*
[February 3,]1998 26-18
Notice of Continuation February 6, 1998

Health, Health Systems Improvement,
Health Facility Licensure
R432-1
General Health Care Facility Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21527
FILED: 10/07/1998, 15:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE:
Amendments were made to the rule due to recent legislative changes.

SUMMARY OF THE RULE OR CHANGE: Changes were made to the following definitions: Abuse; Administering; and Physician. The following definitions were deleted: Nurse Anesthetist; and Special Care Unit. New definitions were added to the rule for: Emotional or Psychological Abuse; Certified Registered Nurse Anesthetist; and Critical Care Unit. The term "health care facility" is changed to "health care facility or agency" as appropriate. The term "assisted living" replaces "residential health care" in Subsection R432-1-3(102).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This rule change may have an increased cost to the Bureau budget to provide copies of the rule to the provider industry. However the cost of mailing and copying will be absorbed in the current budget.
❖LOCAL GOVERNMENTS: This proposed amendment will not impose a cost or savings to local governments as enforcement of this rule does not apply to local governments.
❖OTHER PERSONS: This rule establishes definitions which were made in recent legislation. Providers may incur additional costs if it is necessary to make modifications to existing policy and procedure manuals, however there should be an off-set in savings since the rule adopts the same definitions as Adult Protective Services and the Division of Occupational and Professional Licensing. It is not known at this time whether the providers will need to change definitions. During the informal comment period the providers did not mention that this rule would pose an increase in costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: See "Other persons." It is anticipated that the cost to the affected person would be minimal, only if the program has previously adopted definitions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change results from the five-year review process, as well as to conform the rule to recent legislative enactments. Definitions are updated to reflect current practice. I agree that costs to business will be minimal and are amply justified by the benefits to the community.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dwynkoop@doh.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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.
R432-1. General Health Care Facility Rules.

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R432-1-3. Definitions.

- (1) Terms used in this rule are defined in Section 26-21-2. In addition:
- (2) "AWOL/Elopement" means absence without leave; an unauthorized departure from the facility.
- (3) "Abortion" [~~shall have the same meaning as~~]is defined in Section 76-7-301(1).
- (4) "Abuse" is defined in 62A-3-~~[302(5)]~~301 as:~~[and includes the following:~~
 - ~~(i) physical assault, such as hitting, kicking, scratching, pinching, choking or pushing;~~
 - ~~(ii) use of derogatory names, phrases, or profanity; ridicule; harassment, coercion, threats, cursing, intimidation, or sexual exploitation;~~

~~(iii) placing restrictions on a resident which violate the resident's rights; and~~

~~(iv) exploitation as defined in 62A-3-301(7).]~~

(a) attempting to cause, or intentionally or knowingly causing physical harm, or intentionally placing another in fear of imminent physical harm;

(b) physical injury caused by criminally negligent acts or omissions;

(c) unlawful detention or unreasonable confinement;

(d) gross lewdness;

(e) deprivation of life sustaining treatment, except:

(i) as provided in Title 75, Chapter 2, Part 11, Personal Choice and Living Will Act; or

(ii) when informed consent, as defined in Section 76-5-111, has been obtained.

(5) "Act" means the Health Facility Licensure and Inspection Act, Title 26, Chapter 21.

(6) "Active Treatment" means the habilitative program of care for ICF/MR patients described in 42 CFR Part 483 (1983) that addresses training in daily living, self-help, and social skills; activities; recreation; appropriate staffing level; special resident programs; program evaluation; nursing services; documented resident surveys and progress; and social services.

(7) "Activities of Daily Living" ("ADL") means those personal functional activities required for an individual for continued well-being; including eating/nutrition, mobility, dressing, bathing, toileting, and behavior management. ADLs are divided into the following levels:

(i)a "Independent" means the resident can perform the ADL without help.

(ii)b "Assistance" means the resident can perform some part of an activity, but cannot do it entirely alone.

(iii)c "Dependent" means the resident cannot perform any part of an activity; it must be done entirely by someone else.

~~(8) "[Administration of Drugs or Medications] means the act of placing a medication internally in or externally on, a person's body by an individual who is licensed to do so upon the written order of a physician or a person licensed to prescribe medication]~~Administering" means the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person.

(9) "Affiliation" means a relationship, usually signified by a written agreement, between two organizations, under the terms of which one organization agrees to provide specified services and personnel to meet the needs of the other, usually on a scheduled basis.

(10) "Aftercare" means post-institution services designed to help a patient maintain or improve on the gains made during inpatient treatment.

~~(11) "Aide or Attendant" means a person[registered by the Department of Commerce as a health care assistant pursuant to Title 58, Chapter 60,]~~ employed to assist in activities of daily living and in the direct personal care of patients.

(12) "~~ADAAG~~ADAAG" means the Americans with Disability Act Accessibility Guidelines, 28 CFR 36, Appendix A, July 1993.

(13) "Ambulatory" means a person who is capable of achieving mobility sufficient to exit his residence without assistance of another person.

(14) "Annual Report" means a document containing annual statistical information from a licensed health facility or agency.

(15) "Assessment" means a process of observing, testing and evaluating a patient in order to obtain information.

(16) "Bathing Facility" means a bathtub or shower.

(17) "Bed Capacity" means the maximum number of beds which the facility is licensed to offer for patient care.

(18) "Behavior Management" means a planned, systematic application of methods and findings of behavioral science with the intent of reducing observable negative behaviors.

(19) "Birthing Room" means a room and environment designed, equipped and arranged to provide for the care of a woman and newborn and to accommodate her support person(s) during the process of vaginal birth.

(20) "Certificate of Completion" means a document issued by the Utah Board of Education to a person who completes an approved course of study not leading to a diploma; to a person who passes a challenge exam for that same course of study; or to a person whose out-of-state credentials and certificate are acceptable to the Board.

(21) "Certified" means a health facility or agency which holds a current license issued by the Department, and which also meets the standards established for participation in federally funded programs, such as Medicare.

(22) "Certified Registered Nurse Anesthetist" means a registered nurse who is licensed by the Utah Department of Commerce under Title 58 Chapter 31.

~~(2[2]3)~~ "Certified Nurse Midwife" means an individual licensed to practice by the Utah Department of Commerce under Title 58, Chapter 44.

~~(2[3]4)~~ "Certified Social Worker" means an individual licensed by the Utah Department Commerce under Title 58, Chapter 60.

~~(2[4]5)~~ "Chronic Noncompliance" means three or more violations of a single licens~~ure~~ing rule requirement which are documented in five inspections, including complaint investigations, surveys, or follow-up inspections on plans of correction, or any combination of them.

~~(2[5]6)~~ "Clinical Note" means a dated, written notation by a member of the health team which indicates contact with a patient and describes any of the following: signs and symptoms of dysfunction, treatment given or medication administered, the patient's reaction, changes in physical or emotional condition, or services provided.

~~(2[6]7)~~ "Clinical Staff" means the physicians and certified providers appointed by the governing authority to practice within the health facility or agency.

~~(2[7]8)~~ "Consultant" means an individual who provides professional services either upon request or on the basis of a prearranged schedule, usually on a contract basis, who is neither a member of the employed staff of the facility or agency, nor whose services are provided within the terms of an affiliation agreement.

~~(2[8]9)~~ "Continuous Noncompliance" means three or more violations of a single licens~~ure~~ing rule requirement occurring within a 12-month time period.

(29)30 "Contract Services" means services purchased by a health facility or agency under a contract with an individual or a provider whose personnel are not salaried employees of the facility or agency.

(30)1 "Control Station" means a central office or area for charting, drug preparation, and other patient-care tasks normally performed at a nursing station.

(32) "Critical Care Unit" means a special physical and functional unit for the segregation, concentration and close or continuous nursing observation and care of patients who are critically, seriously, or acutely ill.

(31)3 "Day Treatment" means training and habilitation services delivered outside the patient's place of residence which are intended to aid the vocational, pre-vocational, and self-sufficiency skill development of an ICF/MR patient. These services must meet active treatment requirements and must be coordinated and integrated with the active treatment program of the facility or agency.

(32)4 "Dentist" means a person registered and currently licensed by the Utah Department of Commerce under Title 58, Chapter 7.

(33)5 "Department" means the Utah Department of Health.

(34)6 "Developmental Disability" means a severe, chronic disability that meets all of the following conditions:

(a) Is attributable to: cerebral palsy, epilepsy, autism; or any other condition, other than mental illness, closely related to mental retardation which results in impairment of general intellectual functioning adaptive behavior, or requires treatment or services similar to those required for mentally retarded persons;

(b) Is manifested before the person reaches the age of 22;

(c) Is likely to continue indefinitely; and

(d) Results in substantial functional limitations in three or more of the following areas of major activity:

(i) [S]self-care;

(ii) [U]nderstanding and use of language;

(iii) [L]earning;

(iv) [M]obility;

(v) [S]elf-direction; or

(vi) [C]apacity for independent living.

(35)7 "Dietitian" means a person who is certified pursuant to Title 58, Chapter 49.

(36)8 "Direct Services" means services provided by salaried employees of a health facility or agency, as opposed to services provided by contract.

(37)9 "Direct Supervision" means the critical observation and guidance by a qualified person of another person's activities or course of action.

(38)40 "Discharge" means the point at which the patient's involvement with a facility or agency program is terminated and the facility or agency program no longer maintains active responsibility for the care of the patient.

(39)41 "Distinct Part" means a discrete, physically definable entity located within a structure constructed and equipped according to applicable codes which:

(a) provides within the structure the necessary unique physical facilities, equipment, staff, and supplies to deliver all basic services that are offered to and needed for the diagnosis, therapy, and treatment of patients, and to comply with licensing standards;

(b) provides or arranges for necessary administrative and non-unique, non-clinical, ancillary type services such as dietary, laundry, housekeeping, business office and medical records; and

(c) protects the rights of patients including freedom from unwanted intrusion by visitors, guests, staff, and residents of adjacent licensed facilities and use occupancies.

(40)2 "Documentation" means written supportive information, records, or references to verify information required by law or rule.

(41)3 "Drug History" means identifying all of the drugs used by a patient, including prescribed and unprescribed drugs.

(42)4 "Emergency" means any situation or event that threatens or poses a threat to the occupants of the facility or agency, or prohibits one or more occupants (staff, patient, or visitor) from receiving services normally offered by the facility or agency, or requires action not normally performed by the facility or agency staff.

(43)5 "Emotional or psychological abuse" means deliberate conduct that is directed at a person through verbal or nonverbal means and that causes the individual to suffer emotional distress or to fear bodily injury, harm, or restraint.

(46) "Environment" means the physical and emotional atmosphere including architectural design, furnishings, color, privacy, and safety, as well as other people.

(44)7 "Executive Director" means the Executive Director of the Utah Department of Health.

(45)8 "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

(46)9 "Free-standing Urgent Care Center," as distinguished from a private physician's office or emergency room setting, means a facility which provides out-patient health care service (on an as-needed basis, without appointment) to the public for diagnosis and treatment of medical conditions which do not require hospitalization or emergency intervention for a life-threatening or potentially permanently disabling condition.[

—] Diagnostic and therapeutic services provided by a free-standing urgent care center include: a medical history physical examination, assessment of health status and treatment[;] for a variety of medical conditions commonly offered in a physician's office.

(47)50 "Governing Authority or Governing Body" means the board of trustees, owner, person or persons designated by the owner with ultimate authority and responsibility, both moral and legal, for the management, control, conduct and functioning of the health care facility or agency.

(48)51 "Governmental Unit" means the state, or any county, municipality, or other political subdivision of any department, division, board or other agency of any of the foregoing.

(49)52 "Guardian" means a person legally responsible for the care and management of a person who is considered by law to be incompetent to manage his own affairs.

(50)3 "Habilitation" means techniques and treatment which actively build and develop new or alternative styles of independent functioning and promote new behavior which results in greater self-sufficiency and sense of well-being.

(51)4 "Health Care Facility or Agency" means any facility or agency licensed under the authority of the Health Facility Committee and designated as such in Subsection 26-21-2(10).

(5[2]5) "Health Services Supervisor" means a person with a professional medical license or certificate, such as a nurse, social worker, physical therapist, or psychologist, responsible for the development, supervision, and implementation of a written health care plan for each resident.

(5[3]6) "Home Health Aide" means a person who obtains a certificate of completion from the Department of Education which allows performance of higher-skilled health care and other related services under the supervision of a registered nurse from a home health agency, or performance of simple procedures as an extension of physical, speech, or occupational therapy under the supervision of licensed therapists.

(5[4]7) "Homemaker" means a person who cares for the environment in the home through performance of duties such as housekeeping, meal planning and preparation, laundry, shopping and errands.

(5[5]8) "Hospitalization" means an inpatient stay of at least 24 hours, or an overnight stay or emergency care, except a stay at a freestanding ambulatory surgical center that meets the requirements of R432-500.

(5[6]9) "ICD-9-CM" means the International Classification of Diseases, 9th revision, Clinical Modification, 1986.

(5[7]60) "Imminent Danger" means a situation or condition which presents a substantial likelihood of death or serious physical or mental harm to a patient or resident in the facility or agency.

(5[8]61) "Inpatient Program" means treatment provided in a suitably equipped setting that provides services to persons who require care that warrants 24-hour supervision.

(5[9]62) "Intake" means the administrative and assessment process for admission to a program.

(6[0]3) "Interdisciplinary Team" means a group of staff members composed of representatives from different professions, disciplines, or services.

(6[1]4) "Involuntary Medication" means medication which is prescribed by the physician but not taken willingly by the patient, and is administered due to compelling medical reasons.

(6[2]5) "Joint Commission" means the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

(6[3]6) "Lavatory" means a plumbing fixture designed and equipped for handwashing purposes.

(6[4]7) "License" means the certificate issued by the Department of Health for the operation of the facility or agency. This document constitutes the authority to receive patients and residents and to perform the services included within the scope of the rule and as specified on the license.

(6[5]8) "Licensed Practical Nurse (LPN)" means a person registered and licensed by the Utah Department of Commerce under Title 58, Chapter 31.

(6[6]9) "Licensed Practitioner" means a health professional whose license allows diagnosis, treatment, and prescribing practices within the scope of the license and established protocols.

(6[7]70) "Licensee" means the person or organization who is granted a license to operate a health facility or agency and who has ultimate authority and responsibility for the operation, management, control, conduct, and functioning of the facility or agency.

(6[8]71) "Licensing Agency" means the Bureau of ~~Health Facility Licensure~~ Licensing of the Utah Department of Health.

(6[9]72) "Licensure" means the process of obtaining official or legal permission to operate a health facility or agency.

(7[0]3) "Living Unit" means the area or part of a facility where residents sleep and may include dining and other resident activity areas.

(7[1]4) "Low Risk Maternal Mother" means a woman who is in good general health throughout pregnancy and birth and who meets the criteria for low risk birth services as developed by the clinical staff and approved by the governing board and licensing agency for a Birthing Center.

(7[2]5) "Maladaptive (negative) Behavior" means behavior that is either self-injurious, or dangerous to others, or environmentally destructive, demonstrating a reduction in or lack of ability necessary to adjust to environmental demands.

~~[(73) "Manager" means the person responsible to the licensee for the overall management and operation of a Residential Health Care Facility Limited Capacity. The manager and licensee may be the same person.]~~

(7[4]6) "Medical Equipment and Supplies" means items used for therapeutic or diagnostic purposes essential for patient care, such as dressings, catheters, or syringes.

(7[5]7) "Medical Staff" means, the organized body composed of all specified professional personnel, appointed by the governing body and granted privileges to practice in the facility or agency.

(7[6]8) "Medication" means any drug, chemical compound, suspension, or preparation suitable for internal or external use by persons for the treatment or prevention of disease or injury.

(7[7]79) "Mental Retardation" means significantly subaverage general intellectual functioning resulting in, or associated with, concurrent impairments in adaptive behavior and manifested during the developmental period. Significantly subaverage general intellectual functioning is operationally defined as a score of two or more standard deviations below the mean on a standardized general intelligence test. Developmental period is defined as the period between conception and the 18th birthday.

(7[8]80) "Mental Disease" means any disease listed as a mental disorder in the ICD-9-CM excluding the codes for senility or organic brain syndrome (290 through 294.9 and 310 through 310.9), the codes for adjustment reaction (309[-]); the codes for psychic factors associated with diseases classified elsewhere (316[-]); and the codes for mental retardation (317 through 319). Codes 314 through 315.9 may also be excluded for individuals suffering impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons. Codes 309[-] and 316[-] are also excluded.

(7[9]81) "Mobile" means a person who is able to take action for self-preservation under emergency conditions with the assistance of supportive equipment such as crutches, braces, walkers, or wheelchairs, but without the assistance, except for verbal instructions, from other persons.

(8[0]2) "Neglect" means the same as 62A-3-301(10).

(8[1]3) "New Construction" means any of the following:

(a) New medical or health care facilities licensed under these rules;

(b) Additions to an existing building;

(c) Alteration(s) or modification(s) (other than strictly repair and maintenance)[-] costing more than \$3,000 or that affect the structure, electrical or mechanical system of a health care facility.

(8[2]4) "Non-Ambulatory" means unable to walk without assistance of other persons.

~~(83) "Nurse Anesthetist" means a registered nurse who has specialized education and training which enables the individual to administer general anesthesia under the supervision of a licensed physician and surgeon.~~

(8[4]5) "Nursing Care" means assistance provided to sick or disabled individuals, by or under the direction of licensed nursing personnel, for their health care needs.

(8[5]6) "Nursing Home" means any facility licensed by the Department as a ~~skilled or intermediate~~ nursing care facility that provides licensed nursing care and related services to ~~patients~~ residents who need continuous health care and supervision.

(8[6]7) "Occupational Therapist" means a person currently licensed by the Utah Department of Commerce under Title 58, Chapter 42.

(8[7]8) "Oral Surgeon" means a person who has successfully completed a postgraduate program in oral surgery accredited by a nationally recognized accrediting body approved by the U.S. Office of Education and is licensed by the Utah Department of Commerce to practice dentistry.

~~(88)89~~ "PRN medication" means medication which is administered ~~(pro re nata), (PRN), a Latin phrase meaning as needed, +) pro re nata. Pro re nata means as needed. The time of medication administration is determined by the resident's need.~~

~~(89)90~~ "Parent Facility" means all free-standing health facilities under a single ownership licensed under Section 26-21-2 except home health agencies. The parent facility includes:

(a) ~~[F]~~the main structure, wings, or detached buildings where a service within the scope of the facility's license is offered and any detached building used for storage, heating or cooling equipment located on the main grounds bounded by a city, county or a state street or road, or a property line; and

(b) ~~[A]~~any structure located outside the main facility grounds connected to the main facility by a heating or cooling system or by a covered walkway where a service is provided within the scope of the parent facility's license.

(9[0]1) "Patient" means a resident or person receiving care in a health care facility or agency. Patient, client or resident terms are interchangeable meaning a person who is receiving needed services.

(9[1]2) "Patient Care Plan" means an integrated plan of care developed for the patient.

(9[2]3) "Pediatric Patients" means infants, children, adolescents, and young adults up to the age of ~~r]f~~ 18.

(9[3]4) "Personal Care" means assistance provided to residents in activities of daily living.

(9[4]5) "Personal Care Aide" means a person who ~~obtains a certificate of completion of training, who is registered as a health care assistant with the Department of Commerce to~~ assists patients or residents in the activities of daily living and emergency first aid; and who may be supervised by a ~~registered~~ licensed nurse.

(9[5]6) "Personal Resource Funds" means monies received by a patient from a variety of sources which the patient may spend as needed or desired.

(9[6]7) "Personnel" means individual(s) in training or employed by the health care facility or agency.

(9[7]8) "Pharmacist" means a person currently licensed by the Utah Department of Commerce to practice pharmacology pursuant to Title 58, Chapter 17.

~~(98)99~~ "Physical Therapist" means a person currently licensed by the Utah Department of Commerce to practice under Title 58, Chapter 24a.

~~(99)100~~ "Physician" means ~~any person who is licensed by the Utah Department of Commerce under either the Utah Medical Practice Act or the Utah Osteopathic Medicine Licensing Act to practice medicine and surgery in all its branches, or a physician in the employment of the government of United States who is similarly qualified (Section 58-12-26 through 58-12-43)]~~ a person who is licensed to practice medicine and surgery by the Utah Department of Commerce under Section 58-67-301, the Utah Medical Practice Act, or Section 58-68-301, Utah Osteopathic Medical Practice Act, or a physician in the employment of the government of the United States who is similarly qualified.

(10[0]1) "Place of Residence" means the place a patient makes his home. This may be a house, an apartment, a relative's home, housing for the elderly, a retirement home, ~~a residential health care~~ an assisted living facility, or a place other than a health care facility which provides continuous nursing care.

(10[1]2) "Plan of Care or Plan of Treatment" are interchangeable terms which mean a written plan based on assessment data or physician orders that identifies the patient's needs, who shall provide needed services and how often, treatment goals, and anticipated outcomes.

(10[2]3) "Podiatrist" means a person registered and licensed by the Utah Department of Commerce under Title 58, Chapter 5.

(10[3]4) "Policies and Procedures" means a set of rules adopted by the governing body to govern the health care facility or agency's operation.

(10[4]5) "Practitioner" means a registered nurse, with advanced or specialized training, who is licensed by Utah Department of Commerce, Title 58, Chapter 31a.

(10[5]6) "Prognosis" means a statement given as:

- (a) the likelihood of an individual achieving stated goals;
- (b) the degree of independence likely to be achieved; or
- (c) the length of time to achieve goals.

(10[6]7) "Program" means a general term for an organized system of services designed to address the treatment needs of the patient.

(10[7]8) "Protected Living Arrangement" means provision for food, shelter, sleeping accommodations, and supervision of activities of daily living for persons of any age who are unable to independently maintain these basic needs and functions.

~~(108)109~~ "Provider" means a supplier of goods or services.

(1[09]10) "Public Agency" means an agency operated by a state or local government.

(11[0]1) "Public Health Center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers.

(11[1]2) "Qualified Mental Retardation Professional (QMRP)" means a person who has specialized training or one year of experience in treating or working with the mentally retarded including any one of the following: ~~[P]~~psychologist with a master's degree from an accredited program; ~~[E]~~licensed physician; ~~[E]~~educator with a bachelor's degree in education from an accredited program; ~~[S]~~social worker with a bachelor's degree in social work from an accredited program or a field other than social work and at least three years of social work experience under the

supervision of a qualified social worker; ~~[E]~~ licensed physical or occupational therapist; ~~[E]~~ licensed speech pathologist or audiologist; ~~[R]~~ registered nurse; ~~[F]~~ therapeutic recreation specialist who is a graduate of an accredited program and is licensed to perform recreational therapy under the provisions of Title 58, Chapter 40; Rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.

(11[2]3) "Quality of Care" means ~~[concern for]~~ the provision of patient treatment, including medical or nursing care as well as restorative therapies.

(11[3]4) "Quality of Life" means how a patient experiences the state of existing and functioning in the facility environment, and is related to the human and humane processes involved in normal human functioning, including rights and freedoms.

(11[4]5) "Recovery," for birthing centers, means that period or duration of time starting at birth and ending with the discharge of a client from the birthing center, or the period of time between the birth and the time a mother leaves the premises of the birthing center.

(11[5]6) "Recreational Therapist" means any person licensed to perform recreational therapy under the provisions of Title 58, Chapter 40.

(11[6]7) "Referred Outpatient" means a person who is receiving his medical diagnosis, treatment, or other health care services from one or more sources outside the hospital, but who receives from the hospital diagnostic tests or examinations ordered by health care practitioners, legally permitted to order such tests and examinations, and to whom the hospital reports findings and results.

(11[7]8) "Refurbish" means to clean or otherwise change the appearance without making significant changes in the existing physical structure of a facility.

~~(11[8]119)~~ "Registered Nurse" means any person who is registered and licensed by the Utah Department of Commerce to practice as a registered nurse under Title 58, Chapter 31.

(11[9]20) "Rehabilitation" means a program of care designed to restore a patient to a former capacity.

(12[0]1) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.

(12[1]2) "Remodel" means to reconstruct or to make significant changes in the existing physical structure of a facility.

(12[2]3) "Representative" means a person employed by the Department.

(12[3]4) "Request for Hearing" means any clear expression in writing by a provider requesting an opportunity to appeal a Department action following R432-30.

(12[4]5) "Resident Living" means residential services provided by an ICF/MR facility.

(12[5]6) "Responsible Person" means an individual, relative, or close friend designated in writing by the resident, or a court-appointed guardian or person with durable power of attorney, who assists the resident and assumes responsibility for the resident's well-being and for any care not provided by the facility or agency.

(12[6]7) "Restrictive Procedures" means a class of procedures designed to reduce or eliminate maladaptive behaviors including:

- (a) restricting an individual's movement;

(b) restricting an individual's ability to obtain positive reinforcement; ~~and~~

(c) restricting an individual's ability to participate in programs.

(12[7]8) "Safety Device" means a protective device used to offer protection from inadvertent acts (such as falling out of bed) as well as deliberate acts (such as removing a nasogastric tube).

~~(12[8]129)~~ "Seclusion" means a procedure that isolates the patient in a specific room or designated area to temporarily remove the patient from the therapeutic community and reduce external stimuli.

(12[9]30) "Self Administration of Medication" means the act by which a resident independently removes an individual dose from a properly labeled container and takes that medication. The resident must know the medication type, dosage and frequency of administration.

(13[0]1) "Service Delivery Area" means any area in the facility where a specific service or group of services is organized, performed or carried out. For example the dietary services area includes the kitchen; patient care services delivery area includes patient rooms, corridors, and adjacent areas.

(13[1]2) "Service Pattern" means a continuum of medical and psychological needs expressed as a type and used in evaluation for appropriate placement and treatment purposes.

(13[2]3) "Social Service Worker (SSW)" means a person currently licensed by the Utah Department of Commerce to function as a social service worker under Title 58, Chapter 60.

(13[3]4) "Social Worker, Certified (CSW)" means a person currently licensed by the Utah Department of Commerce to practice social work under Title 58, Chapter 60.

~~[(134) "Special Care Unit" means a special physical and functional unit for the segregation, concentration, and close or continuous nursing observation and care of patients who are critically, seriously, or acutely ill.]~~

(135) "Specialty Hospital" means a ~~[facility]~~ hospital which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(136) "Speech-Language Pathologist" means a person licensed by the Utah Department of Commerce to practice speech-language pathology pursuant to Title 58, Chapter 41.

(137) "Substantial Noncompliance" means any occurrence of a Class I violation, or the occurrence of one or more Class II violations resulting in continuous noncompliance, or chronic noncompliance with one or more rule requirements ~~[which are designated as mandatory license revocation criteria]~~ in the administrative rules specific to the health care facility licensure category.

(138) "Summary Report" means a compilation of pertinent facts from the clinical notes regarding a patient, usually submitted to the patient's physician as part of a plan of treatment.

(139) "Supervision" means guidance of another person or persons by a qualified person to assure that a service, function, or activity is provided within the scope of a license, certificate, job description, or instructions.

(140) "Support Person" means the individual(s) selected or chosen by a mother to provide emotional support and to assist her during the process of labor and childbirth.

(141) "Surgeon General" means the surgeon general of the United States public health service.

(142) "Therapist" means a professionally trained licensed or registered person (such as a physical therapist, occupational therapist, or speech therapist), who is skilled in applying treatment techniques and procedures under the general direction of a physician.

(143) "Training and Habilitation Services" means services intended to improve or aid the intellectual, sensorimotor, and emotional development of a patient or resident.

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KEY: health facilities
[May 28,]1998

26-21-2

Health, Health Systems Improvement,
Health Facility Licensure
R432-250
Residential Health Care Facilities

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 21528
FILED: 10/07/1998, 15:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the recent legislative session the passage of S.B. 153 eliminated the residential health care facility category and combined the service as an Assisted Living Type 1 facility.

(DAR Note: S.B. 153 is found at 1998 Utah Laws 192, and was effective July 1, 1998.)

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There will some savings to the Bureau by eliminating the copying costs for this rule.

❖LOCAL GOVERNMENTS: This rule does not cause or result in any new or changes in existing activities or duties for local government.

❖OTHER PERSONS: Although the residential health care category is eliminated, there should be no change in costs or savings, since R432-270 will be amended to include this existing language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no change in costs since R432-270 will be amended to include the language in R432-250 which is being repealed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: S.B. 153 from the 1998

Legislature eliminated "residential health care" as a licensing category. After meetings with the providers impacted by this change, this rule will be repealed and the necessary language incorporated into R432-270. I concur that this is cost neutral for businesses and should proceed.

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

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dwynkoop@doh.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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

~~[R432-250. Residential Health Care Facilities:~~

R432-250-1. Legal Authority:

— This rule is promulgated pursuant to Title 26, Chapter 21.

R432-250-2. Purpose:

— The purpose of this rule is to establish standards for the operation and maintenance of residential health care facilities. This rule sets standards in providing an array of services for long-term care to provide quality health care.

R432-250-3. Time for Compliance:

— Facilities governed by these rules shall comply with these standards, except that construction standards for any currently licensed residential health care facility constructed before October 1, 1992, shall be the same as the Utah Department of Health standards of construction and equipment in effect at the time of construction or latest substantial remodel or addition. Limited Capacity Residential Health Care Facilities which are licensed prior to February 1, 1994 shall submit the required policy and procedure manuals by July 1, 1994.

R432-250-4. Definitions:

— See common definitions R432-1-3.

R432-250-5. Licensure:

— (1) Residential care facilities shall be licensed according to the following categories:

~~— (a) A large residential care facility is a facility that houses 17 or more residents.~~

~~— (b) A small residential health care facility health care facility is a facility that houses six to 16 residents.~~

~~— (c) A limited capacity residential health care facility is a facility that houses two to five residents.~~

~~— (2) A residential care facility shall provide living arrangements for two or more persons. The facility may admit and retain only a person who is ambulatory or mobile.~~

~~— (3) Care provided for residents shall include the following:~~

~~— (a) Safe and clean living accommodations;~~

~~— (b) Three nutritionally well-balanced meals;~~

~~— (c) Twenty-four hour, seven-day-a-week general monitoring of residents;~~

~~— (d) A system to monitor and record significant changes in the resident's physical or mental status and promptly report such change to the resident's responsible person or physician;~~

~~— (e) Protection of residents' rights;~~

~~— (f) Personal care and social care as required by the resident and according to facility policy;~~

~~— (4) See R432-2.~~

R432-250-6. General Construction Rules.

~~— See R432-6, Residential Health Care Construction Rules.~~

R432-250-7. Administration and Organization.

~~— (1) Organization.~~

~~— (a) The licensee shall exercise general supervision over the affairs of the facility and establish policies to comply with these rules.~~

~~— (b) If the licensee is a corporation or an association a governing body shall be active and functioning to assure accountability.~~

~~— (2) Duties and Responsibilities.~~

~~— (a) The licensee shall be responsible for compliance with Utah law and for the overall organization, management, operation, and control of the facility.~~

~~— (b) Responsibilities shall include the following:~~

~~— (i) Comply with all federal, state, and local laws;~~

~~— (ii) Establish policies and procedures for the welfare of residents, the protection of their rights and the general operation of the facility;~~

~~— (iii) Adopt a policy that states the facility will not discriminate on the basis of race, color, sex, religion, ancestry or national origin in accordance with Section 13-7-1;~~

~~— (iv) Appoint, in writing, a qualified administrator (the licensee and administrator may be the same person) who shall assume full responsibility for the day-to-day operation and management of the facility;~~

~~— (v) Secure and update contracts for required services not provided directly by the facility;~~

~~— (vi) Respond appropriately to reports requested by the Department.~~

~~— (3) Administrator.~~

~~— The administrator shall have sufficient freedom from other responsibilities and shall be on the premises a sufficient number of hours in the business day, and at other times as necessary, to manage and administer the facility.~~

~~— (4) Qualifications.~~

~~— The administrator of a residential care facility shall have the following qualifications:~~

~~— (a) Be at least 21 years of age;~~

~~— (b) Have knowledge of and comply with applicable laws, and rules;~~

~~— (c) Have knowledge and ability to deliver, or direct the delivery of appropriate care to residents;~~

~~— (d) Have an associate degree or two years experience in a health care facility.~~

~~— (5) Responsibilities.~~

~~— The administrator's responsibilities shall include at least the following:~~

~~— (a) The administrator shall designate in writing a competent employee (at least 21 years of age) to act as administrator in his absence. This person shall have authority to act in the residents' best interests;~~

~~— (b) Recruit, employ, and train staff to meet the needs of the residents and facility;~~

~~— (c) Maintain a 12-month record of daily work schedules or payroll records;~~

~~— (d) Accept and retain only those residents who meet acceptance criteria and whose needs can be met by the facility;~~

~~— (e) Maintain a log indicating any significant change in any resident's condition and the facility's action or response;~~

~~— (f) Notify the resident's responsible person and physician of significant changes or deterioration of the resident's health and ensure his transfer to an appropriate health care facility if the resident requires services beyond the scope of the facility's license;~~

~~— (g) Review every injury, accident and incident to a resident or employee, take appropriate corrective action, and document corrective action taken;~~

~~— (h) Notify the nearest peace officer, law enforcement agency, or protective services agency whenever there is reason to believe that a resident has been subject to abuse, neglect, or exploitation (Section 62A-3-201 to 312);~~

~~— (i) Conduct regular inspections of the facility to ensure it is safe from potential hazards.~~

R432-250-8. Personnel.

~~— (1) There shall be sufficient number of competent personnel who are able to perform their duties, provide services, and function to meet the needs of residents on duty 24 hours a day to ensure the residents receive personal and social care. Additional staff shall be employed as necessary to perform office work, cooking, housekeeping, laundering and general maintenance.~~

~~— (2) Qualifications and Orientation.~~

~~— (a) All employees who provide personal care to residents shall:~~

~~— (i) be at least 18 years of age;~~

~~— (ii) be licensed, registered or certified as required by the Department of Commerce;~~

~~— (iii) produce a copy of the registration, certification, or license within 45-days to the employer.~~

~~— (iv) maintain a copy of the registration, certification or license for Department review.~~

~~— (b) Each employee shall have related experience in the job assigned or receive on-the-job training.~~

— (c) Written job descriptions for each position including job title, job responsibilities, qualifications or required skills shall be available in facilities that are licensed for 17 or more residents.

— (d) All personnel shall have access to the facility's policies and procedures manuals and other information necessary to effectively perform their duties and carry out their responsibilities.

— (e) There shall be documentation that all employees are oriented to the facility and the job for which they are hired. Orientation shall include:

— (i) Job description;

— (ii) Ethics, confidentiality, and resident's rights;

— (iii) Fire and disaster plan;

— (iv) Policy and procedures

— (v) Reporting requirements for witnessing abuse, neglect and exploitation.

— (3) Health Requirements:

— (a) The Facility shall establish a personnel health program through written personnel health policies and procedures which shall protect the health and safety of personnel and clients commensurate with the service offered.

— (b) An employee placement health evaluation to include at least a health inventory shall be completed when an employee is hired. Facilities may use their own evaluation or the Department approved form.

— (c) The health inventory shall obtain at least the employee's history of the following:

— (i) conditions that predispose the employee to acquiring or transmitting infectious diseases;

— (ii) condition which may prevent the employee from performing certain assigned duties satisfactorily.

— (d) Employee health screening and immunization components of personnel health programs shall be developed.

— (e) Employee skin testing by the Mantoux Method and follow up for tuberculosis shall be done in accordance with R386-702-5, Special Measures for control of Tuberculosis:

— (i) Skin testing must be conducted on each employee annually and after suspect exposure to a resident with active tuberculosis.

— (ii) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

— (f) All infections and communicable diseases reportable by law shall be reported by the facility to the local health department in accordance with R386-702-2.

— (g) The facility shall comply with the Occupational Safety and Health Administration's Blood-borne Pathogen Standard.

— (4) In-service Training:

All staff shall receive documented in-service training which shall include the following:

— (a) Principles of good nutrition, menu planning, food preparation, and storage;

— (b) Principles of good housekeeping and sanitation;

— (c) Principles of providing personal and social care;

— (d) Proper procedures in assisting residents with self-administered medications;

— (e) Recognizing early signs of illness and determine when there is a need for professional help;

— (f) Accident prevention including safe bath and shower water temperatures;

— (g) First Aid;

— (h) Residents' rights and reporting requirements of Section 62A-3-201 to 312;

— (i) Fire and disaster drills;

— (j) Principles of personal interaction;

— (5) Failure to ensure that personnel are licensed, registered or certified may result in sanctions to the facility license.

R432-250-9. Volunteers:

— (1) Volunteers may be utilized in the daily activities of the facility but shall not be included in the facility's employee staffing plan.

— (2) Volunteers shall be supervised and familiar with resident's rights and the facility's policies and procedures.

— (3) Volunteers who provide personal care to residents shall be in good health, competent, and at least 18 years of age.

— (4) Residents may participate voluntarily in performing housekeeping duties and other tasks suited to the resident's needs and abilities. Residents shall not be used as substitutes for staff.

R432-250-10. Contracts:

— (1) The licensee may secure contracts for services such as food service, laundry and maintenance services.

— (2) Contracts shall include the effective and expiration dates of agreement, and the goods or services provided by the contractor to the facility.

R432-250-11. Facility Records:

— (1) Each facility shall maintain accurate and complete records as required by licensure rules. Records shall be filed, stored safely, and be easily accessible.

— (2) Records shall be protected against access by unauthorized individuals.

— (3) The following records shall be maintained:

— (a) General policies and procedures;

— (b) Personnel records for each employee, retained for at least three years following termination of employment. The record shall include at least the following:

— (i) Employee's application;

— (ii) Date of employment, termination date, and reason for leaving;

— (iii) A copy of the employee's current registration, food handler's permit and other documentation required for in-service requirements;

— (c) A copy of any variance requests granted;

— (d) Resident records;

— (i) Resident's records shall be retained for at least three years following discharge:

— (ii) The record shall include at least the following:

— (A) Resident's name, date of birth, and last address;

— (B) Name, address, and telephone number of the person who will set up medications;

— (C) Name, address, and telephone number of the individual to be notified in case of accident or death;

— (D) Religious preference;

— (E) Name, address, and telephone number of physician and dentist to be called in an emergency;

— (F) Acceptance agreement and acceptance assessment;

— (G) Physician's assessment;

- (H) A list of medications;
- (e) If the facility assists the resident with self-administration of medications, a list of current medications with precautions and instructions for their use;
- (f) A chronological log of incident and accident reports;
- (g) A 12-month record of daily work staff assignments and hours of duty;
- (h) A three month record of menus including substitutions; and
- (i) A file of incident and accident reports to located on site.

R432-250-12. Acceptance and Transfer Criteria.

- (1) Each facility shall develop written acceptance, retention, and transfer policies based on this section which shall be available to the public upon request.
- (2) The facility shall accept and retain only residents who meet the following criteria and who can be properly accommodated and receive required care by the facility according to these rules.
- (3) Facilities may choose to limit acceptance of residents to more restrictive criteria.
- (4) Before accepting a resident, the facility shall obtain sufficient information about the person's ability to function in the facility through a interview with the resident, responsible person, the physician's assessment and completion of an acceptance appraisal. If the Department determines during inspection or interview that the facility knowingly and willfully admits or retains residents who do not meet license criteria, then the Department may, for a time period specified, require resident assessments be conducted by an individual who is independent from the facility.
- (5) Residents shall meet the following criteria before being admitted:
 - (a) Be ambulatory or mobile and be capable of taking life saving action in an emergency;
 - (b) Have stable health and:
 - (i) Require no assistance or only some assistance from facility staff in the activities of daily living;
 - (ii) Require and receive regular or intermittent care or treatment in the facility from a licensed health professional on an individual contract basis, if permitted by facility policy;
 - (iii) Be capable of managing their own medication as defined in R432-250-19;
 - (iv) Be able to manage their personal hygiene as defined in R432-250-18;
 - (v) Require assistance from a licensed professional on an individual contract basis, as permitted by facility policy.
 - (6) If permitted by facility policy, residents who have developed a minor illness or have an accident while in the facility, who require intermittent care from a health professional to restore them to a condition that would permit them to continue to reside at the facility may continue to reside at the facility.
 - (7) Persons who have the following conditions shall not be accepted nor retained by a residential health care facility:
 - (a) Active tuberculosis or other communicable disease;
 - (b) Require inpatient hospital or long-term nursing care;
 - (c) Mental disorders that manifest behavior which is suicidal, assaultive, or harmful to self or others, or manifest behavior that requires close supervision and a controlled environment;
 - (d) Require significant assistance during night sleeping hours;

- (e) Persons who are unable to take life-saving action in an emergency;
- (8) Acceptance Agreement:
 - (a) A written agreement shall be signed by the resident and responsible person prior to admission, and shall be kept on file.
 - (b) The agreement shall specify at least the following:
 - (i) Basic and optional services available and the charges;
 - (ii) Provision for a 30-day notice prior to a change in basic and supplemental charges;
 - (iii) Refund conditions;
 - (iv) Acceptance, retention, discharge, and eviction policies;
 - (v) Notice that the Department has the authority to examine resident's records to determine compliance with licensure requirements;
 - (vi) Conditions under which the agreement may be terminated;
 - (vii) The name of the person who will assume responsibility for the resident's well-being.
 - (c) A copy of the residents' rights;
 - (9) Transfer policy.
 - The resident shall only be discharged, transferred, or evicted for one or more of the following reasons:
 - (a) When the facility is no longer able to meet the resident's needs;
 - (b) Nonpayment for basic services as per the acceptance agreement;
 - (c) The resident fails to comply with written policies or rules of the facility;
 - (d) When a resident poses a danger to self or other(s);
 - (e) Inability to take life saving action in an emergency;
 - (f) The resident or responsible person shall have 30 days advance notice of discharge except in cases of medical emergency, in which case the responsible person shall be notified as soon as possible;
 - (g) Discharge or transfer shall be coordinated with the resident, his family or responsible person, or appropriate agency;
 - (h) All money and valuables of that resident which have been entrusted to the licensee shall be surrendered to the resident upon discharge or transfer;
 - (i) The date and reason for termination of services shall be documented.

R432-250-13. Resident Assessment.

- (1) Each person accepted to a residential facility shall have a personal physician or a licensed practitioner prior to admission.
- (2) A signed and dated functional assessment shall be completed on each resident prior to admission and annually.
- (3) The functional assessment shall be completed by a physician, an advanced practice registered nurse, physician assistant, or a registered nurse.
- (4) The functional assessment shall document the following:
 - (a) Current medications with dose, route, and time of administration;
 - (b) A description of the resident's mental status and limitations;
 - (c) A physical assessment and limitations;
 - (d) Description of the nutrition and special diet needs or referral for a dietary evaluation;
 - (e) Allergies;

— (f) Level of assistance required to complete the following tasks:

- (i) Taking medications;
- (ii) Mobility;
- (iii) Dressing;
- (iv) Bathing;
- (v) Toileting (personal hygiene);
- (vi) Eating;
- (vii) Managing personal resources;
- (viii) Scheduling appointments (medical, hair, etc);
- (g) Description of the recreation/leisure activities.

— (5) The initial assessment shall be updated annually and as necessary to document significant changes in the resident's physical, mental, and social condition:

— (6) The assessment shall include a statement that the resident is able to function in a residential health care facility with minimal assistance:

— (7) The administrator or facility staff shall promptly notify the resident's licensed practitioner and responsible person of any change:

R432-250-15. Residents' Rights:

— (1) The facility shall develop written residents' rights statement based on this section:

— (2) Resident Rights shall include the following:

— (a) The right to be treated with respect, consideration, fairness, and full recognition of personal dignity and individuality;

— (b) The right to be transferred, discharged, or evicted by the facility only in accordance with the terms of the signed acceptance agreement;

— (c) The right to be free of mental and physical abuse, and chemical and physical restraints;

— (d) The right to not do work for the facility without compensation;

— (e) The right to privacy during visits with family, friends, clergy, social workers, ombudsman, and advocacy representatives;

— (f) The right to share a room with a spouse, if both are residents;

— (g) The right to privacy when receiving personal care or services;

— (h) The right to keep personal possessions and clothing as space permits;

— (i) The right to participate in religious and social activities of their choice;

— (j) The right to send and receive mail unopened, and have access to telephones to make and receive confidential calls;

— (k) The right to be fully informed, prior to or at the time of acceptance and during stay, of services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate;

— (l) The right to arrange for medical and personal care;

— (m) The right to have a family or responsible person informed by the facility of significant changes in his condition or needs;

— (n) The right to leave the facility at any time and not be locked into any room, building, or on the facility premises during the day or night. This does not prohibit the establishment of house rules such as locking doors at night for the protection of residents;

— (o) The right to be informed of complaint or grievance procedures and to voice grievances and recommend changes in

policies and services to facility staff or outside representatives without restraint, discrimination, or reprisal;

— (p) The right to be encouraged and assisted throughout his period of stay to exercise these rights as a resident and as a citizen;

— (q) The right to manage and control his personal cash resources, or to be given at least a quarterly accounting of financial transactions made on his behalf, if the facility has accepted written delegation of this responsibility:

— (3) Resident Rights shall be posted or reviewed annually with each resident and responsible party:

R432-250-16. Safeguards for Residents' Monies and Valuables:

— (1) Every facility shall safeguard residents' cash resources, personal property, and valuables which have been entrusted to the licensee or facility staff:

— (2) A facility shall not be required to handle resident's cash resources or valuables. However, if the facility accepts a resident's cash resources or valuables, then the facility shall safeguard the resident's cash resources in accordance with the following:

— (a) No licensee or facility staff member may use residents' monies or valuables as his own or mingle them with his own. Residents' monies and valuables shall be separated and intact and free from any liability that the licensee incurs in the use of his own or the institution's funds and valuables.

— (b) Each licensee shall maintain accurate records of residents' monies and valuables entrusted to the licensee:

— (c) Records of residents' monies which are maintained as a drawing account shall include a control account for all receipts and expenditures, and an account for each resident and supporting receipts filed in chronological order:

— (d) Each account shall be kept current with columns for debits, credits, and balance:

— (e) Records of residents' monies and other valuables entrusted to the licensee for safekeeping shall include a copy of the receipt furnished, for funds received:

— (f) All money deposited, with the facility, in a residents' account in excess of \$150 shall be deposited in an interest-bearing account in a local financial institution within five days of receipt:

— (3) Each health facility shall maintain a separate account for residents funds for each facility and shall not commingle with resident funds with another facility:

— (4) Upon discharge, a resident's money and valuables, which have been entrusted to the licensee, shall be returned to the resident that day. Money and valuables kept in an interest-bearing account shall be made available within three working days:

— (5) Within 30 days following the death of a resident, except in a medical examiner case, the resident's money and valuables entrusted to the licensee shall be surrendered to the responsible persons or to the administrator of the estate:

R432-250-17. Emergency and Disaster:

— (1) Each facility has the responsibility to ensure the safety and well-being of residents in the event of an emergency or disaster:

— (2) An emergency or disaster may include interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty:

— (3) The administrator shall be in charge during an emergency. If not on the premises, he shall make every effort to report to the facility, relieve subordinates and take charge during the emergency:

— (4) The licensee and the administrator shall be responsible for the development of a written emergency and disaster plan, coordinated with state and local authorities, to respond to fire emergencies and disasters.

— (5) This plan shall be made available to all facility staff.

— (6) The plan shall be reviewed annually and updated as necessary by the administrator and the licensee to conform with local emergency plans. The plan shall be available for review by the Department.

— (7) Staff and residents shall receive instruction and training to respond appropriately in an emergency. Simulated disaster drills shall be held semi-annually, simulated fire drills shall be held quarterly on each shift for staff and residents, in accordance with R710-3.

— (8) All drills shall be documented to include date, participants, problems encountered, and the ability of each resident to evacuate.

— (9) The facility shall provide in the facility all equipment and supplies required in an emergency including emergency lighting, heating equipment, food, potable water, extra blankets, first aid kit, and radio.

— (10) The facility will have arrangements for transportation of residents to another, prearranged, location.

— (11) An ambient air temperature of 58 degrees F. (14 degrees C.) or lower may constitute an imminent danger to the health and safety of the residents. The person in charge shall take immediate and appropriate action.

— (12) The facility's emergency plan shall contain:

— (a) The names of the person in charge and persons with decision-making authority;

— (b) The names of persons who shall be notified in an emergency in order of priority;

— (c) The names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;

— (d) A list of these telephone numbers shall be posted;

— (e) Evacuation routes, location of fire alarm boxes, and fire extinguishers shall be posted in prominent locations throughout the facility;

— (f) Instructions on how to contain a fire and how to use the facility alarm systems;

— (g) Assignment of personnel to specific tasks during an emergency;

— (h) The procedure to transport and evacuate residents and staff to other locations;

— (i) How to recruit additional help, supplies, and equipment, to meet the residents needs, after an emergency or disaster.

R432-250-18. Personal Care:

— (1) There shall be competent staff on duty 24 hours a day, every day of the week to meet the needs of residents. Qualified facility staff shall assist residents with the activities of daily living, independent activities of daily living and social care.

— (2) Assistance with the activities of daily living and independent activities of daily living includes prompting and assisting residents with the following:

— (a) personal grooming and dressing;

— (b) oral hygiene and denture care;

— (c) toileting and toilet hygiene;

— (d) eating during mealtime;

— (e) encourage and support residents to be independent or maintain independence if they use assistive devices (crutches, braces, walkers, wheelchairs) or prosthetic devices (glasses and hearing aids);

— (f) housekeeping;

— (g) self-administration of medication;

— (h) arranging for medical and dental care including accessing transportation to and from the medical or dental facility;

— (i) encouraging the resident to maintain his independence and sense of self-direction;

— (j) administering emergency first aid;

— (k) taking and recording oral temperatures.

— (3) Social care includes:

— (a) Providing residents opportunities for social interaction in the facility and in the community;

— (b) Providing services to promote resident's independence and sense of self-direction.

R432-250-18. Medication Policies:

— (1) The facility shall have written policies and procedures addressing the levels and types of assistance provided to a resident in a self-administration medication program, and the storage, control, and release of medications.

— (2) The self administration medication program shall include one or all of the following:

— (a) The resident administers their own medications.

— (b) The resident shall have all medications set up by a pharmacy in a package which identifies the medication and time to administer.

— (i) Facility staff may assist resident to open package at the request of the resident.

— (ii) No additional training is required for the individual opening the package.

— (c) Family members may set up medications in a package which identifies the medication and time to administer. If a family assists with medication administration they shall sign a waiver indicating that they understand that they assume the responsibility to fill prescriptions, administer medication and document that the medication has been administered. Facility staff may assist the families by:

— (i) Reminding residents to take medications.

— (ii) Opening the container at the resident's request.

— (d) An Unlicensed Assistive Personnel may assist with medication administration under the supervision of a consulting Registered Nurse.

— (i) A Registered Nurse consulting for the facility may delegate the task of assisting with medication administration to an Unlicensed Assistive personnel in accordance with the Nurse Practice Act R156-31-603.

— (ii) The consulting registered nurse who delegates the assisting with medication administration must verify and evaluate the practitioner's orders, perform a nursing assessment, and determine whether the unlicensed assistive personnel can safely perform the assisting with administration of medications.

— (iii) The medications must be administered according to a plan of care developed by the consulting Registered Nurse.

— (iv) The consulting Registered Nurse shall provide and document supervision, evaluation, and training of the unlicensed assistive personnel assisting with medication administration.

— (v) The delegating nurse or another qualified nurse shall be readily available either in person or by telecommunication:

— (3) If a resident chooses to have a licensed nurse administer the medications, the following shall apply:

— (a) The resident may have a home health agency nurse administer medications; or

— (b) the resident may contract with a private nurse to administer medications; or

— (c) the resident may use the facility's contracted licensed nurse, if available, to administer medications:

— (4) Documentation and Record Keeping

— (a) All medications which are administered shall be recorded on a form and initiated by the individual who has assisted the resident with their self-administration program:

— (b) Documentation shall include if the resident refuses to take medications or is absent from the facility when medication was supposed to be taken:

— (c) The licensed practitioner shall be notified when medication errors occur, if the resident refused the medication or if the resident misses medications:

— (d) Any change in the dosage or schedule of medication administration shall be made by the resident's licensed practitioner; be documented in the medication record and all personnel notified of the medication change:

— (5) Storage of Medication:

— (a) Medication shall be stored securely in the resident's room or in a central storage area to prevent unauthorized access:

— (b) If medication is stored in a central location, the resident shall have access to the medication:

— (c) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36 - 46 degrees F:

— (d) Facility staff shall not repack or relabel resident medication:

— (6) Disposal and Release of Medications:

— (a) The resident's medication shall be returned to the resident or responsible person or family upon discharge:

— (b) Discontinued medication shall be disposed of by the resident or his family:

— (c) The administrator shall document the return to the resident of medication, which had been stored in a central supply, to the resident or his family:

R432-250-20. First Aid:

— (1) There shall be one staff person on duty at all times who has training in basic first aid, heimlich maneuver, certified in cardiopulmonary resuscitation and emergency procedures to ensure that each resident receives prompt first aid as needed:

— (2) First aid training refers to any basic first aid course approved by the American Red Cross or Utah Emergency Medical Training Council:

— (3) Each facility, except those attached to a medical unit, shall have a first aid kit available at a designated location in the facility:

— (4) The kit shall contain the following:

— (a) A current edition of a basic first aid manual approved by the American Red Cross, The American Medical Association, or a state or federal health agency;

— (b) Sterilized gauze squares (assorted sizes 2", and 4") six each;

— (c) Rolled bandage (King) (1", 2", 3") one of each;

— (d) Assorted adhesive dressing such as Band-Aids;

— (e) Adhesive tape (1/2" or 1" wide);

— (f) Bandage or other safe scissors;

— (g) Tweezers;

— (h) Thermometers;

— (i) Tongue blades and cotton tipped applicator sticks;

— (j) Cleansing agent or disinfectant solution;

— (k) Lubricant;

— (l) Assorted safety pins;

— (m) Airway for mouth-to-mouth resuscitation:

R432-250-21. Arrangements for Medical or Dental Care:

— (1) The facility shall arrange for medical or dental care as needed and requested by residents:

— (2) Staff shall:

— (a) Notify the resident's responsible person; or

— (b) Make an appointment for the resident and arrange for transportation to and from the practitioner's office; or

— (c) Notify the physician or other health care professional when the resident requires immediate medical attention:

R432-250-22. Activity Program:

— (1) Resident shall be encouraged to maintain and develop their fullest potential for independent living through participation in activity and recreational programs:

— (2) The facility shall provide opportunities for the following:

— (a) Socialization activities;

— (b) Independent living activities to foster and maintain independent functioning;

— (c) Physical activities;

— (d) Community activities to promote resident participation in activities away from the facility:

— (3) Activity Coordinator:

— (a) The administrator shall designate a person to be the activity coordinator to direct the facility's activity program:

— (b) The activity coordinator shall:

— (i) Coordinate all recreational activities including volunteer and auxiliary activities;

— (ii) With resident participation, plan, organize, and conduct the residents' activity program:

— (c) Based on a resident interest evaluation develop monthly activity calendars, including information on community activities:

— (4) Each facility shall provide sufficient indoor and outdoor space, equipment, and supplies to meet the recreational needs and interests of residents:

— (5) Storage shall be provided for recreational equipment and supplies. Locked storage shall be provided for potentially dangerous items such as scissors, knives, and toxic materials:

R432-250-23. Pets in the Facility:

— (1) A facility may permit residents to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance:

— (2) Pets shall be kept clean and disease-free:

— (3) The pet's environment shall be kept clean:

— (4) Small pets such as birds and hamsters shall be kept in appropriate enclosures:

— (5) Pets not confined in enclosures shall be hand held, under leash control, or under voice control.

— (6) Pets that are kept at the facility shall have current vaccinations and the resident will maintain a record of the vaccinations.

— (7) Upon approval of the administrator, family members may bring resident's pets to visit. Visiting pets must have current vaccinations.

— (8) Facilities with birds shall have procedures which prevent the transmission of psittacosis. Procedures shall ensure minimum handling of and placing of droppings into a closed plastic bag for disposal.

— (9) Pets shall not be permitted in food preparation, storage or dining areas or in any area where their presence would create a significant health or safety risk to others.

R432-250-24. Food Service:

— (1) Meals served on the premises shall be served in a designated dining area suitable for the purpose.

— (2) Tray service shall only be provided in a resident's room on a temporary basis.

— (3) Residents shall be encouraged to eat their meals in the dining room with other residents.

— (4) Each facility's food service shall comply with the Utah Department of Health Food Service Sanitation Regulations.

— (5) Inspection reports by the local health department shall be maintained at the facility for review by the Department.

— (6) If the facility accepts residents requiring therapeutic or special diets, the facility shall have an approved dietary manual for reference when preparing meals.

— (7) Large and small facilities shall have an organized dietary service supervised by a qualified food service supervisor.

— (8) A qualified food service supervisor shall have completed, prior to or within one year of employment, one of the following requirements:

— (a) Have training in food service supervision and management consisting of 25 hours of classroom instruction in food service supervision; or

— (b) Be a graduate of a dietetic technician or dietary managers' training program approved by the Dietary Managers' Association; or

— (c) Have a bachelor's degree with major study in food management and nutrition, or dietetics; or

— (d) Be a certified dietitian.

— (9) An approved food service supervisor course shall cover, as a minimum, the following subjects:

— (a) Menu writing;

— (b) Basic nutrition;

— (c) Sanitation and safety;

— (d) Food preparation;

— (e) Purchasing;

— (f) Therapeutic diets and portion control;

— (g) Alteration and consistency;

— (h) Interpersonal communication;

— (10) The qualified food service supervisor shall attend a minimum of three two-hour approved in-service training sessions each year.

— (11) Dietary staff shall receive a minimum of four hours of documented in-service training each year.

— (12) The qualified food service supervisor shall train, and supervise all persons who work in food services.

— (13) Documented quarterly consultation shall be provided by a certified dietitian if residents requiring therapeutic diets are accepted.

— (14) There shall be an adequate number of food service personnel on duty to meet the needs of residents.

— (15) All food service personnel shall observe personal hygiene and sanitation practices which protect food from contamination.

— (16) While on duty in food service, the cook and other kitchen staff shall not be assigned concurrent duties outside the food service area.

— (17) All persons who prepare or serve food shall have a current Food Handler's Permit.

R432-250-25. Nutrition and Menu Planning:

— (1) At least three meals or their equivalent shall be served daily.

— (2) There shall be no more than a 14-hour interval between the evening meal and breakfast, unless a substantial snack is served in the evening.

— (3) A different menu shall be planned for and followed for each day of the week.

— (4) Menus may be cycled at a minimum of three weeks.

— (5) The current week's menu shall be posted and signed by a certified dietitian.

— (6) Substitutions to the menu, that are served, shall be recorded and retained for three months for review by the department.

— (7) Food Storage and Supplies. A one-week supply of non-perishable food and a three-day supply of perishable food shall be available within the facility.

— (8) Food Preparation and Service:

— (a) All food shall be of good quality, palatable, and attractively served.

— (b) Powdered milk shall be pasteurized if it is used as a beverage.

R432-250-26. Housekeeping Services:

— (1) There shall be adequate housekeeping services to maintain a clean and sanitary environment in the facility.

— (2) A qualified person shall direct housekeeping services. (3) Laundry, maintenance, and cleaning schedules shall be posted for housekeeping staff.

— (4) There shall be adequate numbers of housekeeping and maintenance staff to maintain both the exterior and interior of the facility in a safe, clean, orderly manner.

— (5) Housekeeping personnel shall be trained in preparing and using cleaning solutions, cleaning methods, use of equipment, and the method of handling clean and soiled linen, and trash.

— (6) There shall be a linen supply to permit change of bed linens at least two times per week.

— (7) Odors shall be controlled by maintaining cleanliness.

— (8) There shall be a trash container in every occupied room.

— (9) Cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials shall be stored in a locked area to prevent unauthorized access.

— (10) Bathtubs, shower stalls, or lavatories shall not be used as storage places.

— (11) Throw or scatter rugs shall not be used.

R432-250-27. Laundry Services:

— (1) There shall be laundry service to meet the needs of the residents:

— (2) The facility shall inform the resident and his responsible person of the facility's laundry policy for resident's personal clothing:

— (3) The laundry area shall be separate and apart from any room where food is stored, prepared, or served:

— (4) At least one washing machine and clothes dryer in good repair shall be available for use by residents who desire to do their personal laundry:

— (5) An iron and ironing board in good repair shall be available to residents:

R432-250-28. Maintenance Services:

— (1) Maintenance shall be done according to an established schedule to ensure that the facility equipment, buildings, fixtures, spaces, and grounds are safe, clean, operable, and in good repair:

— (2) In large facilities, a person shall be designated to direct the facility's maintenance:

— (3) A pest control program shall be conducted in the facility buildings and on the grounds by a licensed pest control contractor or a qualified employee to ensure the absence of vermin and rodents. Documentation of the pest control program shall be maintained for Department review:

— (4) Draperies, carpets, and furniture shall be maintained so they are clean and in good repair:

— (5) Cracks in plaster, peeling wallpaper or paint, tears, splits or folds in floor coverings, and missing tile shall be repaired promptly:

— (6) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow, and other hazards:

R432-250-29. Waste Storage and Disposal:

— Facilities and equipment shall be provided for the sanitary storage and treatment or disposal of all categories of waste, including hazardous and infectious wastes, if applicable, using techniques acceptable to the Department of Environmental Quality and the local health authority:

R432-250-30. Lights and Power System:

— (1) All emergency power systems shall be maintained in operating condition:

— (2) Battery operated equipment shall be tested quarterly and documentation shall include a record of performance, test period, and repairs:

— (3) Lighting within the facility shall be maintained at the illuminating levels described in R432-6-21:

R432-250-31. Water Supply:

— (1) Plumbing and drainage facilities shall be maintained in compliance with the Utah Plumbing Code:

— (2) Hot water provided to resident tubs, showers, whirlpools, and handwashing facilities shall be regulated for safe use within a temperature range of 105 - 120 degrees F:

— (3) Thermostatically controlled automatic mixing valves may be used to maintain hot water at the above temperature:

R432-250-32. Respite Services:

— (1) Residential Health Care facilities may offer respite services and are not required to obtain a respite license from the Utah Department of Health:

— (2) The purpose of respite is to provide intermittent, time limited care to give primary caretakers relief from the demands of caring for a person:

— (3) Respite services may be provided at an hourly rate or daily rate, but shall not exceed 14-days for any single respite stay. Stays which exceed 14 days shall be considered a residential health care facility admission, and shall be subject to the admission requirements of R432-250:

— (4) The facility shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker:

— (5) The facility shall document the person's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program:

— (6) The facility must complete a service agreement to serve as the plan of care. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders:

— (7) The facility shall have written policies and procedures available to staff regarding the respite care clients which include:

— (a) Medication administration;

— (b) Notification of a responsible party in the case of an emergency;

— (c) Service agreement and admission criteria;

— (d) Behavior management interventions;

— (e) Philosophy of respite services;

— (f) Post-service summary;

— (g) Training and in-service requirement for employees; and

— (h) Handling personal funds:

— (8) Persons receiving respite services shall be provided a copy of the Resident Rights documents upon admission:

— (9) The facility shall maintain a record for each person receiving respite services which includes:

— (a) Retention and storage of records:

— (b) Confidentiality and release of information:

— (c) The record shall contain the following information:

— (i) Service agreement;

— (ii) Demographic information and resident identification data;

— (iii) Physician treatment orders;

— (iv) Records made by staff regarding daily care of the person in service;

— (v) Accident and injury reports;

— (vi) Post-service summary:

— (10) If a person has an advanced directive, a copy shall be filed in the record and staff be informed of its existence:

KEY: health facilities

May 1, 1997

26-21-5

Notice of Continuation December 30, 1997

26-21-1]

◆ _____ ◆

Health, Health Systems Improvement,
Primary Care and Rural Health
R434-10
Rural Medical Financial Assistance

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21532

FILED: 10/08/1998, 18:06

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To enhance the understandability of the physicians and physician assistants grant and scholarship program rules, the statutory committee and Department staff have reviewed all sections of the rule as part of the five-year review process and have suggested numerous changes to improve the understandability of the rule.

SUMMARY OF THE RULE OR CHANGE: The general consensus of the statutory committee and Department staff was to consolidate and streamline this rule by eliminating redundancies in both the rule and law, combining related sections of the rule, eliminating conflicting language in the rule, and adding clarifying language to the rule. Changes to rule include: changing the name of the rule to coincide with the new name of the law; including a definition of a designated site; clarifying that prior approval is needed before beginning practice at a designated site; deletion of eligibility and selection criteria not used in selecting recipients; adding eligibility and selection criteria of U.S. citizenship; additional eligibility and selection criteria of passage of national certifications and/or examinations; adding physician requirement of three year postgraduate training program; adding recipient responsibility to find and make match with a designated site; addition of consistent language throughout rule; addition of scholarship recipient obligations during schooling/training and after completion of schooling/training, which were not previously included in rule; addition of new section on Schedule of Breach of Scholarship Contract Repayment, which was not previously included in law or rule; and updating site determination section, including table of ratio of medical specialties.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 9

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Cost to Utah Department of Health to revise, print, and distribute the new rules to health care providers and rural medically underserved sites throughout the state. Changes to this rule do not require an increased workload to the Department.
- ❖ LOCAL GOVERNMENTS: Changes to this rule do not require an increased workload or cost to Local governments.
- ❖ OTHER PERSONS: Changes to this rule do not require an increased workload or cost of other persons. There is an

anticipated savings to rural medically underserved sites who opt to participate in this program, and long-term impact is expected due to retention of health care providers at those participating rural medically underserved sites. Normal costs for recruiting and retaining health care providers should remain the same, or lessen with time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are not compliance costs associated with affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change results from the five-year review process. Experience with this scholarship program to increase access to quality medical care in rural areas, has shown that the changes in the rule dealing with sanctions for violating the scholarship agreement are necessary to assure the continued financial viability of this program. Applicants are also required to have approval on the designated site, which will give the program ability to better distribute scholarship where the greatest need exists. I agree that costs to business will be minimal and are amply justified by the benefits to the program and the community.

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

Health
Health Systems Improvement,
Primary Care and Rural Health
Cannon Health Building
288 North 1460 West
PO Box 142005
Salt Lake City, UT 84114-2005, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Iona M. Thraen at the above address, by phone at (801) 538-6113, by FAX at (801) 538-6387, or by Internet E-mail at None available at this time..

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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Rod Betit, Executive Director

R434. Health, Health Systems Improvement, Primary Care and Rural Health Systems.

R434-10. [Rural Medical Financial Assistance]Physicians and Physician Assistants Grant and Scholarship Program.

R434-10-1. Purpose.

This rule, R434-10, provides criteria for the implementation of the [Rural Medical Financial Assistance Act]Physicians and Physician Assistants Grant and Scholarship Program and the award of grant funds to physicians and physician assistants willing to work in a medically underserved rural area of the state and the award of funds to train physicians and physician assistants to practice medicine in a medically underserved rural area of the state.

R434-10-2. Definitions.

The definitions as they appear in Section 26-9-202 apply. In addition:

(1) "Approved Site" means a ~~[hospital or medical clinic]~~designated site which ~~[meets the criteria established by the committee and]~~ is approved by the committee pursuant to Subsection 26-9-204 (2)(a).

(2) "Department" means the Utah Department of Health.

(3) "Designated health professional shortage area" means a service area designated by the Secretary of Health and Human Services as having insufficient primary care physicians.

(4) "Designated Site" means a hospital or medical clinic which meets the criteria established by the committee and is in a medically underserved rural area pursuant to Subsection 26-9-202 (4).

(5) "Grant" means a grant of funds under a contract to defray educational loans.

(6) "Obligated service" means service in a medical specialty needed at an approved site for a minimum of two years or a longer period to which the applicant agrees in a grant or scholarship contract.

(7) "Postgraduate training" means medical training in one of the following:

(a) a postgraduate training program in the United States accredited by the Accreditation Committee on Graduate Medical Education;

(b) a postgraduate training program in the United States accredited by the American Osteopathic Association Bureau of Professional Education;

(c) a postgraduate training program in Canada accredited by the Royal College of Physicians and Surgeons of Canada.

(8) "Physician Scholarship" means an award of money for educational expenses given to a person under a contract where the person agrees to accept the award in exchange for practicing medicine in a medical specialty needed, as determined by the committee, in an approved site following completion of postgraduate training.

(9) "Physician Assistant Scholarship" means an award of money for educational expenses given to a person under a contract where the person agrees to accept the award in exchange for practicing medicine as a physician assistant in an approved site.

R434-10-3. Physician Grant Administration.

(1) The department may provide a grant to repay loans taken for physician educational expenses.

(2) The physician grant recipient may not enter into any other similar contracts until he satisfies the obligated service described in the grant.

(3) For a physician grant recipient with a four year contract the state shall provide ~~[33]20%~~ of the grant at the completion of the first three months, ~~[+7]20%~~ of the grant at the completion of year one, ~~[+7]20%~~ at the completion of year two, ~~[+7]20%~~ at the completion of year three, and ~~[+6]20%~~ at the completion of year four.

(4) For a physician grant recipient with a three year contract the state shall provide ~~[37]25%~~ of the grant at the completion of the first three months, 25% of the grant at the completion of year one, ~~[+9]25%~~ at the completion of year two, and ~~[+9]25%~~ at the completion of year three.

(5) For a physician grant recipient with a two year contract the state shall provide ~~[50]33%~~ of the grant at the completion of the first three months, ~~[25]33%~~ of the grant at the completion of year one, and ~~[25]34%~~ at the completion of year two.

(6) The physician grant recipient must obtain an unrestricted license to practice as a physician in Utah before his first day of practice under the grant contract.

(7) The physician grant recipient must obtain approval from the committee prior to beginning obligated service at a designated site.

(8) A physician grant recipient must obtain approval prior to changing the approved site where he fulfills his obligated service.

R434-10-4. Physician Assistant Grant Administration.

(1) The department may provide a grant to repay loans taken for physician assistant educational expenses.

(2) The physician assistant grant recipient may not enter into any other similar contracts until he satisfies the obligated service described in the grant.

(3) For a physician assistant grant recipient with a four year contract the state shall provide ~~[33]20%~~ of the grant at the completion of the first three months, ~~[+7]20%~~ of the grant at the completion of year one, ~~[+7]20%~~ at the completion of year two, ~~[+7]20%~~ at the completion of year three, and ~~[+6]20%~~ at the completion of year four.

(4) For a physician assistant grant recipient with a three year contract the state shall provide ~~[37]25%~~ of the grant at the completion of the first three months, 25% of the grant at the completion of year one, ~~[+9]25%~~ at the completion of year two, and ~~[+9]25%~~ at the completion of year three.

(5) For a physician assistant grant recipient with a two year contract the state shall provide ~~[50]33%~~ of the grant at the completion of the first three months, ~~[25]33%~~ of the grant at the completion of year one, and ~~[25]34%~~ at the completion of year two.

(6) The department may not provide a grant until the physician assistant passes the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam.

(7) The physician assistant grant recipient must obtain an unrestricted license to practice as a physician assistant in Utah before his first day of practice under the grant contract.

(8) The physician assistant grant recipient must obtain approval from the committee prior to beginning obligated service at a designated site.

(9) A physician assistant grant recipient must obtain approval prior to changing the approved site where he fulfills his obligated service.

R434-10-5. Full-Time Equivalency Provisions for Grant Recipients.

(1) The annual grant amount is based on the level of full-time equivalency that the grant recipient agrees to work.

(2) A grant recipient who provides services for at least 40 hours per week may be awarded a grant based on the percentages outlined in Section R434-10-3 and R434-10-4.

(3) A grant recipient who provides services for less than 40 hours per week may be awarded a proportionately lower grant based on a full-time equivalency of 40 hours per week.

R434-10-6. Physician Grant Eligibility and Selection.

(1) In selecting a physician grant recipient for a physician grant, the committee shall evaluate the applicant based on the following selection criteria:

(a) the extent to which an applicant's training is in a medical specialty needed at a ~~an approved~~ designated site;

(b) the applicant's commitment to serve in a medically underserved rural area which may be demonstrated in any of the following ways:

(i) has lived in an area with fewer than 100 persons per square mile;

(ii) has rural work or educational experience;

(iii) has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;

(iv) ~~[spouse or significant other has work or educational experience in any of these areas;~~

~~—(v)—~~ other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.

(c) the availability of the applicant to begin service, with greater consideration being given to applicants available for service at earlier dates;

(d) the length of the applicant's proposed obligated service, with greater consideration given to applicants who agree to serve for longer periods of time;

(e) the applicant's:

(i) academic standing;

(ii) prior professional or personal experience in medically underserved rural areas;

(iii) board certification or eligibility;

(iv) residency achievements;

(v) peer recommendations;

(vi) other facts that the applicant can demonstrate to the committee that establishes his professional competence or conduct;

(f) the applicant's financial need;

(g) the applicant's willingness to accept Medicare, Medicaid, or Utah Medical Assistance patients;

(h) the applicant's willingness to provide care regardless of a patient's ability to pay;

(i) the applicant's ability and willingness to provide care;

(j) the applicant's achieving an early match with a ~~an approved~~ designated site.

(2) Only physicians who are available to begin practicing medicine in the state within one year from the date of application are eligible for this program.

(3) To be eligible for a grant, a physician:

(a) must be a United States citizen or permanent resident;

(b) must not have practiced medicine in rural Utah within three years prior to the date of application;

(~~b~~)c) must be enrolled in or have completed postgraduate training prior to submitting an application to participate in the grant program.

R434-10-7. Physician Assistant Grant Eligibility and Selection.

(1) In selecting a physician assistant grant recipient for a physician assistant grant, the committee shall evaluate the applicant based on the following selection criteria:

(a) the extent to which an applicant's training is needed at a ~~an approved~~ designated site;

(b) the applicant's commitment to serve in a medically underserved rural area, which may be demonstrated in any of the following ways:

(i) has lived in an area with fewer than 100 persons per square mile;

(ii) has rural work or educational experience;

(iii) has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;

(iv) ~~[spouse or significant other has work or educational experience in any of these areas;~~

~~—(v)—~~ other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.

(c) the availability of the applicant to begin service, with greater consideration given to applicants available for service at earlier dates;

(d) the length of the applicant's proposed obligated service, with greater consideration given to applicants who agree to serve for longer periods of time;

(e) the applicant's:

(i) academic standing;

(ii) prior professional or personal experience in medically underserved rural areas;

(iii) results of the National certification exam;

(iv) preceptorship achievements;

(v) peer recommendations;

(vi) other facts that the applicant can demonstrate to the committee that establishes his professional competence or conduct.

(f) the applicant's financial need;

(g) the applicant's willingness to accept Medicare, Medicaid, or Utah Medical Assistance patients;

(h) the applicant's willingness to provide care regardless of a patient's ability to pay;

(i) the applicant's ability and willingness to provide care;

(j) the applicant's achieving an early match with a ~~an approved~~ designated site.

(2) Only physician assistants who are available to begin practicing medicine in the state within one year from the date of application may be eligible for this program.

(3) To be eligible for a grant, physician assistants:

(a) must be a United States citizen or permanent resident;

(b) must have passed the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam;

(c) must not have practiced medicine in rural Utah within three years prior to the date of application.

R434-10-8. Extension of Grant Contract.

(1) A physician or physician assistant who has signed a grant contract for less than four years may apply on or after his first day of practice under a grant to extend his grant contract by one or two years, up to the maximum of four years total.

(2) The grant contract may be extended only at an approved site.

(3) A physician or physician assistant who desires to extend his grant contract must inform the committee in writing of his interest in extending his grant contract at least six months prior to the ~~[first anticipated additional payment under the extended]~~ termination of his unextended grant contract.

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R434-10-10. Physician Scholarship Administration.

(1) The department may provide physician scholarship funds to a physician scholarship recipient for a maximum of four years of medical or osteopathic school or until completion of medical or osteopathic school, whichever is shorter.

(2) For each academic year the committee may award \$12,000 to a physician scholarship recipient.

(3) The committee may pay tuition and fees directly to the medical or osteopathic school, and determine the amount and frequency of direct payments to the student.

(4) The physician scholarship recipient may not enter into a scholarship contract other than with the program established in Section 26-9-201 until the obligated service agreed upon in the state scholarship contract is satisfied.

(5) A physician scholarship recipient must work full-time, as defined by the physician scholarship recipient's employer and as specified in ~~[the]~~his contract with the department.

(6) A physician scholarship recipient must serve one year of obligated service for each year he received a scholarship under this program.

(7) The committee may cancel a scholarship at any time if it finds that the physician scholarship recipient has voluntarily or involuntarily terminated his medical or osteopathic school or postgraduate training, or it appears to be a reasonable certainty the physician scholarship recipient does not intend to practice medicine as required by statute, rules, and contract in a medically underserved rural area in the state.

(8) The physician scholarship recipient must begin postgraduate training within six months after he obtains a Doctor of Medicine or Doctor of Osteopathy degree. Postgraduate training must be continuous unless the physician scholarship recipient obtains prior approval from the director of the physician scholarship recipient's postgraduate training program and from the committee.

(9) The physician scholarship recipient must attend a minimum three year postgraduate training program.

~~(10)~~ The physician scholarship recipient must obtain an unrestricted license to practice medicine in the state and begin practicing medicine for the agreed upon period of time at an approved site within six months of completion of postgraduate training.

~~(11)~~(10) The physician scholarship recipient shall select for postgraduate training a residency in one of the following areas: family practice, general internal medicine, general pediatrics, or obstetrics/gynecology. If the physician scholarship recipient desires to choose a postgraduate training program in a medical specialty other than family practice, general internal medicine, general pediatrics, or obstetrics/gynecology, he must demonstrate the need for the medical specialty in a medically underserved rural area and obtain approval from the committee.

~~(12)~~ Upon completion of postgraduate training, the physician scholarship recipient shall be responsible for finding employment at a designated site in a medically underserved rural area of Utah.

~~(13)~~ The physician scholarship recipient must obtain approval from the committee prior to beginning obligated service at a designated site.

R434-10-11. Physician Assistant Scholarship Administration.

(1) The department may provide physician assistant scholarship funds to a physician assistant scholarship recipient for a maximum of four years for physician assistant school, or until completion of physician assistant school, whichever is shorter.

(2) For each academic year the committee may award \$12,000 to a physician assistant scholarship recipient.

(3) The committee ~~[reserves the right to]~~may pay tuition and fees directly to the physician assistant school, and to determine the amount and frequency of direct payments to the student.

(4) The physician assistant scholarship recipient may not enter into a scholarship contract other than with the program established in Section 26-9-201 until the obligated service agreed upon in the state contract is satisfied.

(5) A physician assistant scholarship recipient shall work full-time, as defined by the physician assistant scholarship recipient's employer and as specified in the contract.

(6) A physician assistant scholarship recipient must serve one year of obligated service for each year he received a~~[the]~~ scholarship ~~[award is provided]~~under this program.

(7) The committee may cancel a scholarship at any time if it finds that the physician assistant scholarship recipient has voluntarily or involuntarily terminated his physician assistant education and training, or it appears to be a reasonable certainty the physician assistant scholarship recipient does not intend to practice medicine as a physician assistant as required by statute, rules, and contract.

(8) The physician assistant scholarship recipient must obtain a temporary physician assistant license and begin practicing medicine at an approved site for the agreed upon period of time within six months of completion of physician assistant education.

(9) The physician assistant scholarship recipient shall take the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam at the soonest date after completion of physician assistant schooling. At the soonest date after the physician assistant scholarship recipient passes this exam he shall obtain a permanent unrestricted license as a physician assistant.

(10) If the physician assistant scholarship recipient fails the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam, he must retake the exam ~~[at the next examination date]~~within one year of failure of the National certification exam. ~~[During the period when the temporary license is lost due to failing the exam and the physician assistant scholarship recipient is unable to practice at an approved site he shall not receive credit against retiring the service obligation under the contract.]~~ If the physician assistant scholarship recipient fails

the exam a second time, or fails to retake the exam, he shall be in default of the scholarship contract. The period when the temporary license is lost due to failing the exam and the physician assistant scholarship recipient is unable to practice at an approved site does not count against retiring the obligated service under the contract.

(11) Upon graduation from physician assistant schooling, the physician assistant scholarship recipient shall be responsible for finding employment at a designated site in a medically underserved rural area of Utah.

(12) The physician assistant scholarship recipient must obtain approval from the committee prior to beginning obligated service at a designated site.

R434-10-12. Physician Scholarship Applicant Eligibility and Selection.

(1) In selecting a recipient for a physician scholarship, the committee shall evaluate the applicant based on the following selection criteria:

(a) the applicant's commitment to serve in a medically underserved rural area, which may be demonstrated in any of the following ways:

(i) has lived in a rural area with fewer than 100 persons per square mile;

(ii) has rural work or educational experience;

(iii) has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;

(iv) ~~[spouse or significant other has work or educational experience in any of these areas;~~

~~(v)~~ has declared a commitment to practice in a medically underserved rural area as expressed in the essay which is required as part of the scholarship application;

(v[i]) other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.

(b) the applicant's need for assistance in financing a medical or osteopathic education;

(c) the applicant's academic ability as demonstrated by official transcripts and official medical or osteopathic school admission test scores;

(d) the applicant's evidence that he has been accepted by or currently attends a medical school accredited by the Liaison Committee on American Medical Education or osteopathic school accredited by the American Osteopathic Association Bureau of Professional Education;

(e) the applicant's personal and professional references demonstrating the applicant's good character and potential to successfully complete medical or osteopathic school.

(2) In selecting a physician scholarship recipient, the committee may give preference to:

(a) applicants who agree to serve in a medically underserved rural area of the state for four years in return for four years of scholarship assistance;

(b) applicants who agree to complete their postgraduate training in one of the following medical specialties: family practice, general internal medicine, general pediatrics, or obstetrics/gynecology;

(c) applicants from rural Utah.

(3) To be eligible to receive a physician scholarship, an applicant must be a United States citizen or permanent resident.

(4) Before the committee awards a scholarship, applicants must participate in an interview with the committee or its designee.

([4]5) To remain eligible to receive scholarship funds, an applicant must satisfactorily complete each year of medical or osteopathic school and be a matriculated student.

R434-10-13. Physician Assistant Scholarship Applicant Eligibility and Selection.

(1) In selecting an applicant for a physician assistant scholarship, the committee shall evaluate the applicant based on the following selection criteria:

(a) the applicant's commitment to serve in a medically underserved rural area, which may be demonstrated in any of the following ways:

(i) has lived in a rural area with fewer than 100 persons per square mile;

(ii) has rural work or educational experience;

(iii) has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;

(iv) ~~[spouse or significant other has work or educational experience in any of these areas;~~

~~(v)~~ has declared a commitment to practice in a medically underserved rural area as expressed in the essay which is required as part of the scholarship application;

(v[i]) other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.

(b) the applicant's need for assistance in financing a physician assistant education;

(c) the applicant's academic ability as demonstrated by official transcripts;

(d) the applicant's evidence that he has been accepted by or currently attends a physician assistant school accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association;

(e) the applicant's personal and professional references demonstrating the applicant's good character and potential to successfully complete physician assistant school.

(2) In selecting a physician assistant scholarship recipient, the committee may give preference to applicants from rural Utah.

(3) To be eligible to receive a physician assistant scholarship, an applicant must be a United States citizen or permanent resident.

(4) Before the committee awards a scholarship, applicants must participate in an interview with the committee or its designee.

([4]5) To remain eligible to receive scholarship funds, an applicant must satisfactorily complete each year of physician assistant school and be a matriculated student.

R434-10-14. Physician Scholarship Recipient Obligations.

(1) A physician scholarship recipient must maintain minimum continuous registration to maintain medical or osteopathic student status until he completes all requirements for his degree. The maximum years leading to a degree may not exceed four years, unless extended pursuant to R434-10-16.

(2) A physician scholarship recipient must attend a minimum three year postgraduate training program.

(3) A physician scholarship recipient must obtain an unrestricted license to practice as a physician in Utah prior to beginning practice at the approved site.

(4) Within six months before and not exceeding one month following completion of postgraduate training, a physician scholarship recipient shall provide to the department documented evidence from a ~~non-approved~~ designated site of its intent to hire him.

(5) Upon completion of postgraduate training, the physician scholarship recipient is responsible for finding employment at a designated site in a medically underserved rural area of Utah.

(6) The physician scholarship recipient must obtain approval from the committee prior to beginning obligated service at a designated site.

~~[(3)]~~ A physician scholarship recipient must begin employment at the approved site within six months of completion of postgraduate training.

(8) A physician scholarship recipient, upon completion of postgraduate training, must demonstrate willingness to serve the underserved by:

(a) accepting Medicare, Medicaid, or Utah Medical Assistance Program patients;

(b) providing care regardless of patient's ability to pay;

(c) showing ability and willingness to provide care.

~~[(4)]~~ The minimum length of obligated service is two years, or such longer period to which the applicant and the committee agree.

~~[(5)]~~ The physician scholarship recipient must obtain committee approval prior to changing the approved site where he fulfills his obligated service.

R434-10-15. Physician Assistant Scholarship Recipient Obligations.

(1) A physician assistant scholarship recipient must maintain minimum continuous registration to maintain physician assistant student status until he completes all requirements for his degree. The maximum years leading to a degree may not exceed four years unless extended pursuant to R434-10-16.

(2) A physician assistant scholarship recipient shall take the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam at the soonest date after completion of physician assistant schooling.

(3) Upon completion of physician assistant schooling, the physician assistant scholarship recipient is responsible for finding employment at a designated site in a medically underserved rural area of Utah

(4) The physician assistant scholarship recipient must obtain approval from the committee prior to beginning obligated service at a designated site

(5) Within three months before, and not exceeding one month following completion of physician assistant education and prior to beginning fulfillment of obligated service, a physician assistant scholarship recipient shall provide to the department documented evidence from the approved site of its intent to hire him.

(6) A physician assistant scholarship recipient, upon completion of physician assistant schooling, must demonstrate willingness to serve the underserved by:

(a) accepting Medicare, Medicaid, or Utah Medical Assistance Program patients;

(b) providing care regardless of patient's ability to pay;

(c) showing ability and willingness to provide care.

~~[(3)]~~ A physician assistant scholarship recipient must begin employment at the approved site within six months of completion of physician assistant education.

~~[(4)]~~ The minimum length of obligated service is two years, or such longer period to which the applicant and the committee agree.

~~[(5)]~~ The physician assistant scholarship recipient must obtain committee approval prior to changing the approved site where he fulfills his obligated service.

R434-10-16. Extension of Contract with Scholarship Recipient.

(1) The committee may extend the period within which the scholarship recipient must complete his medical, osteopathic, or physician assistant education:

(a) if the scholarship recipient has a serious illness;

~~(b) [if the scholarship recipient volunteers for ecclesiastical service, for a definite time period not to exceed three years;~~

~~(c) [if the scholarship recipient is activated by the military;~~

~~[(d)]~~ for other good cause shown, as determined by the committee.

R434-10-17. Schedule of Breach of Scholarship Contract Repayment.

(1) A scholarship recipient who:

(a) Fails to finish his professional schooling within the period of time agreed upon with the committee shall within 90 days after the deadline for completing his schooling or within 90 days of his failure to continue his schooling, whichever occurs earlier, shall repay:

(i) all scholarship money received according to a schedule established by contract with the committee;

(ii) if not repaid within one year of default, 12% per annum interest on unrepaid scholarship money calculated from the date each installment was received under the scholarship;

(iii) costs and expenses incurred in collection, including attorney fees.

(b) Finishes his schooling and fails to pass the necessary professional certifications or examinations within the time period agreed upon with the committee shall begin to repay to the department within one year of the breach:

(i) all scholarship money received according to a schedule established by the committee;

(ii) if not repaid within one year of default, 12% per annum interest on unrepaid scholarship money calculated from the date each installment was received under the scholarship;

(iii) costs and expenses incurred in collection, including attorney fees.

(c) Finishes his schooling and fails to take the necessary professional certifications or examinations within the time period agreed upon with the committee shall within one year of the breach:

(i) pay as a penalty twice the total amount of the scholarship money on a prorated basis according to a schedule established by the committee and 12% per annum interest on the unpaid penalty amount;

(ii) costs and expenses incurred in collection, including attorney fees.

(d) Finishes his schooling and becomes a physician or physician assistant but who fails to fulfill his obligated service shall begin to repay the penalty to the department within one year of the breach, pursuant to Subsection 26-9-210 (5).

(2) A physician scholarship recipient who fails to complete a minimum three year postgraduate training program within the time period agreed upon with the committee shall within 90 days after the deadline for completing his postgraduate training program or within 90 days of his failure to continue his postgraduate training program, whichever occurs earlier, repay:

(a) all scholarship money received according to a schedule established by the committee;

(b) if not repaid within one year of default, 12% per annum interest on unrepaid scholarship.

(3) The amount to be paid back shall be determined from the end of the month in which the scholarship recipient breached the contract as if the scholarship recipient had breached at the end of the month.

(4) The breaching scholarship recipient shall pay the total amount due within four years of breaching the contract. The scheduled pay back may not be less than four equal payments.

R434-10-18. Release of Recipient from Obligated Service.

(1) The committee may release a recipient from his obligated service without penalty:

- (a) if the obligated service has been fulfilled;
- (b) if he dies;
- (c) for other good cause shown, as determined by the committee.

(2) Extreme hardship sufficient to release the recipient without penalty includes:

- (a) inability to complete medical, osteopathic, or physician assistant school or fulfill obligated service due to permanent disability that prevents the recipient from completing school or performing any work for remuneration or profit;
- (b) a family member, for which the recipient is the principal care giver, has a life-threatening chronic illness.

R434-10-1[8]9. Designated[Approved] Site Determination.

(1) Criteria to determine a ~~n-approved~~ designated site include:

- (a) Within the medically underserved rural area:
 - (i) the percentage of the population with incomes under ~~±~~ 200% of the federal poverty level;
 - (ii) the percentage of the population 65 years of age and over;
 - (iii) the percentage of the population under 18 years of age;
 - (iv) the percentage of the population that is homeless;
 - (v) the percentage of the population that is migrant and seasonal farmworkers;
 - (vi) the percentage of the population that has HIV/AIDS;
 - (vii) the infant mortality rate;
 - (viii) the postneonatal mortality rate.

(b) Distance to nearest physician or physician assistant and barriers to reaching the physician or physician assistant, e.g., winter driving conditions or mountainous roads.

(c) For physician ~~approved~~ designated site determination, a minimum population to physician ratio in the medical specialty for which the site has applied as follows:

<u>TABLE</u>	
<u>RATIOS FOR MEDICAL SPECIALTIES</u>	
<u>MEDICAL SPECIALTY</u>	<u>POPULATION PER PHYSICIAN</u>
Anesthesiology	14,000
General Surgery	[10,000] 7,300
Internal Medicine	[5,000] 5,700
Obstetrics/Gynecology	[11,000] 9,000
Ophthalmology	[20,000] 20,600
Orthopedic Surgery	[25,000] 18,300
Osteopathic General or Family Practice	[2,000] 3,000
Pediatrics	[10,000] 7,800
Psychiatry	10,000
Radiology	15,000
Urology	[30,000] 34,800

(d) For physician assistant ~~approved~~ designated site determination, a minimum population to physician assistant ratio of one physician assistant per 1,500 persons, in addition to the number of primary care physicians at the site, the affect physician assistants may have on the practice of providers[-] and the delivery of health care at the site.

(e) Letters of support from a majority of practicing physicians and physician assistants in service area, county and civic leaders, hospital administrator, business leaders, local chamber of commerce, citizens, and local health departments.

(2) The committee may give preference to sites which assure in their site applications that other community physicians will continue to see their fair share of Medicaid, Medicare, and Utah Medical Assistance patients.

(3) The committee may give preference to designated health professional shortage areas requesting one of the following medical specialties:

- (a) family practice;
- (b) internal medicine;
- (c) obstetrics/gynecology;
- (d) pediatrics;
- (e) physician assistants.

(4) A designated site approved to have a grant or scholarship recipient practice there must offer a salary and benefit package competitive with salaries and benefits of other providers in the service area.

R434-10-[19]20. Eligible Bona Fide Loans.

(1) A bona fide loan may include the following:

- (a) a commercial loan made by a bank, credit union, savings and loan association, insurance company, school, or credit institution;
- (b) a governmental loan made by a federal, state, county, or city agency;
- (c) a loan made by another person which is documented by a notarized contract, indicative of an arm's length transaction, and with competitive term and rate as other loans available to physician and physician assistant students.

R434-10-[20]21. Reporting.

The committee may require the recipient to provide information regarding the academic performance, commitment to medically underserved rural areas, continuing financial need, obligated service fulfillment, and other information reasonably necessary for the administration of the program during the period the recipient is in medical, osteopathic, or physician assistant school; postgraduate training; and in practice.

KEY: grants, physicians, physician assistants*, scholarships* 199[3]8 26-9

◆ ◆

Human Services, Administration
R495-810-2
Fee Schedule for Records Copies

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21541
FILED: 10/15/1998, 10:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to this section are the result of the Department's concerns regarding fair and equitable application of record fees.

SUMMARY OF THE RULE OR CHANGE: The fees charged for records and the payment waiver portion of the rule have been changed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-32-203

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The State will no longer be collecting fees for records copies if: (a) releasing the record primarily benefits the public rather than a person; (b) the individual requesting the record is the subject of the record, or an individual specified in Subsection 63-2-202(1) or 63-2-202(2); or (c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious. The fees collected for paper copies have been decreased. The fees for audio and video tapes have been set for the first time. The overall effect of implementation of this rule is a decrease in the fees collected by the Department.

◆ **LOCAL GOVERNMENTS:** None--the Department shall not charge Local Governments a fee for record copies under this rule.

◆ **OTHER PERSONS:** The fees charged for paper copies have been decreased, therefore, the cost to persons requesting paper copies has decreased. The fees charged for reporting in a format other than paper have increased and will result in

increased costs to individuals requesting these types of copies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs for compliance are based on the number of records to be copied and will be as follows: (a) paper: \$.25 per side of sheet; (b) audio tape: \$5 per tape; and (c) video tape: \$15 per tape. If an individual or organization requests records that require compiling and reporting in another format, a fee of \$25 per hour may be charged, or \$50 per hour if the request requires programmer/analyst assistance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will incur the costs associated with the format of the copy requested. This rule will reduce the cost of the majority of requests, which are for paper copies. The rule will increase the cost for copies that need to be produced in another format. A fee of \$25 per hour may be charged for producing records in another format, or \$50 per hour may be charged if the request requires programmer/analyst assistance.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Human Services
Administration
Room 319
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
H. Craig Bunker at the above address, by phone at (801) 538-4233, by FAX at (801) 538-4016, or by Internet E-mail at hbunker@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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

R495. Human Services, Administration.
R495-810. Government Records Access and Management Act.
R495-810-2. Fee Schedule for Records Copies.

A. Authority. Pursuant to Section 63-2-203, the Department ~~[with]~~shall charge fees for copying and compiling of records, and may waive fees as specified in this rule.

B. Definition. Words used in this rule are defined in Section 63-2-103[(15) and (16)].

C. Fee Rates.

1. Fees for copies are based on the number of records to be copied and are as follows:

- a. paper: \$.25 per side of sheet;
- b. audio tape: \$5.00 per tape; and
- c. video tape: \$15.00 per tape. ~~[For records which are reproducible in their current form the fee charged for making copies shall be \$1.00 for each page and shall be considered to include~~

actual copy costs and staff time used for preparing documents for copying.]

2. For records which require compiling and reporting in another format, ~~[up to \$18.50 per hour may be charged]~~ a fee of \$25.00 per hour may be charged, or \$50.00 per hour if the request requires programmer/analyst assistance.

3. Mailing. The fee for mailing is the actual cost of postage.
D. Payment Waiver.

1. The Department shall fulfill a record request without charge when it determines that:

a. releasing the record primarily benefits the public rather than a person;

b. the individual requesting the record is the subject of the record, or an individual specified in Subsection 63-2-202(1) or (2); or

c. the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious. ~~[The right to waive payment of fees for copying records shall reside with the local office staff.]~~

2. No fees shall be charged for reviewing a record or inspecting a record according to 63-2-203(4)(a) and (b).

3. The Department shall not require payment of future estimated fees before beginning to process a request, unless fees are expected to exceed \$50, or if the requester has not paid fees from previous requests.

~~[2.]~~4. Fees shall not be waived where records are provided to professionals providing services for a fee to individuals who would otherwise have access to records under Section 63-2-301 through 304.

KEY: government documents
[1992]1998
Notice of Continuation February 11, 1997

63-2-204



Labor Commission, Industrial
Accidents
R612-4
Premium Rates

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21534
FILED: 10/09/1998, 15:20
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To establish premium assessment rates for 1999 to fund the Employers' Reinsurance Fund, the Uninsured Employers' Fund, and the Workplace Safety Account.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment increases premium assessment rates for the Employers' Reinsurance Fund from 8.5% to 9.25% for 1999. The

proposed amendment makes no changes to the premium assessment rate for the Uninsured Employers Fund or the Workplace Safety account. These premium assessments are required by statute to meet the operating expenses and minimum fund balances of the Employers' Reinsurance Fund and the Uninsured Employers Fund and to fund the Labor Commission's Workplace Safety activities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-1-104 and 59-9-101

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Although the proposed amendment increases premium assessment rates, the increase is more than offset by an overall reduction in workers compensation premiums. Consequently, the state's overall workers compensation costs should decline.

❖LOCAL GOVERNMENTS: The same results will apply to local governments as for "state budget."

❖OTHER PERSONS: The same results will apply to private employers as for "state budget."

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment will increase the rate of premium assessment. However, that rate is applied against workers' compensation premiums, which are declining. Consequently, employers as a group will pay no more in actual dollars to fund the Employers' Reinsurance Fund than under the previous assessment rate. Employers will pay fewer dollars to fund the Uninsured Employers' Fund and Workplace Safety account.

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) 530-6844, by FAX at (801) 530-6804, or by Internet E-mail at icmain.jsewell@email.state.us.ut.

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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

R612. Labor Commission, Industrial Accidents.

R612-4. Premium Rates.

R612-4-1. Authority.

This rule is enacted under the authority of Section 34A-1-104 and 59-9-101.

R612-4-2. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.

A. Pursuant to Section 59-9-101(2), the workers' compensation premium rates effective January 1, 199[8]9, as established by the Labor Commission, shall be:

1. 0.50% for the Uninsured Employers' Fund;
2. [8.5%]9.25% for the Employers' Reinsurance Fund;
3. 0.25% for the workplace safety account.

B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Section 59-9-101(2)(a).

KEY: workers' compensation, rates

~~[December 3, 1997]~~1998

59-9-101(2)

Notice of Continuation December 19, 1996

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.

❖LOCAL GOVERNMENTS: For the same reasons as are stated for "state budget," this amendment will have no cost or savings to local governments.

❖OTHER PERSONS: Based upon OSHA cost projections, compliance costs will be approximately \$250,000 within Utah including equipment costs, testings, and training.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Federal standards for use of body harnesses became effective in January 1998. Consequently, the cost of body harnesses has already been incurred by the majority of Utah employers. OSHA has made an assessment of the impact of the revised standard and has concluded that it will not involve significant capital expenditures, and there is no differential effect on small firms relative to that on large firms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted under "State budget," this amendment merely conforms Utah standards to existing federal standards. Most employers are already in compliance with the federal standards. For such employers this amendment will have minimal, if any impact. For other employers who are not currently in compliance, the costs for necessary equipment are approximately \$300 for each employee working in areas which require fall protection.

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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

◆ ————— ◆

Labor Commission, Occupational Safety and Health

R614-1-5

Adoption and Extension of Established Federal Safety Standards and State of Utah General Safety Orders

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21543

FILED: 10/15/1998, 10:30

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform with current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform with the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202

FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

R614. Labor Commission, Occupational Safety and Health.

R614-1. General Provisions.

R614-1-5. Adoption and Extension of Established Federal Safety Standards and State of Utah General Safety Orders.

A. Scope and Purpose.

1. The provisions of this rule adopt and extend the applicability of: (1) established Federal Safety Standards, (2) R614, and (3) Workers' Compensation Coverage, as in effect July 1, 1973 and subsequent revisions, with respect to every employer, employee and employment within the boundaries of the State of Utah, covered by the Utah Occupational Safety and Health Act of 1973.

2. All standards and rules including emergency and/or temporary, promulgated under the Federal Occupational Safety and Health Act of 1970 shall be accepted as part of the Standards, Rules and Regulations under the Utah Occupational Safety and Health Act of 1973, unless specifically revoked or deleted.

3. All employers will provide workers' compensation benefits as required in Section 34A-2-201.

4. Any person, firm, company, corporation or association employing minors must comply fully with all orders and standards of the Labor Division of the Commission. UOSH standards shall prevail in cases of conflict.

B. Construction Work.

Federal Standards, 29 CFR 1926 and selected applicable sections of R614 are accepted covering every employer and place of employment of every employee engaged in construction work of:

1. New construction and building;
2. Remodeling, alteration and repair;
3. Decorating and painting;
4. Demolition; and
5. Transmission and distribution lines and equipment erection, alteration, conversion or improvement.

C. Reporting Requirements.

1. Each employer shall investigate or cause to be investigated all work-related injuries and occupational diseases and any sudden or unusual occurrence or change of conditions that pose an unsafe or unhealthful exposure to employees.

2. Each employer shall within 12 hours of occurrence, notify the Division of Utah Occupational Safety and Health of the Commission of any work-related fatalities, of any disabling, serious, or significant injury and of any occupational disease incident. Call (801) 530-6901 or one of the individuals on the following personnel list.

TABLE 1

LABOR COMMISSION
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

BAGLEY, Jay W. (Administrator)
Kaysville, Utah 84037
543-1369

ADAMS, William W. Jr.
Park City, Utah 84060
649-4309

DREMAN, Robert C.
South Ogden, Utah 84405
479-5199

ANDERSON, Neil A.
Kaysville, Utah 84037
544-2791

PADLEY, Gary G.
SLC, Utah 84116
595-6001

3. Each employer shall file a report with the Commission within seven days after the occurrence of an injury or occupational disease, after the employer's first knowledge of the occurrence, or after the employee's notification of the same, on forms prescribed by the Commission, of any work-related fatality or any work-related injury or occupational disease resulting in medical treatment, loss of consciousness or loss of work, restriction of work, or transfer to another job. Each employer shall file a subsequent report with the Commission of any previously reported injury or occupational disease that later resulted in death. The subsequent report shall be filed with the Commission within seven days following the death or the employer's first knowledge or notification of the death. No report is required for minor injuries, such as cuts or scratches that require first-aid treatment only, unless the treating physician files, or is required to file the physician's initial report of work injury or occupational disease with the Commission. Also, no report is required for occupational diseases which manifest after the employee is no longer employed by the employer with which the exposure occurred, or where the employer is not aware of an exposure occasioned by the employment which results in an occupational disease as defined by Section 34A-3-103.

4. Each employer shall provide the employee with a copy of the report submitted to the Commission. The employer shall also provide the employee with a statement, as prepared by the Commission, of his rights and responsibilities related to the industrial injury or occupational disease.

5. Each employer shall maintain a record in a manner prescribed by the Commission of all work-related injuries and all occupational diseases resulting in medical treatment, loss of consciousness, loss of work, restriction of work, or transfer to another job.

6. Tools, equipment, materials or other evidence that might pertain to the cause of such accident shall not be removed or destroyed until so authorized by the Labor Commission or one of its Compliance Officers.

7. No person shall remove, displace, destroy, or carry away any safety devices or safeguards provided for use in any place of employment, or interfere in any way with the use thereof by other persons, or interfere in any method or process adopted for the protection of employees. No employee shall refuse or neglect to follow and obey reasonable orders that are issued for the protection of health, life, safety, and welfare of employees.

D. Employer, Employee Responsibility.

1. It shall be the duty and responsibility of any employee upon entering his or her place of employment, to examine carefully such working place and ascertain if the place is safe, if the tools and equipment can be used with safety, and if the work can be performed safely. After such examination, it shall be the duty of the employee to make the place, tools, or equipment safe. If this cannot be done, then it becomes his or her duty to immediately report the unsafe place, tools, equipment, or conditions to the foreman or supervisor.

2. Employees must comply with all safety rules of their employer and with all the Rules and Regulations promulgated by UOSH which are applicable to their type of employment.

3. Management shall inspect or designate a competent person or persons to inspect frequently for unsafe conditions and practices, defective equipment and materials, and where such conditions are found to take appropriate action to correct such conditions immediately.

4. Supervisory personnel shall enforce safety regulations and issue such rules as may be necessary to safeguard the health and lives of employees. They shall warn all employees of any dangerous condition and permit no one to work in an unsafe place, except for the purpose of making it safe.

E. General Safety Requirements.

1. Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.

2. Body protection: Clothing which is appropriate for the work being done should be worn. Loose sleeves, tails, ties, lapels, cuffs, or similar garments which can become entangled in moving machinery shall not be worn where an entanglement hazard exists. Clothing saturated or impregnated with flammable liquids, corrosive substances, irritant, oxidizing agents or other toxic materials shall be removed and shall not be worn until properly cleaned.

3. General. Wrist watches, rings, or other jewelry shall not be worn on the job where they constitute a safety hazard.

4. Safety Committees. It is recommended that a safety committee comprised of management and employee representatives be established. The committee or the individual member of the committee shall not assume the responsibility of management to maintain and conduct a safe operation. The duties of the committee should be outlined by management, and may include such items as reviewing the use of safety apparel, recommending action to correct unsafe conditions, etc.

5. No intoxicated person shall be allowed to go into or loiter around any operation where workers are employed.

6. No employee shall carry intoxicating liquor into a place of employment, except that the place of employment shall be engaged in liquor business and this is a part of his assigned duties.

7. Employees who do not understand or speak the English language shall not be assigned to any duty or place where the lack or partial lack of understanding or speaking English might adversely affect their safety or that of other employees.

8. Good housekeeping is the first law of accident prevention and shall be a primary concern of all supervisors and workers. An excessively littered or dirty work area will not be tolerated as it constitutes an unsafe, hazardous condition of employment.

9. Emergency Posting Required.

a. Good communications are necessary if a fire or disaster situation is to be adequately coped with. A system for alerting and directing employees to safety is an essential step in a safety program.

b. A list of telephone numbers or addresses as may be applicable shall be posted in a conspicuous place so the necessary help can be obtained in case of emergency. This list shall include:

- (1) Responsible supervision (superintendent or equivalent)
- (2) Doctor
- (3) Hospital

(4) Ambulance

(5) Fire Department

(6) Sheriff or Police

10. Lockouts and Tagging.

a. Where there is any possibility of machinery being started or electrical circuits being energized while repairs or maintenance work is being done, the electrical circuits shall be locked open and/or tagged and the employee in charge (the one who places the lock) shall keep the key until the job is completed or he is relieved from the job, such as by shift change or other assignment. If it is expected that the job may be assigned to other workers, he may remove his lock provided the supervisor or other workers apply their lock and tag immediately. Where there is danger of machinery being started or of steam or air creating a hazard to workers while repairs on maintenance work is being done, the employee in charge shall disconnect the lines or lock and tag the main valve closed or blank the line on all steam driven machinery, pressurized lines or lines connected to such equipment if they could create a hazard to workers.

b. After tagging and lockout procedures have been applied, machinery, lines, and equipment shall be checked to insure that they cannot be operated.

c. If locks and tags cannot be applied, conspicuous tags made of nonconducting material and plainly lettered, "EMPLOYEES WORKING" followed by the other appropriate wording, such as "Do not close this switch" shall be used.

d. When in doubt as to procedure, the worker shall consult his supervisor concerning safe procedure.

11. Safety-Type hooks shall be used wherever possible.

12. Emergency Showers, Bubblers, and Eye Washers.

a. Readily accessible, well marked, rapid action safety showers and eye wash facilities must be available in areas where strong acid, caustic or highly oxidizing or irritating chemicals are being handled. (This is not applicable where first aid practices specifically preclude flushing with running water.)

b. Showers should have deluge type heads, easily accessible, plainly marked and controlled by quick opening valves of the type that stay open. The valve handle should be equipped with a pull chain, rope, etc., so the blinded employee will be able to more easily locate the valve control. In addition, it is recommended that the floor platform be so constructed to actuate the quick opening valve. The shower should be capable of supplying large quantities of water under moderately high pressure. Blankets should be located so as to be reasonably accessible to the shower area.

c. Eye wash fountain or a ready source of running tap water, such as drinking fountain or hose with a gentle flow of water should be immediately available for eye irrigation. All safety equipment should be inspected and tested at regular intervals, preferably daily and especially during freezing weather, to make sure it is in good working condition at all times.

13. Grizzlies Over Chutes, Bins and Tank Openings.

a. Employees shall be furnished with and be required to use approved type safety ~~belts~~ harnesses and shall be tied off securely so as to suspend him above the level of the product before entering any bin, chute or storage place containing material that might cave or run. Cleaning and barring down in such places shall be started from the top using only bars blunt on one end or having a ring type or D handhold.

b. Employees shall not work on top of material stored or piled above chutes, drawholes or conveyor systems while material is being withdrawn unless protected.

c. Chutes, bins, drawholes and similar openings shall be equipped with grizzlies or other safety devices that will prevent employees from falling into the openings.

d. Bars for grizzly grids shall be so fitted that they will not loosen and slip out of place, and the operator shall not remove a bar temporarily to let large rocks through rather than to break them.

KEY: safety
[December 2, 1997]1998

34A-6

◆ ————— ◆
**Labor Commission, Occupational
Safety and Health
R614-1-6
Personal Protective Equipment**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21544
FILED: 10/15/1998, 10:30
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform to current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform to the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202
FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

ANTICIPATED COST OR SAVINGS TO:

◆THE STATE BUDGET: The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.

◆LOCAL GOVERNMENTS: For the same reasons as are stated for "state budget," this amendment will have no cost or savings to local governments.

◆OTHER PERSONS: Based upon OSHA cost projections, compliance costs will be approximately \$250,000 within Utah including equipment costs, testings, and training.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Federal standards for use of body harnesses became effective in January 1998. Consequently, the cost of body harnesses has already been incurred by the majority of Utah employers. OSHA has made an assessment of the impact of the revised standard and has concluded that it will not involve significant capital expenditures, and there is no differential effect on small firms relative to that on large firms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted under "State budget," this amendment merely conforms Utah standards to existing federal standards. Most employers are already in compliance with the federal standards. For such employers this amendment will have minimal, if any impact. For other employers who are not currently in compliance, the costs for necessary equipment are approximately \$300 for each employee working in areas which require fall protection.

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 Building
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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

R614. Labor Commission, Occupational Safety and Health.
R614-1. General Provisions.
R614-1-6. Personal Protective Equipment.

A. When no other method or combination of methods can be provided to prevent employees from becoming exposed to toxic dusts, fumes, gases, flying particles or other objects, dangerous rays or burns from heat, acid, caustic, or any other hazard of a similar nature, the employer must provide each worker with the necessary personal protection equipment, such as respirators, goggles, gas masks, certain types of protective clothing, etc. Provision must also be made to keep all such equipment in good, sanitary working condition at all times.

B. Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.

C. Except when, in the opinion of the Administrator, their use creates a greater hazard, life lines and safety ~~[belts]~~harnesses shall be provided for and used by workers engaged in window washing, in securing or shifting thrustouts, inspecting or working on overhead machines supporting scaffolds or other high rigging, and on steeply pitched roofs. Similarly, they shall be provided for and used by all exposed to the hazard of falling, and by workmen on poles workers or steel frame construction more than ten (10) feet above solid ground or above a temporary or permanent floor or platform.

D. Every life line and safety ~~[belt]~~harness shall be inspected by the superintendent or his authorized representative and the worker before it is used and at least once a week while continued in use.

E. Wristwatches, rings, or other jewelry shall not be worn on the job where they constitute a safety hazard.

KEY: safety
~~[December 2, 1997]~~1998

34A-6

Labor Commission, Occupational Safety and Health

R614-2-3

Drilling Industry -- General Safety and Health Provisions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21545

FILED: 10/15/1998, 10:30

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform with current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform with the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202

FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.

❖LOCAL GOVERNMENTS: For the same reasons as are stated for "state budget," this amendment will have no cost or savings to local governments.

❖OTHER PERSONS: Based upon OSHA cost projections, compliance costs will be approximately \$250,000 within Utah including equipment costs, testings, and training.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Federal standards for use of body harnesses became effective in January 1998. Consequently, the cost of body harnesses has already been incurred by the majority of Utah employers. OSHA has made an assessment of the impact of the revised standard and has concluded that it will not involve significant capital expenditures, and there is no differential effect on small firms relative to that on large firms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT

THE RULE MAY HAVE ON BUSINESSES: As noted under "State budget," this amendment merely conforms Utah standards to existing federal standards. Most employers are already in compliance with the federal standards. For such employers this amendment will have minimal, if any impact. For other employers who are not currently in compliance, the costs for necessary equipment are approximately \$300 for each employee working in areas which require fall protection.

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
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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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

R614. Labor Commission, Occupational Safety and Health.

R614-2. Drilling Industry.

R614-2-3. Drilling Industry -- General Safety and Health Provisions.

A. General Requirements.

Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided, used and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, hot surfaces, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation, or physical contact.

B. First Aid Supplies and Training.

1. Every operation subject to the provision of these orders shall at all times have a supply of first aid equipment (24 unit min.) which shall be conveniently located so as to be readily accessible. The first aid supplies shall be encased in suitable sanitary storage places so as to protect them from contamination, and the contents of the kits replenished as used.

2. At least one employee at the work site shall be trained in first aid and rescue operations.

3. First aid equipment shall be provided. This equipment shall be stored in sanitary places which are conveniently and accessibly located. First aid equipment shall include: one set of arm and leg splints; two all-wool blankets or blankets equal in strength and fire resistance; and one stretcher. Where harmful chemicals are being used, readily accessible facilities shall be available for rapid flushing of the eyes and/or skin areas.

4. Provisions shall be made prior to commencement of the project for either prompt transportation of an injured person to a physician or hospital, or an effective communication system for contacting necessary ambulance service.

5. The telephone numbers of the physician, hospitals, or ambulances shall be conspicuously posted.

C. Housekeeping.

Good housekeeping is the first law of accident prevention and shall be a primary concern of all supervisors and workers. An excessively littered or dirty work area will not be tolerated as it constitutes an unsafe, hazardous condition of employment.

D. Pressure Vessels and Boilers.

1. Pressure Vessels: Shall be built in accordance with the requirements for Unfired Pressure Vessels of the ASME Boiler and Pressure Vessel Code, pursuant to Section 34A-7-102.

2. Boilers: Boilers provided by the employer shall be deemed to be in compliance with the requirements of this rule when evidence of current and valid certification by an insurance company or regulatory authority attesting to the safe installation, inspection, and testing is presented.

E. Employee-Owned Equipment.

Where employees provide their own protective equipment, the employer shall be responsible to assure that it meets the appropriate American National Standard Institute or a national consensus standard.

F. Head Protection.

1. The employer shall require the use of Class A protective helmet (Safety Hard Hat) where there is a hazard from flying or falling objects.

2. Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.

G. Eye and Face Protection.

Employees shall be provided with eye and face protective equipment when machines or operations present potential eye or face injury from physical, chemical, or radiation agents.

H. Respiratory Protection.

1. When necessary appropriate respiratory protective devices shall be provided by the employer and shall be used.

2. The employer shall provide and shall require employees to use self contained breathing apparatus or supplied air respirators in atmospheres which have an oxygen concentration of less than 19.5%. All units shall be of a pressure demand type or a positive pressure type.

3. All respiratory devices regardless of type shall be selected, used, and maintained in accordance with 29 CFR 1910.134 "Respiratory Protection" of the Utah Occupational Safety and Health Rules and Regulations.

a. The air from a regular compressed air line may be used for breathing air systems if:

b. A trap and carbon filter are installed and regularly maintained to remove oil, water, scale, and odor;

c. A pressure reducing diaphragm or valve is installed to reduce pressure down to requirements of the particular type of respirator; and

d. An automatic control is provided to either sound an alarm or shut down the compressor in case of over heating.

I. Occupational Noise Exposure.

1. Protection against the effects of noise exposure shall be provided when the sound levels exceed those shown in the following permissible noise exposure table when measured on the "A" scale of a standard sound level meter at slow response. When noise levels are determined by octave band analysis, the equivalent A-weighted sound level may be determined by referring to 29 CFR 1910.95(a), Figure G-9.

2. When employees are subjected to sound exceeding those listed in the following table, feasible administrative or engineering controls shall be utilized. If such controls fail to reduce sound levels within the levels of the table, personal protective equipment shall be provided and used to reduce sound levels within the levels of the table.

TABLE 1

PERMISSIBLE NOISE EXPOSURES

Duration per day, hours	Sound level dBA slow response
8	90
6	92
4	95
3	97
2	100
1-1/2	102
1	105
1/2	110
1/4 or less	115

When the daily noise exposure is composed of two or more periods of noise exposure of different levels, their combined effect should be considered, rather than the individual effect of each. If the sum of the following fractions: $C_1/T_1 + C_2/T_2 \dots C_n/T_n$ exceeds unity, then the mixed exposure should be considered to exceed the limit value. C_n indicates the total time of exposure at a specified noise level, and T_n indicates the total time of exposure permitted at that level.

3. Exposure to impulsive or impact noise shall not exceed 140 dB peak sound pressure level.

4. Variations in sound levels

a. If the variations in noise levels involve maxima at intervals of 1 second or less, it is to be considered continuous.

b. In all cases where the sound levels exceed the values shown herein, a continuing, effective hearing conservation program shall be administered.

5. Audiometric Tests.

a. Audiometric testing may be requested by the UOSH Administrator whenever individual hearing loss is in question. These tests shall be arranged for by the employer and shall be given under medical supervision.

b. To ensure accurate audiograms, the facilities must meet the following minimum standards:

c. Test Room. Audiograms shall be obtained only in environments which meet the requirements of the American National Standards Institute for background noise.

d. Audiometer. Audiometers shall meet the specifications of the American National Standards Institute and should be maintained in calibration in accordance with recognized procedures.

J. Working Over or Near Water.

Employees working over or near water, where the danger of drowning exists, shall be provided with U.S. Coast Guard-approved life jackets or buoyant work vests.

K. Occupational Foot Protection.

The employer shall require employees to wear safety shoes or boots in the working areas.

L. Safety ~~[Belts]~~ Harnesses, Lifelines, and Lanyards.

1. The employer shall require and provide an approved safety ~~[belt]~~ harness suitable for the particular job or hazard exposure, which shall be attached by means of a tailrope or lanyard to a fixed anchor and adjusted to allow a maximum drop of 6 feet in case of fall, except when working on the fingerboard or when longer tag lines are necessary to perform the work required.

2. A separate life line shall be provided for each employee exposed to the particular job or hazard.

3. Safety ~~[belts]~~ harnesses and life lines shall be checked prior to each use and shall be repaired or replaced if found to be defective.

M. Emergency Escapes.

1. A Safety Buggy with an adequate braking device shall be installed on an escape line and kept at the derrickman's working platform.

2. The Safety Buggy and escape line shall be checked by the derrickman prior to each trip.

3. An escape line shall be a wire rope of suitable diameter and type. It shall be kept free of obstruction.

4. Tension on the escape line shall be such that a 180 lb. worker sitting in the Safety Buggy will touch the ground at least 20 feet from the anchor.

5. The length of the escape line shall be adequate to assure no less than a 45 degree descent from the vertical plane and shall be securely anchored both at the ground and to the rig.

N. Gases, Vapors, Fumes, Dusts, and Mists.

1. Occupational asbestos exposure shall be controlled in accordance with 29 CFR 1910.1001 of the Utah Occupational Safety and Health Rules and Regulations.

2. Exposure to contaminants shall be limited by the regulations set forth in Chapter Z of the Utah Occupational Safety and Health Rules and Regulations.

O. Ionizing Radiation.

Sources of ionizing radiation not regulated by the Nuclear Regulatory Commission shall be regulated by 29 CFR 1910.96 of the Utah Occupational Safety and Health Rules and Regulations.

P. Non-Ionizing Radiation.

Non-ionizing radiation exposure shall be regulated by 29 CFR 1926.54; and 29 CFR 1910.97.

Q. Hydrogen Sulfide (H₂S) Gas.

1. Area Definitions

a. No Hazard Area = any well which will not penetrate a known H₂S horizon.

b. Low Hazard Area = any well which will penetrate a formation containing H₂S with a known .35 psi/ft. B.H. pressure gradient or less and/or in which the H₂S zone has been effectively sealed off by casing-cementing and/or cementing method.

c. Medium Hazard Area = any well which will penetrate a formation containing H₂S not defined in R614-2-3.Q.1.a. and b.

d. High Hazard Area = any operation expected to bring free H₂S gas to the surface, i.e., DST (Drill Stem Testing), production testing, etc.

2. H₂S Safety Equipment Procedures.

a. The well operator and employer will require that the following safety equipment shall be provided and operational on site before the hole is 500 feet above any formation as defined in R614-2-3.Q.1. suspected and/or known to contain H₂S Gas.

(1) No Hazard Area

(a) No special H₂S equipment shall be required.

(2) Low Hazard area:

(a) Two (2) thirty (30) minute self-contained breathing apparatuses for emergency use only.

(3) Medium Hazard Area:

(a) Air masks with emergency escape cylinders for each employee.

(b) Two (2) thirty (30) minute self-contained breathing apparatuses for emergencies.

(c) Three wind socks and/or streamers.

(d) Oxygen powered resuscitator with cylinder.

(e) 2-Gas detectors (pump type).

(f) A separate warning system.

(4) High Hazard Area:

(a) Manifold air masks with emergency escape cylinders for each employee.

(b) Two (2) thirty (30) minute self-contained breathing apparatuses for emergencies.

- (c) Three wind socks and/or streamers.
- (d) Oxygen powered resuscitator with cylinder.
- (e) Two Gas detectors (pump type).
- (f) A separate warning system.
- 3. The employer shall assure that in High Hazard Areas no employee is permitted on location without H₂S safety training, except for instruction purposes.
- 4. The well operator shall provide two (2) means of egress on each location in a High Hazard Area.
- 5. A means of communications or instructions for emergency procedures shall be established and maintained on location along with the names and telephone numbers of the person or persons to be informed in case of emergencies.
- 6. Employee Instructions.
 - a. Employees shall be instructed in the use of all H₂S safety equipment before being allowed on the location.
 - b. The instruction of personnel shall include the following elements.
 - c. Employees shall be informed of the characteristics of H₂S and its hazards.
 - d. Proper first-aid procedures to be used in a H₂S knock down.
 - e. Use of personal protective equipment.
 - f. Use and operation of H₂S monitoring systems.
 - g. Corrective action and shut-down procedures.
- 7. The employer shall be able to show through training and/or experience that the person(s) giving H₂S safety instruction is qualified to give such instructions.
- 8. Signs shall be posted 500 feet from the location, when possible, on each road leading to the location warning of the hazard of H₂S.
- 9. All H₂S Safety equipment shall be checked to assure readiness before each tour change.
 - R. Illumination.
 - 1. Lighting in the work place shall be sufficient to enable the employees to see clearly enough to perform their work safely.
 - 2. Vehicle lights shall not be used for lighting of rig operations in lieu of rig lights, except in emergency.
 - S. Sanitation.
 - 1. Potable Water.
 - a. An adequate supply of potable water shall be provided in all places of employment.
 - b. Portable containers used to dispense drinking water shall be capable of being tightly closed, and equipped with a tap. Water shall not be dipped from containers.
 - c. Any container used to distribute drinking water shall be clearly marked as to the nature of its contents and not used for any other purpose.
 - d. The common drinking cup is prohibited.
 - 2. Toilet Facilities.
 - a. Under temporary field conditions at any work site, provisions shall be made to assure that not less than one toilet facility is available.
 - b. Toilets shall be maintained in a clean and sanitary condition.
 - 3. Temporary Sleeping Quarters. When temporary sleeping quarters are provided, they shall be heated, ventilated, and lighted.
 - 4. Washing Facilities. The employer shall provide adequate washing facilities for employees engaged in operations where contaminants may be harmful to the employees.

KEY: safety
[December 2, 1997]1998

34A-6



**Labor Commission, Occupational
 Safety and Health
 R614-2-12
 Drilling Industry -- Hoisting Equipment**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 21546
 FILED: 10/15/1998, 10:30
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform with current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform with the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202
FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.

❖**LOCAL GOVERNMENTS:** For the same reasons as are stated for "State budget," this amendment will have no cost or savings to local governments.

❖**OTHER PERSONS:** Based upon OSHA cost projections, compliance costs will be approximately \$250,000 within Utah including equipment costs, testings, and training.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Federal standards for use of body harnesses became effective in January 1998. Consequently, the cost of body harnesses has already been incurred by the majority of Utah employers. OSHA has made an assessment of the impact of the revised standard and has concluded that it will not involve significant capital expenditures, and there is no differential effect on small firms relative to that on large firms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted under "State budget," this amendment merely conforms Utah standards to existing federal standards. Most employers are already in compliance with the federal standards. For such employers this amendment will have minimal, if any impact. For other employers who are not currently in compliance, the costs for necessary equipment are approximately \$300 for each employee working in areas which require fall protection.

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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

R614. Labor Commission, Occupational Safety and Health.

R614-2. Drilling Industry.

R614-2-12. Drilling Industry -- Hoisting Equipment.

A. Derricks and Cranes.

1. The employer shall comply with the manufacturer's specifications and limitations applicable to the operation of any derrick. Where manufacturer's specifications are not available, the limitations assigned to the equipment shall be based on the determinations of a qualified engineer competent in this field and such determinations will be appropriately documented and recorded.

2. Traveling Blocks shall have an operational limiting device or adequate crown timbers properly installed (Special Services are excluded).

3. Cranes mounted on barges.

a. When a crane is mounted on a barge, the rated load of a crane shall not exceed the original capacity specified by the manufacturer.

b. A load rating chart, with clearly legible letters and figures, shall be provided with each crane, and securely fixed at a location easily visible to the operator.

c. When load ratings are reduced to stay within the limits for list of the barge with the crane mounted on it, a new load rating chart shall be provided.

d. Cranes on barges shall be positively secured.

B. Truck-Mounted Masts and Derricks.

The employer shall require that truck-mounted derricks or masts are not moved while in a raised position. This does not apply to the skidding of a drilling rig.

C. Personnel Hoisting.

1. Well Drilling: Employees shall not ride the traveling blocks to or from the boards (except in cases of emergency).

2. Special Services: Riding hoisting equipment.

a. No employee shall ride traveling blocks when rods or tubing or any other downhole equipment is being moved.

b. Anyone riding the traveling blocks shall wear an approved safety ~~belt~~ harness with appropriate safety line anchored and adjusted to prevent a fall of over 6 feet.

3. The cat-line shall not be used as a personnel carrier except in an emergency.

D. Drawworks.

1. The drawworks shall not be operated without all guards in position and properly maintained.

2. If lubrication fittings are not accessible with guards in place, machinery shall be stopped for oiling and greasing.

3. The brakes, linkage, and brake flanges of the drawworks shall be checked every day and repaired or replaced as necessary.

E. Cathead.

1. A blunt smooth-edged divider to separate the first wrap of a line on a cathead shall be installed on all manually-operated rope catheads and the clearance between the device and the friction surface of the cathead shall not exceed 1/2 of an inch.

2. The friction surface and flanges of a cathead on which a rope is manually operated shall be smooth and the diameter of the cathead between the flanges shall be uniform throughout its length with an allowable tolerance of 3/8 of an inch.

3. The key seat and projecting key on a cathead shall be covered with a smooth thimble or plate.

4. When the cathead is unattended, no rope or line shall be left wrapped on or in contact with the cathead.

5. A qualified employee shall be at the controls while a cathead is in use. He shall stop the rotation of the cathead immediately in event of an emergency.

6. No splice other than by the manufacturer shall be allowed to come into contact with the friction surface of the cathead.

7. Each cathead using chain shall be equipped with a manually operated cathead clutch or with another device adequate to keep the rotation of the cathead under control when it is in use. The clutch or device shall be of the "nongrab" type and shall release automatically when not manually held in the engaged position.

8. Every chain used in a spinning line shall have a fiber tailrope between 8 inches and 12 inches in length fastened to the pipe end of the chain.

9. Connections between lengths of cathead chain, tong chains, and spinning chain shall be of the connecting link or swivel type and of strength equal to the lighter chain. Connecting links and swivels shall be of a size and type suitable for the chain in use.

10. The operator of a cathead shall keep his operating area clear at all times. That portion of the catline not being used shall be kept coiled or spooled.

F. Wire Ropes.

1. All hoisting lines (wire ropes) shall be visually checked by a competent person daily, and shall be thoroughly inspected at least each 30 days in conjunction with a ton-mile program, or a record made of each 30 day inspection which shall designate defects and

deterioration. When the wire rope is slipped or replaced, it shall be recorded on the inspection report as to date and length of wire rope removed. Such written report must be kept on file at the drilling rig and local office.

2. A dead-line anchor for a drilling line shall be so constructed, installed, and maintained that its strength shall at least equal the working strength of the hoisting line.

3. All lines and sand lines shall be visually checked daily when in use. At this time a determination shall be made as to whether the hoisting line shall be cut to bring a new line into the system, or replaced. In no event shall the hoisting line or sand line be allowed to remain in service when the following numbers of broken wires appear in any section of the line:

TABLE 3

BROKEN WIRE-ROPE TABLE

Construction	Number of Broken Wires In One Rope Lay	Number of Broken Wires In One Strand in One Lay
6 x 7	7	3
6 x 19 Seale	11	4
6 x 21 Seale or FW	13	5
6 x 25 FW	18	6
6 x 31	19	6
6 x 36	21	7
18 x 7	18	3
19 x 7	18	3
8 x 19 Seale	16	4
8 x 25 FW	25	6

4. In addition to the above criteria, a hoisting line or sand line shall be removed from service when any of the following conditions exist:

- a. When end connections are corroded, cracked, bent, worn, or improperly applied.
- b. When evidence of severe kinking, crushing, cutting, or unstranding are noted.

KEY: safety
[December 2, 1997]1998

34A-6

**Labor Commission, Occupational
 Safety and Health**
R614-3-11
**Requirements for Confined Space
 Entry**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 21547
 FILED: 10/15/1998, 10:30
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform with current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform with the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202

FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.

❖**LOCAL GOVERNMENTS:** For the same reasons as are stated for "state budget," this amendment will have no cost or savings to local governments.

❖**OTHER PERSONS:** Based upon OSHA cost projections, compliance costs will be approximately \$250,000 within Utah including equipment costs, testings, and training.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Federal standards for use of body harnesses became effective in January 1998. Consequently, the cost of body harnesses has already been incurred by the majority of Utah employers. OSHA has made an assessment of the impact of the revised standard and has concluded that it will not involve significant capital expenditures, and there is no differential effect on small firms relative to that on large firms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted under "State budget," this amendment merely conforms Utah standards to existing federal standards. Most employers are already in compliance with the federal standards. For such employers this amendment will have minimal, if any impact. For other employers who are not currently in compliance, the costs for necessary equipment are approximately \$300 for each employee working in areas which require fall protection.

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THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

R614. Labor Commission, Occupational Safety and Health.
R614-3. Farming Operations Standards.
R614-3-11. Requirements for Confined Space Entry.

A. No employee shall be required or permitted to enter a confined space:

1. Unless protected by self contained or airline type respiratory protective equipment, the employer shall ensure that air supplied for respirators by compressors, fans, or similar devices is free of dusts, oil vapors, toxic or noxious fumes or gases; or
2. Unless an approved ventilation system is being used to ensure the removal of any harmful gases, vapors, smoke, fumes, mists, or dusts from within the confined space; or
3. Until appropriate tests have been made immediately prior to entry to confirm the absence of any harmful gases, vapors, smoke, fumes, mists or dusts or a sufficiency of oxygen. Testing shall be done at intervals during an employee's presence in the confined space to ensure no change of conditions; or
4. When flammable or explosive gases are present, until ventilated, purged and all sources of ignition have been controlled or eliminated.

B. An employee required or permitted to enter a confined space where a harmful atmosphere exists or may develop, shall:

1. Wear a safety ~~belt~~harness to which is attached a life line tended at all times by another person stationed outside the entrance and so equipped as to be capable of effecting a rescue, and
2. When entered from the top, wear a safety ~~belt~~harness or a harness of a type of which will keep the employee in a vertical position in case of rescue.

C. When the work being performed is such that more than one employee is required or permitted to enter a confined space, provision shall be made in the planning of the work to avoid the safety lines or air hoses from becoming entangled.

D. An employee required or permitted to enter a confined space being ventilated with a ventilation system to maintain respirable air, and in which a harmful atmosphere cannot develop shall:

1. Be attended by and in communication with another person stationed at or near the entrance, or
2. Be provided with a means of continuous communication with a person outside, or
3. Be visually checked by a designated person at intervals as often as may be required by the nature of the work to be performed.

KEY: safety
~~[December 2, 1997]~~1998

34A-6-202



**Labor Commission, Occupational
 Safety and Health**
R614-6-1
**Crushing, Screening, and Grinding
 Equipment**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 21548
 FILED: 10/15/1998, 10:30
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform with current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform with the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202

FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.

❖LOCAL GOVERNMENTS: For the same reasons as are stated for "state budget," this amendment will have no cost or savings to local governments.

❖OTHER PERSONS: Based upon OSHA cost projections, compliance costs will be approximately \$250,000 within Utah including equipment costs, testings, and training.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Federal standards for use of body harnesses became effective in January 1998. Consequently, the cost of body harnesses has already been incurred by the majority of Utah employers.

OSHA has made an assessment of the impact of the revised standard and has concluded that it will not involve significant capital expenditures, and there is no differential effect on small firms relative to that on large firms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted under "State budget," this amendment merely conforms Utah standards to existing federal standards. Most employers are already in compliance with the federal standards. For such employers this amendment will have minimal, if any impact. For other employers who are not currently in compliance, the costs for necessary equipment are approximately \$300 for each employee working in areas which require fall protection.

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DIRECT QUESTIONS REGARDING THIS RULE TO:

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THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

**R614. Labor Commission, Occupational Safety and Health.
R614-6. Other Operations.**

R614-6-1. Crushing, Screening, and Grinding Equipment.

A. Car moving, dumping, and shakeout or cleanout operations shall be performed in a safe manner and in compliance with R614-405-555. Reloading shall be performed in a safe manner.

B. Track or truck hoppers or bins shall be covered with a grizzly, or other suitable means shall be provided to prevent an employee from accidentally falling into the bin, or the employee shall wear a safety ~~belt~~harness properly tied off. This is also applicable when working around or over crushers or rolls.

C. Equipment feeding crushing, screening and grinding facilities shall be adequately guarded and maintained in a safe manner.

D. Air lines, bars, hammers, and all other tools used shall be kept in good repair at all times. Goggles or face shields shall be worn when lancing or barring down or when any other activity may result in flying particles.

E. Protective equipment such as hard hats, safety shoes, eye protection, respiratory protection, and gloves shall be worn when needed. Operators shall wear clothing as needed to reasonably cover the body. Such clothing shall be relatively close fitting so as to preclude loose, ragged sleeves or trouser legs, long coat tails, neckties and other such items as may become entangled in the machinery.

F. Machinery guards shall be kept in place and machinery shall not be operated following repairs until guards are in place and secured. Electrical gear shall have covers in place during operation.

G. No employees shall work on the drive mechanism, in a chute, hopper, screen, grinder, or crusher unless same is locked and/or tagged in compliance with Part 15.9 and the foreman is informed of his whereabouts.

H. Adequate work platforms and walkways shall be provided. All platforms, ramps, walkways, ladders, and stairways shall be in conformance with 29 CFR 1910 Subpart D. Crossover crushing and feeding equipment shall be provided and the operators shall use such crossovers and not pass over hazardous, unprotected equipment.

I. Adequate storage for tools and supplies shall be provided.

J. Dunnage and other waste or scrap material shall have a place of disposal and shall be removed so as to permit the maintenance of an adequate housekeeping program.

K. Throwing of materials from crushers, elevators, or overhead platforms shall be prohibited, except when an area is provided and barricaded to make it safe.

L. Electrical gear on crushing, screening, and grinding equipment shall be grounded and otherwise meet the requirements of 29 CFR 1910 Subpart S.

M. Dust shall be controlled at the source by adequate dust control equipment. Where this is not effectively accomplished, such additional procedures as wetting down, vacuum cleaning and other means shall be provided and used. Approved respiratory equipment shall be provided when dust concentrations indicate their need.

N. Areas under rod mills, ball mills, and other rotating equipment shall be adequately barricaded, or fenced to prevent persons passing under the operating mills unless such mills have at least 10' clearance above floor level.

O. Employees shall not work over rotating mills, spiral or drag classifiers or any other similar equipment unless protected by a bridge, catwalk, crossover or other protective device.

P. Reagents shall be used in conformance with directions and warnings as supplied by the manufacturer or supplier. Such hazards as caustic or acid burns, fire, poisons, irritants, etc., must be recognized and the operator trained and protected to prevent accidental or unmindful contact which may cause injury. The necessary protective equipment shall be supplied and used.

Q. Any chemicals used in connection with grinding or milling operations shall be labeled.

R. Before any crushing, screening, or grinding equipment is started, the operator shall be sure all persons are clear and machinery is released for operation.

S. Impact breakers, jaw crushers, crushing rolls, and similar equipment shall be protected by adequate covers, chain curtains or other effective guards to prevent material from being thrown out of the feed opening of the crusher.

KEY: machinery, work-related diseases, boilers*
[December 2, 1997]1998
 34A-7-101
 34A-7-102
 34A-7-103
 34A-7-104
 34A-7-105
 34A-6-201 et seq.

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**Labor Commission, Occupational
 Safety and Health
 R614-6-2
 Window Cleaning**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 21549
 FILED: 10/15/1998, 10:30
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform with current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform with the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202
FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.
 ♦ **LOCAL GOVERNMENTS:** For the same reasons as are stated for "state budget," this amendment will have no cost or savings to local governments.
 ♦ **OTHER PERSONS:** Based upon OSHA cost projections, compliance costs will be approximately \$250,000 within Utah including equipment costs, testings, and training.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Federal standards for use of body harnesses became effective in January 1998. Consequently, the cost of body harnesses

has already been incurred by the majority of Utah employers. OSHA has made an assessment of the impact of the revised standard and has concluded that it will not involve significant capital expenditures, and there is no differential effect on small firms relative to that on large firms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted under "State budget," this amendment merely conforms Utah standards to existing federal standards. Most employers are already in compliance with the federal standards. For such employers this amendment will have minimal, if any impact. For other employers who are not currently in compliance, the costs for necessary equipment are approximately \$300 for each employee working in areas which require fall protection.

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THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

**R614. Labor Commission, Occupational Safety and Health.
 R614-6. Other Operations.
 R614-6-2. Window Cleaning.**

- A. General.
 1. It shall be the responsibility of the employer to provide such safety devices and equipment as required by this rule. He shall be responsible for the proper use and maintenance of such equipment and devices.
 2. It shall be the responsibility of the employee to wear and employ the devices so provided as directed and to assist in its reasonable care and maintenance.
 3. Only employees who have been adequately trained and instructed shall be permitted to clean windows where the use of anchors, safety ~~belts~~ harnesses, swinging scaffolds, boatswains' chairs, tackle or other similar equipment is required.
- B. Ladders-scaffolds.
 1. Ladders shall not be used to clean windows whose top is more than 36 feet above the floor of adjoining ground or a flat roof or which are so placed or obstructed as to make the method unsafe. Built-up scaffolds are preferred over ladders.

2. The use of ladders with hooks attached, to be hung on or over a parapet wall or other projection, are prohibited in window cleaning.

C. Windows.

1. Windows which are of such type that both the inside and the outside of the window may be cleaned from the inside, if over 10 feet to the top of the window on the outside must be cleaned from the inside of the building.

2. Windows whose top is over 36 feet above ground, floor or flat roof, and which are of the type that cannot be cleaned from the inside must be provided with window anchors, or shall be cleaned only by use of swinging or built-up scaffolds or boatswains' chairs or other satisfactory method providing equal safety.

3. When window anchors are used, they shall meet the requirements of ANSI Standard A39.1-1969 and shall be inspected and maintained in a safe manner. No window cleaner shall use an anchor which he finds to be loose or insecure.

4. When working from a suspended scaffold or boatswain's chair, the employee shall wear an approved safety ~~belt~~harness and shall be tied off to a line supported from a separate roof anchorage to the ground which must be separate from the rest of the rigging. The fall line shall be provided with an approved automatic locking device.

D. Equipment.

1. Extension tools shall not be over 6 feet long. A cleaner using a brush or squeegee on a pole shall attach it to his person by a wristloop, or other device to prevent dropping. Each extension device so used shall have a locking device to prevent inadvertent detachment of the brush or squeegee.

2. Brushes, buckets, squeegees, and other equipment used by a cleaner working on a scaffold or boatswains' chair shall be fastened to equipment at the moment when not in actual use in the hand of the cleaner.

3. When cleaning windows, special care shall be used where electrical supply lines present a hazard.

4. Window jacks and all other platform devices fastened to window sills for a cleaner to stand upon outside of the window without standard ~~belts~~harnesses and anchors are prohibited.

5. Ropes used in windows, cleaning operations shall be inspected before being used and shall be discarded if unsafe.

KEY: machinery, work-related diseases, boilers*
[December 2, 1997]1998

34A-7-101
34A-7-102
34A-7-103
34A-7-104
34A-7-105
34A-6-201 et seq.

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**Labor Commission, Occupational
Safety and Health
R614-6-4
Industrial Railroads**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21550

FILED: 10/15/1998, 10:30

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform with current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform with the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202

FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.

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THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

R614. Labor Commission, Occupational Safety and Health.

R614-6. Other Operations.

R614-6-4. Industrial Railroads.

A. Car handling and layout.

1. Purpose. These orders set up minimum standards for industrial railroads in above-ground operations. Where it has been determined by the Labor Commission that, due to the process or operation, compliance with these orders would increase the hazards, industrial railroads need not comply provided such standard areas are properly posted with warning signs, clearance distances indicated, areas barricaded, proper instructions given to workmen or other safety devices installed to provide maximum protection to workmen. Nothing herein shall be construed as preventing the movement of material over tracks when such material is necessary in the construction or maintenance of such tracks, nor in the movement of special work equipment used in the construction, maintenance or operation of the railroad, provided such movement shall be carried on under such conditions as are necessary to provide for the safety of all concerned.

2. Definition. An industrial railroad is a railway track, or system of tracks, with necessary appurtenances thereto, owned or controlled by an industrial concern not a common carrier, which operations are conducted solely by one or more of such industrial concerns.

3. Layout. Plant layout as it applies to the installations of railroad tracks, trestles, high lines, loading docks, clearances, crossing, etc., shall comply with the Manual of the American Railway Engineering Association-Engineering Division, and General Order No. 66 of the Public Service Commission of Utah.

a. Where there is a driveway storage space or passageway under a trestle, the passageway should be protected with an overhead shield.

b. On trestles and other places where material is unloaded from side of cars, footwalk can be placed at a distance and part of the floor or walk can be arranged so that it can be lifted to allow metal or other material to fall through. Cable nets or gratings

should be provided to prevent employees from falling through openings.

4. Clearance. Standard clearances may not give enough protection where tracks pass doorways or corners of buildings or other places where workers may walk directly onto tracks in front of moving railroad equipment. These locations must be safeguarded with fixed railings or other means that force employees to detour or to become otherwise alerted to the hazard.

5. Crossings. Track crossings shall be reduced to a reasonable minimum and as far as practical shall be away from buildings or their obstructions which may impair visibility. The crossings inside plants shall be equipped with stop signs, blinking light, wig-wags, gates, or other means of effective warning or be protected by a watchman, switchman, or other responsible person.

6. Trestles and Highlines.

a. Trestles shall be equipped with walks, the outer edge of which shall be at least six (6) feet from the rail. Where practical, the floor of this walk shall extend to within four (4) inches of the ends of the ties. In no case shall the walk be less than 20 inches wide. Each walk shall be equipped with a standard railing and toeboard.

b. All dead-end tracks are to be provided with adequate blocks. Draw bar height is preferable.

7. Speed limits. Speed limits both for train and vehicular travel inside industrial plants, shall be established and enforced.

8. Movement of railroad cars by car movers other than locomotives.

a. Car moving equipment, such as continuous cable pullers, winches, or other types of car movers shall have adequate guards to protect the operator, should the cable break.

b. The maximum number of cars loaded and empty, must be established and operators instructed in these safe load limits.

c. Hand-type car movers shall be provided with a guard to protect the operator's hand, should the tool slip.

d. Pushmobiles, trucks, and any other mobile-type car movers which are specifically intended for car moving shall have a coupler connection to railroad car being moved except when spotting only.

e. Persons assigned as car riders or so-called car droppers, must be adequately trained and shall use a safety ~~belt~~harness and a short lanyard attached to the car they are riding while performing this work. (This is not applicable to railroad switching crews.)

9. Reporting bad order cars.

A definite procedure must be established for reporting bad order or damaged equipment, such as pin lifters, couplers, dumping mechanisms, etc.

10. Blocking of Cars.

a. When there is danger of cars rolling or drifting and employees are required to work on them, cars must be blocked with adequate wheel blocks to prevent them from rolling.

b. Where railroad cars are equipped with effective hand brakes, they may be set up to prevent cars from moving when employees are working on or inside of them in place of wheel blocks.

11. Blue Flag Procedure. When working on tracks, unloading or loading cars such as tank cars, gondolas, box cars, etc., the following blue flag track target procedure must be followed:

a. All blue flag track targets shall be of substantial material, not less than 12" x 15" in size, shall bear the word STOP in letters not less than 4" in height, and shall be at least 28" and not more

than 10' above the top of the rail when placed. The supervisor or other person in charge will determine the distance that they are to be placed on each side of the work area.

b. Track target shall be placed on spur tracks 10' from the clearance of the lead or through tracks and the switch of the spur track locked in a closed position.

c. Track target shall be securely clamped upright to the rail or fastened securely to the side of the rail.

d. At night or when weather conditions result in poor visibility, a blue light is to be placed on the track target in the space provided.

e. Where permanent derails are installed, they must be identified with the standard derail post located 8'6" from the nearest rail. Weeds and debris must be kept free of sign posts.

f. Red flags and red lights may be used in emergency cases where standard blue flag targets and blue lanterns are not immediately available, but must be replaced as soon as possible with the standard blue target and blue light.

g. Train crews shall not couple into or move railroad equipment which is protected by blue flags.

h. Railroad equipment shall not be placed in front of blue flags so as to obscure them without notification to and approval of the supervisor or other person in charge of the work on the tracks. The supervisor in charge of the work will then replace the flag for proper protection.

i. The blue flags or derails are to be removed only under the direction of the supervisor or other person in charge of the work on the tracks.

j. When two or more supervisors have groups of employees working on the same tracks, each supervisor will place his own protective lock on the blue flag derail or switch.

k. The blue flag or derail lock must be removed promptly when the work is completed and the tracks are ready for their normal use.

l. The Yardmaster or other designated person will be notified at the start and finish of all work being performed on lead or through tracks.

m. When men are required to repair cars or make mechanical adjustments in the field, the blue flag procedure must be followed.

n. At any time the blue flag procedure cannot be used, a flagman or safety watchman must be provided to give protection for employees working on equipment.

o. Derails shall never be placed on molten metal or slag tracks unless there is no other means of giving adequate protection for employees or equipment.

12. Unloading cars.

a. Training of employees is required before they are assigned to unload gondolas, bottom dumpers, side dumps, or air dump-type cars.

b. Employees are not permitted to work inside railroad cars when they are being unloaded with a magnet.

c. Bottom dump and side dump car mechanisms are to be operated with tools designed for dumping and they must be in good working condition. At no time shall tools in poor repair be used. Their condition must be reported to the supervisor immediately.

d. At no time shall a railroad car be dumped if the dumping mechanisms are defective which makes them unsafe to operate. Such defective cars will be referred to the proper authority.

e. When employees are required to enter covered hopper cars or tank cars through the hatch cover opening, the hatch cover must be fastened securely open so there is no chance of its closing while the employee is in the car.

f. When it is necessary for employees to enter covered hopper cars or tank cars, safety checks must be made to determine that there is no toxic or explosive gas or lack of oxygen.

13. Closed car thawing houses and heating equipment must be so designated and constructed as to prevent accumulations of toxic or explosive gases.

14. Before employees or locomotives are permitted to enter closed car thawing houses when in operation, ventilation must be provided to insure no toxic or explosive gas or lack of oxygen is present.

15. Lighting-Classification Yards. Classification yards and other similar areas where trains are made up to or broken down shall conform to the specification issued by the American Railway Engineering Association.

B. Operations and maintenance.

1. Trackage and controls. Trackage, roadbed signal systems, traffic control system, power lines should be maintained in good condition and shall be regularly inspected.

2. Switch throws shall be so installed as to provide adequate clearance for switchmen.

3. The rod extending from the bridle bar to the throw shall be covered or the stumbling hazard shall be otherwise minimized.

4. Derail devices shall be installed where necessary on all side tracks on or near junction with connection to through traffic lines.

5. Dead-end tracks shall have bumping blocks or the equivalent to prevent cars from running off the end of the tracks.

6. Where foot travel is required adjacent to switches, a walkway shall be provided.

7. Employees shall be prohibited from sitting on tracks or under cars.

8. Employees shall be prohibited from climbing over or crawling under cars to cross tracks, unless it is in the performance of his assigned duties.

9. Signs and Flags.

a. A sign reading STOP (white lettering on blue background) must be placed on the track, or between the rails of the track, in approach to cars which are being loaded, or unloaded, and when the sign is displayed cars must be not coupled to nor moved nor other cars placed so as to obstruct the view of the sign. Warning lights must be attached to the sign by night.

b. The sign will be placed and removed only by an authorized employee. The sign must be displayed to protect employees loading, unloading, or working in or about cars, and must not be removed until it is known that employees and others are clear.

c. When a sign reading STOP (white lettering on blue background) is displayed, the engine must not be coupled to a tigger, nor shall the car be moved by other means.

d. A car placarded Explosives, Flammable Liquids, Dangerous shall not be cut off while in motion. No car moving under its own momentum shall be allowed to strike any car placarded Explosives, Flammable Liquids, or Dangerous nor shall any such car be coupled with more force than is necessary to complete the coupling.

e. Loaded tank cars with any of the above placards must not be cut off until the hand brake has been tried and found in proper working condition.

10. Electrical.

a. When central traffic control exists and its operation is interrupted or suspended or any irregular function of the system occurs, rail movement shall not be allowed to continue until stoppage or malfunction has been determined, and only then if such movement can be made safely and with direct communication with traffic control operation.

b. All principal electrical switches shall be marked.

c. If the track is used for the return circuit, both rails shall be well bonded at every joint, excepting those tracks governed by automatic block signals.

11. Riding Equipment and Coupling.

a. Employees are cautioned not to get on or off an engine or car which is in rapid motion.

b. Employees must face the equipment in descending ladders on engines and cars, whether standing or moving.

c. Employees are forbidden to ride on draw bars. When movement is being made, employees must not go between engine or ride on leading footboards of the engine in direction of movement, except for the purpose of uncoupling car from engine. Standing, walking on top of, and jumping from car to car is prohibited.

d. If uncoupling lever fails to work, a stop shall be made before uncoupling car. When necessary to change the alignment of couplers cars must be stopped, and under no circumstances should an attempt be made to adjust couplers with foot or hand or raise lock pin by hand, while cars are moving.

e. If necessary to make change or repairs to couplers, the circumstances must be understood by all employees who may, through misunderstanding, move or cause the car to be moved; the cars should be separated not less than one car length to reduce possibility of injury, should they be moved by mistake. Employees should, when possible, avoid standing directly in line with couplers.

f. Trainmen and enginemen must forbid employees whose duties do not connect them with the movement, to get on and off engines or cars, while in motion.

g. No one except the train, engineer crew and person authorized by management should be permitted to ride on or in a locomotive or on a train.

h. "Poling" or moving a car on another track with a pole should be done only in extreme emergency and under direct supervision. **DO NOT PUSH CAR UNTIL ALL PERSONS ARE IN A SAFE PLACE.**

i. Rocker or "Cradle" type dumping cars shall be equipped with an efficient positive locking device.

j. Brakemen are not permitted to ride on or between slag pots, or between slag pot and locomotive.

k. Before spotting a slag pot for filling, it shall be inspected carefully to insure that no water or wet debris is in the bottom of the pot.

l. Pots and ladles must not be filled so full as to cause spillage.

m. Before dumping slag in a new place, a member of the crew must investigate to insure that no one will be endangered by the hot slag.

n. In handling railroad cars, employees must:

- (1) Use standard brake clubs.
- (2) Wear a safety hat.
- (3) Wear snug-fitting clothes.

(4) Be required to ride the front end of all trains that are being pushed.

(5) Get off a moving locomotive from the side, well in the clear of the footboard.

(6) Not stand on or between the rails when mounting a moving location.

12. Locomotives.

a. Locomotive shall be equipped with a bell and a whistle, both capable of giving a loud and clear warning signal.

b. Each locomotive used, between sunset and sunrise, shall have two lights, one located on the front of the locomotive and one on the rear, each of which shall enable a person in the cab of the locomotive under the condition, including visual capacity, to see a dark object for a distance of at least 300 feet ahead, and in front of such headlight in yard service and 800 feet in road service.

c. All locomotives equipped with footboards shall be equipped with toeboards. The grab irons and handrails shall be well maintained at all times.

d. Safety latches shall be provided on electric locomotives to hold trolley poles, current collector, or pantographs away from the trolley wires.

e. The engineer or motorman shall be made responsible for the safe operation of the locomotive.

f. Locomotives shall not be run over tracks where dirt or other materials strike the footboards.

13. Car Storage.

a. When practical, cars must be kept clear of any street or public crossing, and at least one hundred feet from the crossing.

b. A sufficient number of hand brakes must be set to hold cars; if brakes are inoperative, cars must be secured otherwise. When cars are set out on a grade, they must be coupled, if practical, and in addition to brakes being set, wheels must be blocked.

c. Cars shall not be stored on tracks unless protected with derails, when facing point switches or ascending grades toward main track, except in emergency or on instructions of proper authority, and in such cases cars must be properly secured. Wheels must be blocked where necessary.

d. When empty cars are stored on tracks adjacent to buildings an opening of at least forty feet must be made every five car lengths.

14. Air Brake Systems.

a. Where air brake systems are used, the following is applicable:

(1) Train line pressure for passenger trains is 110 pounds, for freight and mixed trains, 90 pounds. Should the proper control of a freight train or mixed train make it necessary, the use of 90 pounds brake pipe pressure is permissible. Brake pipe pressure for yard engines is governed by class of equipment handled or minimum of 80 pounds.

(2) Main reservoir pressure must be maintained at least 15 pounds minimum above adjustment of the feed valve, or brake pipe pressure.

(3) The proportion of air brakes in operation must at no time be less than 85 percent of all the cars in a train. On ascending grades rear car must have operative air brakes.

(4) Train air brake system must be charged to require air pressure, angle cocks and cut out cocks must be properly positioned, air hose must be properly coupled and must be in

condition for service. An examination must be made for leaks and necessary repairs made to reduce leakage to a minimum. Retaining valves and retaining valve pipes must be inspected and known to be in condition for service.

(5) It must be known that the air brake equipment on engines is in a safe and suitable condition for service.

15. Air Brake Application.

a. Leakage from main air reservoir and related piping shall not exceed an average of three pounds per minute in a test of three minutes duration, made after the pressure was reduced forty percent below maximum pressure.

b. Brake pipe leakage must not exceed five pounds per minute after a reduction of ten pounds has been made from brake pipe air pressure of not less than seventy pounds.

c. With a full service application of brakes, and with communication to the brake cylinders closed, brakes must remain applied not less than five minutes.

d. Compressor governor shall be adjusted so that the high pressure side causes the compressor to unload at 140 pounds and the low pressure side causes the compressor to load at 130 pounds.

e. Leakage from control air reservoir, related piping and pneumatically operated controls shall not exceed an average of three pounds per minute in a test of three minutes duration.

f. Compressor or compressors must be tested for a capacity by orifice test as often as conditions require but not less frequently than once every six months.

g. Every main reservoir before being put into service, and at least once every eighteen months thereafter, shall be subjected to hydrostatic pressure not less than 25% above the maximum working pressure.

h. Where a stop is made on a grade for an indefinite period, brakes on all engines must be fully applied and sufficient hand brakes set when necessary to hold the train and air brakes on cars released. When on an ascending grade, hand brakes must be set on rear and on a descending grade, set on head end of train.

i. When stop is for a short period and retaining valves are in use, the air brakes, when necessary, may be applied and released once every two minutes, to assist engine brakes to hold the train.

j. When setting cars out at intermediate points, a normal brake application from the automatic brake valve must be made, hand brake applied, close angle cock from locomotive, bleed air brake system on car, block wheels of car; the air brakes on the car will not be applied under an emergency application (big hole).

16. Air Brake Maintenance.

a. Before adjusting piston travel or working on the brake rigging, brakes must be cut out by closing cut-out cock in the branch line, all reservoirs drained and necessary precautions taken.

b. Air gauges must be tested at least once every six months and whenever any irregularity is reported. They shall be compared with an accurate deadweight tester, or test gauge. Gauges found inaccurate or defective must be repaired or replaced.

c. Distributing or control valves, brake application valves, equalizing piston portion, feed and reducing valves, safety valves, brake pipe vent valves, relay valves, magnet valves, dirt collectors and filters must be cleaned, repaired and tested as often as conditions require to properly maintain them in a safe and suitable condition for service.

d. On engines so equipped, hand brakes, parts and connections must be inspected and necessary repairs made as often as the service requires.

e. Minimum brake cylinder piston travel must be sufficient to provide proper brake shoe clearance when brakes are released.

f. Maximum brake cylinder piston travel when engine is standing must not exceed the following:

TABLE 1

	Inches
Driving wheel brake	6
Swivel type brake with brakes on more than one truck operated by one brake cylinder	7
Swivel type truck brake equipped with one brake cylinder	8
Swivel type truck brake equipped with two or more brake cylinders	6

g. Foundation brake rigging, and safety supports, where used, must be maintained in safe and suitable condition for service. Levers, rods, brake beams, hangers and pins must be of ample strength and must not bind or foul in any way that will affect proper operation of brakes. All pins must be properly applied and secured in place with suitable locking devices. Brake shoes must be properly applied and kept approximately in line with treads of wheels or other braking surfaces.

h. No part of the foundation brake rigging and safety supports shall be less than 2 1/2 inches above the top of the rail.

i. Before a car is released from a shop or repair track, it must be known that the brake pipe is securely clamped, angle cocks in proper position with suitable clearance; valves, reservoirs and cylinders tight on supports and supports securely attached to car.

j. When cars are on shop or repair tracks, hand brakes and connections must be inspected, tested and necessary repairs made to insure they are in a suitable condition for safe and effective operation.

k. Brake equipment on cars must be cleaned, repaired, lubricated and tested as often as required to maintain it in a safe and suitable condition for service.

KEY: machinery, work-related diseases, boilers*

- ~~December 2, 1997~~1998** 34A-7-101
- 34A-7-102
- 34A-7-103
- 34A-7-104
- 34A-7-105
- 34A-6-201 et seq.



**Labor Commission, Occupational
Safety and Health
R614-7-1
Roofing, Tar-Asphalt Operations**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 21551
FILED: 10/15/1998, 10:30
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform with current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform with the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202
FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.

❖LOCAL GOVERNMENTS: For the same reasons as are stated for "state budget," this amendment will have no cost or savings to local governments.

❖OTHER PERSONS: Based upon OSHA cost projections, compliance costs will be approximately \$250,000 within Utah including equipment costs, testings, and training.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Federal standards for use of body harnesses became effective in January 1998. Consequently, the cost of body harnesses has already been incurred by the majority of Utah employers. OSHA has made an assessment of the impact of the revised standard and has concluded that it will not involve significant capital expenditures, and there is no differential effect on small firms relative to that on large firms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted under "State budget," this amendment merely conforms Utah standards to existing federal standards. Most employers are already in compliance with the federal standards. For such employers

this amendment will have minimal, if any impact. For other employers who are not currently in compliance, the costs for necessary equipment are approximately \$300 for each employee working in areas which require fall protection.

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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

**R614. Labor Commission, Occupational Safety and Health.
R614-7. Construction Standards.
R614-7-1. Roofing, Tar-Asphalt Operations.**

A. Roofing

1. Roofing employees shall be protected by adequate provisions from falling from roofs. These provisions may include:

2. When work is done on roofs which are more than sixteen (16) feet from the ground to the eaves, and where there is no parapet wall at the eaves, and such roof has a slope greater than four (4) inches in one (1) foot, a substantial catch platform or scaffold platform of sufficient width to extend at least two (2) feet beyond the outer edge of the eaves' projection shall be used.

3. As an alternative to such a platform, each person working on the roof shall be provided with a safety belt and life line securely fastened to a safe anchorage.

4. Roofs between six (6) and fifteen (15) feet from the ground to eaves and meeting other provisions above may be protected by a 2 x 4 or larger toeboard securely held at the work position or adequate roof jacks provided the slope does not exceed 12 inches in one (1) foot.

5. Roof ladders may also be used.

6. Workers on roofs having a slope greater than 12/12 pitch shall be protected with safety ~~belts~~ harnesses and life lines or by substantial roof ladders or other methods providing positive protection.

7. On oval shaped (dome) roofs a rope type of roof ladders is recommended. When the slope is greater than 2 to 1 (24 x 12) the employee shall be protected by life line or a fixed scaffold.

8. Roofing material and workers shall be distributed over the roof structure so as to prevent localized overloading.

9. Employees shall not carry loads exceeding 100 pounds on ladders, roofs or other elevated areas.

10. Employees shall not work on sloped roofs which are snow or ice covered except for the purpose of making same safe.

B. Hot roofing.

1. Protective clothing and equipment.

a. Roofers handling hot roofing materials shall be fully clothed including long sleeved shirts buttoned at the wrists. Other employees may wear no less than "T" shirts over their upper body.

b. Substantial shoes no less than six (6) inches in height, fully laced or secured shall be worn.

c. No gauntlet gloves shall be permitted. Wrist length gloves shall be worn.

d. Employees subjected to the possibility of splashing hot materials shall wear face shields or goggles.

2. Heating equipment.

a. All heating kettles shall be equipped with a temperature measuring device in operating condition and the asphalt shall not be heated in excess of 50 degrees below the Flash Point.

b. Toxic and combustible vapors are given off during heating of asphalt and tar materials. Employees working with these materials shall be instructed in safety precautions and in the proper methods of handling.

c. Attendants shall be within 100 feet of the kettle at all times while the burner flame is on.

d. Kettle heating equipment shall be installed and maintained in conformity with the American National Standards Institute Requirements for the fuel being used.

e. A fire extinguisher no smaller than 10 B-C rating shall be installed in close proximity to heating kettles.

f. During melting and heating operations, care shall be taken to prevent moisture from getting into the hot mix.

3. Material handling.

a. Pump lines handling hot asphalt shall be positioned securely and equipped with a shut-off valve on each of a coupler which may be opened when lines are full.

b. Pump lines shall not be subjected to pressures in excess of the safe working pressure of the lines being used.

c. Hot asphalt shall not be carried up ladders but shall be pumped or hoisted.

d. Hoisting frames and equipment shall be installed in a safe manner, properly secured and positioned so that the operator has access to the bucket or container without subjecting himself to hazard.

e. Every tar bucket used by roofers or workers in similar trades shall be made of No. 24 gauge or heavier sheet steel and shall have a metal bail of no less than 1/4 inch diameter material. The bail shall be fastened to offset ears or the equivalent which have been riveted, welded or otherwise securely attached to the bucket. Soldered bail sockets are not permissible. Most paint buckets will not comply with these regulations.

f. Extreme caution shall be taken when working near sky lights or other roof holes.

g. Employees shall be positioned in such a manner that they cannot be struck by a bucket or other roofing material which may accidentally fall either while being hoisted, lowered or used in the roofing operation.

4. Flammable liquid with a flash point below 100 degrees F. (gasoline and similar products) shall not be used for cleaning purposes.

5. Workers shall not ride on top of loaded trucks or on running boards but shall be seated inside the cab of the vehicle.

6. Provisions of 29 CFR 1926.451 and 1926.1050 shall be complied with as applicable, covering scaffolds and ladders.

C. Asphalt mixing plants.

1. Toxic and combustible vapors are given off during heating of asphalt and tar materials. Employees working with these materials shall be instructed in necessary precautions and in the proper methods of handling.

2. Suitable clothing and protective devices shall be worn by employees handling or applying asphalt and tar materials.

3. Positive care shall be taken to prevent heating materials above the flashpoint. Mixing operations shall be performed at the lowest practicable temperature.

4. Drums or other containers in which liquid bituminous materials are stored shall be kept tightly closed when not in use and shall be protected from sources of excess heat, sparks, and open flames.

5. A 10 B.C. fire extinguisher shall be provided at locations where heating devices or melting kettles are in use.

6. Asphalt or tar heating kettles when in use shall not be left unattended and shall be securely fastened to prevent accidental tipping. They shall be provided with a lid and thermometer.

7. During melting and heating operations, care shall be taken to prevent moisture from getting into the hot mix. The use of gasoline or similar volatile materials as thinners is prohibited.

8. Where natural ventilation is insufficient at enclosed areas in which hot tar, asphalt, etc., are being heated or applied, an approved method of mechanical ventilation shall be provided. In addition, respirators shall be furnished to workers where required.

9. Heating, pumping, and application operations shall not be left unattended and an operator shall be stationed near the equipment to cut off flow or care for other emergencies.

10. Spraymen handling hot asphalt or tar shall not be allowed to work under hoses supplying hot materials to the sprays. Only flexible metallic hoses fitted with insulated handles shall be used in hand-spraying operations.

11. Form pins having mushroomed or split heads shall be discarded or effectively repaired.

12. Pipe lines which contain hot oil or asphalt shall be equipped with a shut-off valve on each side of a coupler which may be opened when lines are full.

KEY: safety

[December 2, 1997]1998

34A-6



Labor Commission, Occupational Safety and Health
R614-7-2
Grizzlies Over Chutes, Bins, and Tank Openings

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 21552
FILED: 10/15/1998, 10:30
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to conform with current federal fall protection requirements.

SUMMARY OF THE RULE OR CHANGE: This change updates the Utah Administrative Code to conform with the Federal Occupational Safety and Health Administration (OSHA) Standards, 29 CFR 1926, for fall protection. 29 CFR 1926.502(d) provides as follows: "Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions below. Effective January 1, 1998, body belts are not acceptable as part of a personal fall arrest system."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202
FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1926

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The Labor Commission anticipates no cost or savings to the state budget. Because the federal standard which is adopted by this amendment has been in effect for some time, state government is believed to be in compliance. No further cost will be necessary. Furthermore, the subject matter of this amendment has limited application to state government activities.
❖LOCAL GOVERNMENTS: For the same reasons as are stated for "state budget," this amendment will have no cost or savings to local governments.
❖OTHER PERSONS: Based upon OSHA cost projections, compliance costs will be approximately \$250,000 within Utah including equipment costs, testings, and training.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Federal standards for use of body harnesses became effective in January 1998. Consequently, the cost of body harnesses has already been incurred by the majority of Utah employers. OSHA has made an assessment of the impact of the revised standard and has concluded that it will not involve significant capital expenditures, and there is no differential effect on small firms relative to that on large firms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted under "State budget," this amendment merely conforms Utah standards to existing federal standards. Most employers are already in compliance with the federal standards. For such employers this amendment will have minimal, if any impact. For other employers who are not currently in compliance, the costs for necessary equipment are approximately \$300 for each employee working in areas which require fall protection.

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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: R. Lee Ellertson, Labor Commissioner

**R614. Labor Commission, Occupational Safety and Health.
R614-7. Construction Standards.
R614-7-2. Grizzlies Over Chutes, Bins, and Tank Openings.**

A. Employees shall be furnished with and be required to use approved type safety ~~belts~~ harnesses and shall be tied off securely so as to suspend him above the level of the product before entering any bin, chute, or storage place containing material that might cave or run. Cleaning and barring down in such places shall be started from the top using only bars blunt on one end or having a ring type or D handhold.

B. Employees shall not work on top of material stored or piled above chutes, draw holes or conveyor systems while material is being withdrawn unless protected.

C. Chutes, bins, drawholes, and similar openings shall be equipped with grizzlies or other safety devices that will prevent employees from falling into the openings.

D. Bars for grizzly grids shall be so fitted that they will not loosen and slip out of place, and the operator shall not remove a bar temporarily to let large rocks through rather than to break them.

KEY: safety
~~[December 2, 1997]~~1998

34A-6



Tax Commission, Property Tax
R884-24P-33
1999 Personal Property Valuation
Guides and Schedules Pursuant to
Utah Code Ann. Section 59-2-301

210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Pam Hendrickson at the above address, by phone at (801)
297-3900, by FAX at (801) 297-3919, or by Internet E-mail at
phendric@tax.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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Pam Hendrickson, Commissioner

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21556
FILED: 10/15/1998, 16:32
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section
59-2-301 requires counties to assess all property not
assessed by the Commission.

SUMMARY OF THE RULE OR CHANGE: Amendment indicates that
there is no percent good schedule for Class 22 property
because that property is subject to the age-based uniform fee
imposed by Section 59-2-405.1.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS
RULE: Section 59-2-301

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: There is no anticipated cost or savings
because Class 22 property is subject to an age-based
uniform fee under 1998 S.B. 50. This amendment references
the relationship between Class 22 property and the age-
based uniform fee.

LOCAL GOVERNMENTS: There is no anticipated cost or
savings because Class 22 property is subject to an age-
based uniform fee under 1998 S.B. 50. This amendment
references the relationship between Class 22 property and
the age-based uniform fee.

OTHER PERSONS: There is no anticipated cost or savings
because Class 22 property is subject to an age-based
uniform fee under 1998 S.B. 50. This amendment references
the relationship between Class 22 property and the age-
based uniform fee.

(DAR Note: S.B. 50 is found at 1998 Utah Laws 322, and
will be effective January 1, 1999.)

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no
compliance costs for affected persons. The amendment
provides guidance to one viewing the rule as to what uniform
fee applies to Class 22 property.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT
THE RULE MAY HAVE ON BUSINESSES: There are no fiscal
impacts on business. This amendment clarifies that Class 22
vehicles are valued as described in Section 59-1-405.1.

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

Tax Commission
Property Tax
Tax Commission Building

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-33. 1999 Personal Property Valuation Guides and
Schedules Pursuant to Utah Code Ann. Section 59-2-301.

A. Definitions.

1. "Acquisition cost" means all costs required to put an item
into service, including purchase price, freight and shipping costs;
installation, engineering, erection or assembly costs; and excise and
sales taxes.

a) Indirect costs such as debugging, licensing fees and
permits, insurance or security are not included in the acquisition
cost.

b) Acquisition cost may correspond to the cost new for new
property, or cost used for used property.

2. "Actual cost" includes the value of components necessary
to complete the vehicle, such as tanks, mixers, special containers,
passenger compartments, special axles, installation, engineering,
erection, or assembly costs.

a) Actual cost does not include sales or excise taxes,
maintenance contracts, registration and license fees, dealer charges,
tire tax, freight, or shipping costs.

3. "Cost new" means the manufacturer's suggested retail price
or the actual cost of the property when purchased new. For
property purchased used the cost new may be estimated by the
taxing authority.

4. "Percent good" means an estimate of value, expressed as a
percentage, based on a property's acquisition cost or cost new,
adjusted for depreciation and appreciation of all kinds.

a) The percent good factor is applied against the acquisition
cost or the cost new to derive taxable value for the property.

b) Percent good schedules are derived from an analysis of the
Internal Revenue Service Class Life, the Marshall and Swift Cost
index, and vehicle valuation guides such as NADA.

B. Each year the Property Tax Division shall update and
publish percent good schedules for use in computing personal
property valuation.

1. Proposed schedules shall be transmitted to county assessors
and interested parties for comment before adoption.

2. A public comment period will be scheduled each year and
a public hearing will be scheduled if requested by ten or more
interested parties or at the discretion of the Commission.

3. County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

4. The assessor and the Commission may rely on other publications listing costs new or market values when valuing motor vehicles not found in the source guide recommended by the Commission.

C. Other taxable personal property that is not included in the listed classes includes:

1. Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.

2. Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.

3. Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.

D. Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.

E. All taxable personal property is classified by expected economic life as follows:

1. Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.

a) Examples of property in the class include:

- (1) barricades/warning signs;
- (2) library materials;
- (3) patterns, jigs and dies;
- (4) pots, pans, and utensils;
- (5) canned computer software;
- (6) hotel linen;
- (7) wood and pallets; and
- (8) video tapes.

b) With the exception of video tapes, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

c) Video tapes are valued at \$15.00 per tape for the first year and \$3.00 per tape thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
98	70%
97	40%
96 and prior	10%

2. Class 2 - Computer Dependent Machinery.

a) Machinery shall be classified as computer dependent machinery if all of the following conditions are met:

(1) The equipment is sold as a single unit. If the invoice(s) break out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.

(2) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.

(3) The machine can perform multiple functions and is controlled by a programmable central processing unit.

(4) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.

(5) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
98	87%
97	72%
96	60%
95	53%
94	46%
93	37%
92	27%
91 and prior	17%

3. Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.

a) Examples of property in this class include:

- (1) office machines;
- (2) alarm systems;
- (3) shopping carts;
- (4) ATM machines;
- (5) small equipment rentals;
- (6) property subject to a rent-to-own agreement;
- (7) telephone equipment and systems;
- (8) music systems;
- (9) vending machines; and
- (10) video game machines.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of Acquisition	Percent Good of Acquisition Cost
98	83%
97	67%
96	51%
95	35%
94 and prior	18%

4. Class 4 - Service Equipment. Class 4 property is used by service industries and is subject to a high degree of functional obsolescence.

a) Examples of property in this class include:

- (1) service station equipment;
- (2) car wash equipment;

- (3) bulk and holding tanks;
- (4) tire and wheel service equipment;
- (5) dry cleaning machines;
- (6) mechanical and electrical signs;
- (7) clothes washers and dryers;
- (8) tanks; and
- (9) pumps.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 4

Year of Acquisition	Percent Good of Acquisition Cost
98	88%
97	79%
96	68%
95	58%
94	48%
93	37%
92	25%
91 and prior	13%

5. Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

a) Examples of property in this class include:

- (1) furniture;
- (2) bars and sinks;
- (3) booths, tables and chairs;
- (4) beauty and barber shop fixtures;
- (5) cabinets and shelves;
- (6) displays, cases and racks;
- (7) office furniture;
- (8) theater seats; and
- (9) water slides.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 5

Year of Acquisition	Percent Good of Acquisition Cost
98	90%
97	81%
96	72%
95	63%
94	54%
93	45%
92	34%
91	23%
90 and prior	12%

6. Class 6 - Heavy and Medium Duty Trucks.

a) Examples of property in this class include:

- (1) heavy duty trucks; and
- (2) medium duty trucks.

b) Taxable value is calculated by applying the percent good factor against the actual cost of the property when purchased new or 75 percent of the manufacturer's suggested retail price. The taxable value for vehicles purchased used will be determined by applying the percent good factor to the value determined by the assessing authority. For state assessed vehicles, the value of attached equipment will be included in the total vehicle valuation.

c) The 1999 percent good applies to 1999 models purchased in 1998.

d) Trucks weighing two tons or more have a minimum value of \$1,750 and a minimum tax of \$26.25.

TABLE 6

Year of Model	Percent Good of Cost New
99	90%
98	68%
97	63%
96	58%
95	53%
94	49%
93	44%
92	39%
91	34%
90	30%
89	25%
88	20%
87	15%
86 and prior	10%

7. Class 7 - Medical and Dental Equipment. Class 7 property is subject to a high degree of technological development by the health industry.

a) Examples of property in this class include:

- (1) medical and dental equipment and instruments;
- (2) exam tables and chairs;
- (3) high-tech hospital equipment;
- (4) microscopes; and
- (5) optical equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
98	91%
97	84%
96	77%
95	70%
94	64%
93	56%
92	47%
91	38%
90	29%
89	20%
88 and prior	10%

8. Class 8 - Machinery and Equipment. Property in this class is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.

a) Examples of property in this class include:

- (1) manufacturing machinery;
- (2) amusement rides;
- (3) bakery equipment;
- (4) distillery equipment;
- (5) refrigeration equipment;
- (6) nonpetroleum drill rigs;
- (7) machine shop equipment;
- (8) processing equipment;

- (9) leased farm equipment;
- (10) mining equipment;
- (11) ski lift machinery;
- (12) printing equipment; and
- (13) bottling or cannery equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
98	91%
97	84%
96	77%
95	70%
94	64%
93	56%
92	47%
91	38%
90	29%
89	20%
88 and prior	10%

9. Class 9 - Off-Highway Vehicles.

a) Examples of property in this class include:

- (1) dirt and trail motorcycles;
- (2) all terrain vehicles;
- (3) golf carts; and
- (4) snowmobiles.

b) Taxable value is calculated by applying the percent good factor against the cost new or suggested list price from the January-April NADA Motorcycle/Snowmobile/ATV Appraisal Guide.

c) The 1999 percent good applies to 1999 models purchased in 1998.

d) Off-Highway Vehicles have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 9

Year of Model	Percent Good of Cost New
99	90%
98	61%
97	58%
96	55%
95	52%
94	49%
93	45%
92	42%
91	39%
90	36%
89	33%
88	30%
87	27%
86 and prior	23%

10. Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.

a) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
98	93%
97	88%
96	82%
95	77%
94	73%
93	67%
92	60%
91	53%
90	46%
89	40%
88	33%
87	26%
86	18%
85 and prior	10%

11. Class 11 - Street Motorcycles.

a) Examples of property in this class include:

- (1) street motorcycles;
- (2) scooters; and
- (3) mopeds.

b) Taxable value is calculated by applying the percent good factor against the original cost new or the suggested list price from the January-April edition of the NADA Motorcycle/Snowmobile/ATV Appraisal Guide.

c) The 1999 percent good applies to 1999 models purchased in 1998.

d) Street motorcycles have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 11

Year of Model	Percent Good of Cost New
99	90%
98	72%
97	69%
96	67%
95	64%
94	61%
93	59%
92	56%
91	53%
90	50%
89	48%
88	45%
87	42%
86	40%
85	37%
84	34%
83 and prior	31%

12. Class 12 - Computer Hardware.

a) Examples of property in this class include:

- (1) data processing equipment;
- (2) personal computers;
- (3) main frame computers;
- (4) computer equipment peripherals; and
- (5) cad/cam systems.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 12

Year of Model	Percent Good of Acquisition Cost
98	85%
97	57%
96	36%
95	23%
94	14%
93 and prior	9%

13. Class 13 - Heavy Equipment.

a) Examples of property in this class include:

- (1) construction equipment;
- (2) excavation equipment;
- (3) loaders;
- (4) batch plants;
- (5) snow cats; and
- (6) power sweepers.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

c) 1999 model equipment purchased in 1998 is valued at 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
98	64%
97	61%
96	57%
95	54%
94	51%
93	48%
92	44%
91	41%
90	38%
89	35%
88	31%
87	28%
86	25%
85 and prior	22%

14. Class 14 - Motor Homes.

a) Taxable value is calculated by applying the percent good against the cost new derived from the January-April edition of the NADA Recreational Vehicle Appraisal Guide.

b) The 1999 percent good applies to 1999 models purchased in 1998.

TABLE 14

Year of Model	Percent Good of Cost New
99	90%
98	72%
97	69%
96	65%
95	62%
94	58%
93	54%
92	51%
91	47%
90	44%

89	40%
88	37%
87	33%
86	30%
85	26%
84	22%
83 and prior	19%

15. Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products.

a) Examples of property in this class include:

- (1) crystal growing equipment;
- (2) die assembly equipment;
- (3) wire bonding equipment;
- (4) encapsulation equipment;
- (5) semiconductor test equipment;
- (6) clean room equipment;
- (7) chemical and gas systems related to semiconductor manufacturing;
- (8) deionized water systems;
- (9) electrical systems; and
- (10) photo mask and wafer manufacturing dedicated to semiconductor production.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 15

Year of Acquisition	Percent Good of Acquisition Cost
98	74%
97	54%
96	38%
95	24%
94 and prior	10%

16. Class 16 - Long-Life Property. Class 16 property has a long physical life with little obsolescence.

a) Examples of property in this class include:

- (1) billboards;
- (2) sign towers;
- (3) radio towers;
- (4) ski lift and tram towers;
- (5) non-farm grain elevators; and
- (6) bulk storage tanks.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
98	95%
97	91%
96	87%
95	84%
94	82%
93	78%
92	74%
91	68%
90	64%

89	60%
88	57%
87	52%
86	47%
85	40%
84	34%
83	28%
82	21%
81	15%
80 and prior	8%

17. Class 17 - Boats.

a) Examples of property in this class include:

- (1) boats;
- (2) boat motors; and
- (3) personal watercraft.

b) Taxable value is calculated by applying the percent good factor against the original cost new or the F.O.B. or P.O.E. price from the ABOS Marine Blue Book.

c) The 1999 percent good applies to 1999 models purchased in 1998.

d) Boats have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 17

Year of Model	Percent Good of Cost New
99	90%
98	69%
97	67%
96	64%
95	62%
94	60%
93	57%
92	55%
91	53%
90	50%
89	48%
88	46%
87	43%
86	41%
85	39%
84	36%
83	34%
82	31%
81	29%
80	27%
79 and prior	24%

18. Class 18 - Travel Trailers/Truck Campers.

a) Examples of property in this class include:

- (1) travel trailers;
- (2) truck campers; and
- (3) tent trailers.

b) Taxable value is calculated by applying the percent good factor against the original cost new or, for travel trailers, from the January-April edition of the NADA Recreational Vehicle Appraisal Guide.

c) The 1999 percent good applies to 1999 models purchased in 1998.

d) Trailers and truck campers have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 18

Year of Model	Percent Good of Cost New
99	90%
98	69%
97	66%
96	63%
95	59%
94	56%
93	52%
92	49%
91	45%
90	42%
89	39%
88	35%
87	32%
86	28%
85	25%
84	21%
83 and prior	18%

20. Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

a) Examples of property in this class include:

- (1) oil and gas exploration equipment;
- (2) distillation equipment;
- (3) wellhead assemblies;
- (4) holding and storage facilities;
- (5) drill rigs;
- (6) reinjection equipment;
- (7) metering devices;
- (8) cracking equipment;
- (9) well-site generators, transformers, and power lines;
- (10) equipment sheds;
- (11) pumps;
- (12) radio telemetry units; and
- (13) support and control equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
98	92%
97	87%
96	81%
95	76%
94	70%
93	63%
92	56%
91	48%
90	41%
89	34%
88	27%
87	18%
86 and prior	9%

21. Class 21 - Commercial and Utility Trailers.

a) Examples of property in this class include:

- (1) commercial trailers;
 - (2) utility trailers;
 - (3) cargo utility trailers;
 - (4) boat trailers;
 - (5) converter gears;
 - (6) horse and stock trailers; and
 - (7) all trailers not included in Class 18.
- b) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, the value of attached equipment will be included in the total vehicle valuation.
- c) The 1999 percent good applies to 1999 models purchased in 1998.
- d) Commercial and utility trailers have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 21

Year of Model	Percent Good of Cost New
99	95%
98	75%
97	71%
96	67%
95	63%
94	60%
93	56%
92	52%
91	48%
90	44%
89	40%
88	36%
87	32%
86	28%
85	24%
84	20%
83 and prior	16%

22. Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

a) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

b) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary for this class.

23. Class 23 - Aircraft Not Listed in the Bluebook Price Digest Subject to the Uniform Tax.

a) Examples of property in this class include:

- (1) kit-built aircraft;
- (2) experimental aircraft;
- (3) gliders;
- (4) hot air balloons; and
- (5) any other aircraft requiring FAA registration.

b) Aircraft subject to the uniform tax, but not listed in the Aircraft Bluebook Price Digest, are valued by applying the percent good factor against the acquisition cost of the aircraft.

c) Aircraft requiring Federal Aviation Agency registration and kept in Utah must be registered with the Motor Vehicle Division of the Tax Commission.

TABLE 23

Year of Acquisition	Percent Good of Acquisition Cost
98	75%
97	71%
96	67%
95	63%
94	59%
93	55%
92	51%
91	47%
90	43%
89	39%
88	35%
87 and prior	31%

24. Class 24 - Leasehold Improvements.

a) This class includes short life leasehold improvements to real property installed by a tenant, including:

- (1) walls and partitions;
- (2) plumbing and roughed-in fixtures;
- (3) floor coverings other than carpet;
- (4) store fronts;
- (5) decoration;
- (6) wiring;
- (7) suspended or acoustical ceilings;
- (8) heating and cooling systems; and
- (9) iron or millwork trim.

b) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

c) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Installation	Percent of Installation Cost
98	94%
97	88%
96	82%
95	77%
94	71%
93	65%
92	59%
91	54%
90	48%
89	42%
88	36%
87 and prior	30%

F. The provision of this rule shall be implemented and become binding on taxpayers beginning January 1, 1999.

KEY: taxation, personal property, property tax, appraisal
[August 11, 1998]1998 **59-2-301**
Notice of Continuation May 8, 1997



Tax Commission, Property Tax
R884-24P-53
1998 Valuation Guides for Valuation of
Land Subject to the Farmland
Assessment Act Pursuant to Utah
Code Ann. Section 59-2-515

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21557

FILED: 10/15/1998, 16:32

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding part five of the Property Tax Act, Farmland Assessment Act. Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Evaluation Advisory Committee for implementation in Section R884-24P-53.

SUMMARY OF THE RULE OR CHANGE: This amendment updates the agricultural-use value to be applied by county assessors to land which qualifies for valuation under the Farmland Assessment Act. The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee which meets under the authority of Section 59-2-514.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-514

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The amount of savings or cost to state government is undetermined. The state receives tax revenue for assessing and collecting and for the uniform school fund based on increased or decreased property valuation, including property on "greenbelt." Property valuation changes have been recommended by class and by county. This year, 62 class/county valuations will increase, 76 will decrease and 55 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 1998, and a listing of property no longer qualifying which is removed from greenbelt during 1998. However, it is estimated that the overall change is minimal due to this amendment.

❖ **LOCAL GOVERNMENTS:** The amount of savings or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property on "greenbelt." Property valuation changes have been recommended by class and by county. This year, 62 class/county valuations will increase, 76 will decrease, and

55 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 1998, and a listing of property no longer qualifying which is removed from greenbelt during 1998. However, it is estimated that the overall change is new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily done and represents no significant cost in time or money to the assessors' offices.

❖ **OTHER PERSONS:** Each property owner with property subject to assessment under the Farmland Assessment Act may see a change in value, depending on property class and situs county. Sixty-two such value indicators will increase, 76 will decrease, and 55 will not change. The affect on the property owner will be an increase, decrease, or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 1998, and a listing of property no longer qualifying which is removed from greenbelt during 1998. In addition, the compliance cost will further be altered by changes to the local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each property owner with property subject to assessment under the Farmland Assessment Act may see a change in value, depending on property class and situs county. Sixty-two such value indicators will increase, 76 will decrease, and 55 will not change. The affect on the property owner will be an increase, decrease or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 1998, and a listing of property no longer qualifying which is removed from greenbelt during 1998. In addition, the compliance cost will further be altered by changes to the local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated above, the fiscal impact to businesses will vary depending on the county and property classification. In the aggregate, the fiscal impact is estimated to be minimal.

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

Tax Commission
 Property Tax
 Tax Commission Building
 210 North 1950 West
 Salt Lake City, UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.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 12/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/1998

AUTHORIZED BY: Pam Hendrickson, Commissioner

13) Sanpete	475
14) Sevier	525
15) Summit	[375] 450
16) Tooele	[450] 425
17) Utah	[475] 550
18) Wasatch	[400] 450
19) Washington	550
20) Weber	625

(Note: Some counties do not have Irrigated II property.)

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-53. [1998]1999 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

A. Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

1. The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

2. Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

3. County assessors may not deviate from the schedules.

B. All property defined as farmland pursuant to Section 59-2-501 shall be assessed on a per acre basis as follows:

1. Irrigated farmland shall be assessed under the following classifications.

a) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1
Irrigated I

1) Box Elder	[675] 700
2) Cache	[600] 625
3) Carbon	[525] 550
4) Davis	[750] 725
5) Emery	450
6) Iron	[625] 675
7) Kane	[350] 400
8) Millard	700
9) Salt Lake	[700] 650
10) Utah	[625] 650
11) Washington	650
12) Weber	725

(Note: Some counties do not have Irrigated I property.)

b) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2
Irrigated II

1) Box Elder	[575] 600
2) Cache	[500] 525
3) Carbon	[400] 450
4) Davis	[650] 625
5) Duchesne	[375] 475
6) Emery	350
7) Grand	[400] 375
8) Iron	[525] 575
9) Juab	[375] 425
10) Kane	[200] 300
11) Millard	600
12) Salt Lake	[550] 500

c) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3
Irrigated III

1) Beaver	[375] 425
2) Box Elder	[425] 450
3) Cache	[350] 375
4) Carbon	[250] 300
5) Davis	[450] 475
6) Duchesne	[275] 325
7) Emery	200
8) Garfield	150
9) Grand	[250] 225
10) Iron	[375] 425
11) Juab	[225] 275
12) Kane	150
13) Millard	[400] 450
14) Morgan	[325] 375
15) Piute	350
16) Rich	225
17) Salt Lake	350
18) San Juan	[200] 175
19) Sanpete	325
20) Sevier	375
21) Summit	[250] 300
22) Tooele	[275] 400
23) Uintah	[300] 350
24) Utah	[375] 400
25) Wasatch	[250] 300
26) Washington	[350]
27) Wayne	200
28) Weber	425

(Note: Daggett County does not have Irrigated III property.)

d) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4
Irrigated IV

1) Beaver	275
2) Box Elder	325
3) Cache	250
4) Carbon	125
5) Daggett	200
6) Davis	300
7) Duchesne	175
8) Emery	100
9) Garfield	75
10) Grand	150
11) Iron	225
12) Juab	150
13) Kane	75
14) Millard	300
15) Morgan	225
16) Piute	250
17) Rich	150
18) Salt Lake	200
19) San Juan	50

20) Sanpete	225
21) Sevier	275
22) Summit	150
23) Tooele	125
24) Uintah	150
25) Utah	225
26) Wasatch	175
27) Washington	250
28) Wayne	100
29) Weber	325

TABLE 7
Dry III

1) Beaver	90
2) Box Elder	125
3) Cache	250
4) Carbon	90
5) Daggett	90
6) Davis	180
7) Duchesne	125
8) Emery	100
9) Garfield	90
10) Grand	90
11) Iron	130
12) Juab	135
13) Kane	90
14) Millard	160
15) Morgan	250
16) Piute	90
17) Rich	165
18) Salt Lake	110
19) San Juan	60
20) Sanpete	120
21) Sevier	100
22) Summit	100
23) Tooele	125
24) Uintah	140
25) Utah	100
26) Wasatch	100
27) Washington	80
28) Wayne	100
29) Weber	225

2. Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5
Fruit Orchards

a) Box Elder	560
b) Cache	650
c) Davis	630
d) Utah	510
e) Washington	755
f) Weber	605
g) All other counties	580

3. Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6
Meadow IV

1) Beaver	160
2) Box Elder	165
3) Cache	210
4) Carbon	115
5) Daggett	140
6) Davis	210
7) Duchesne	140
8) Emery	115
9) Garfield	110
10) Grand	110
11) Iron	160
12) Juab	115
13) Kane	110
14) Millard	115
15) Morgan	140
16) Piute	135
17) Rich	115
18) Salt Lake	165
19) Sanpete	165
20) Sevier	165
21) Summit	165
22) Tooele	165
23) Uintah	140
24) Utah	165
25) Wasatch	165
26) Washington	160
27) Wayne	135
28) Weber	210

(San Juan county does not have any Meadow IV property.)

4. Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

a) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

a) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

TABLE 8
Dry IV

1) Beaver	55
2) Box Elder	90
3) Cache	215
4) Carbon	55
5) Daggett	55
6) Davis	145
7) Duchesne	90
8) Emery	65
9) Garfield	55
10) Grand	55
11) Iron	95
12) Juab	100
13) Kane	55
14) Millard	125
15) Morgan	215
16) Piute	55
17) Rich	130
18) Salt Lake	75
19) San Juan	25
20) Sanpete	85
21) Sevier	65
22) Summit	65
23) Tooele	90
24) Uintah	105
25) Utah	65
26) Wasatch	65
27) Washington	45
28) Wayne	65
29) Weber	190

5. Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

TABLE 9
Grazing Land

a) Graze I		
1) All Counties	40	
b) Graze II		
2) All Counties	12	
c) Graze III		
3) All Counties	8	
d) Graze IV		
4) All Counties	4	

6. Land classified as nonproductive shall be assessed as follows on a per acre basis:

TABLE 10
Nonproductive Land

a) Nonproductive Land		
1) All Counties	4	

KEY: taxation, personal property, property tax, appraisal
~~August 11, 1998~~ 59-2-501 through 59-2-515
 Notice of Continuation May 8, 1997 Art. XIII, Sec 2



End of the Notices of 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.

Tax Commission, Property Tax

R884-24P-53

1998 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 21526
FILED: 10/06/1998, 14:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Tax Commission has recently discovered an error in the 1998 valuation guides for valuation of land subject to the Farmland Assessment Act. This error must be corrected in order to ensure that the farmland in question is taxed at a uniform and equal rate.

SUMMARY OF THE RULE OR CHANGE: The amendment updates the 1998 assessment values for Morgan County Dryland, Class III and Class IV.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-515

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** Minimal impact. That portion of property tax going to the Uniform School Fund will be slightly decreased because of this correction.

❖**LOCAL GOVERNMENTS:** A decrease of approximately \$660 to Morgan County.

❖**OTHER PERSONS:** Affected farmers in Morgan County will see their tax bills decrease. The range is from just a few dollar increase to an approximate \$165 decrease.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Minimal. Since the tax valuations have already gone out, the amendments will be reflected for all affected individuals in one action by the county board of equalization.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Those farmers affected by this correction will see a decrease in their tax bill. Morgan County will process these changes as Board of Equalization adjustments. There will be a very slight fiscal impact on the county.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

Without this amendment, certain farmland in Morgan County will not meet the state constitutional requirement that tangible property be taxed at a uniform and equal rate.

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

Tax Commission
 Property Tax
 Tax Commission Building
 210 North 1950 West
 Salt Lake City, UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.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: 10/06/1998

AUTHORIZED BY: Pam Hendrickson, Commission

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-53. 1998 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

A. Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

1. The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

2. Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

3. County assessors may not deviate from the schedules.

B. All property defined as farmland pursuant to Section 59-2-501 shall be assessed on a per acre basis as follows:

1. Irrigated farmland shall be assessed under the following classifications.

a) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1
 Irrigated I

1) Box Elder	675
2) Cache	600
3) Carbon	525
4) Davis	750
5) Emery	450
6) Iron	625
7) Kane	350
8) Millard	700
9) Salt Lake	700
10) Utah	625
11) Washington	650
12) Weber	725

(Note: Some counties do not have Irrigated I property.)

b) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2
 Irrigated II

1) Box Elder	575
2) Cache	500
3) Carbon	400
4) Davis	650
5) Duchesne	375
6) Emery	350
7) Grand	400
8) Iron	525
9) Juab	375
10) Kane	200
11) Millard	600
12) Salt Lake	550
13) Sanpete	475
14) Sevier	525
15) Summit	375
16) Tooele	450
17) Utah	475
18) Wasatch	400
19) Washington	550
20) Weber	625

(Note: Some counties do not have Irrigated II property.)

c) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3
 Irrigated III

1) Beaver	375
2) Box Elder	425
3) Cache	350
4) Carbon	250
5) Davis	450
6) Duchesne	275
7) Emery	200
8) Garfield	150
9) Grand	250
10) Iron	375
11) Juab	225
12) Kane	150
13) Millard	400
14) Morgan	325
15) Piute	350
16) Rich	225
17) Salt Lake	350
18) San Juan	200
19) Sanpete	325
20) Sevier	375
21) Summit	250
22) Tooele	275
23) Uintah	300
24) Utah	375
25) Wasatch	250
26) Washington	350
27) Wayne	200
28) Weber	425

(Note: Daggett County does not have Irrigated III property.)

d) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4
Irrigated IV

1) Beaver	275
2) Box Elder	325
3) Cache	250
4) Carbon	125
5) Daggett	200
6) Davis	300
7) Duchesne	175
8) Emery	100
9) Garfield	75
10) Grand	150
11) Iron	225
12) Juab	150
13) Kane	75
14) Millard	300
15) Morgan	225
16) Piute	250
17) Rich	150
18) Salt Lake	200
19) San Juan	50
20) Sanpete	225
21) Sevier	275
22) Summit	150
23) Tooele	125
24) Uintah	150
25) Utah	225
26) Wasatch	175
27) Washington	250
28) Wayne	100
29) Weber	325

2. Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5
Fruit Orchards

a) Box Elder	560
b) Cache	650
c) Davis	630
d) Utah	510
e) Washington	755
f) Weber	605
g) All other counties	580

3. Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6
Meadow IV

1) Beaver	160
2) Box Elder	165
3) Cache	210
4) Carbon	115
5) Daggett	140
6) Davis	210
7) Duchesne	140
8) Emery	115
9) Garfield	110
10) Grand	110
11) Iron	160
12) Juab	115
13) Kane	110
14) Millard	115
15) Morgan	140
16) Piute	135
17) Rich	115
18) Salt Lake	165
19) Sanpete	165
20) Sevier	165

21) Summit	165
22) Tooele	165
23) Uintah	140
24) Utah	165
25) Wasatch	165
26) Washington	160
27) Wayne	135
28) Weber	210

(San Juan county does not have any Meadow IV property.)

4. Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

a) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

TABLE 7
Dry III

1) Beaver	90
2) Box Elder	125
3) Cache	250
4) Carbon	90
5) Daggett	90
6) Davis	180
7) Duchesne	125
8) Emery	100
9) Garfield	90
10) Grand	90
11) Iron	130
12) Juab	135
13) Kane	90
14) Millard	160
15) Morgan	250 235
16) Piute	90
17) Rich	165
18) Salt Lake	110
19) San Juan	60
20) Sanpete	120
21) Sevier	100
22) Summit	100
23) Tooele	125
24) Uintah	140
25) Utah	100
26) Wasatch	100
27) Washington	80
28) Wayne	100
29) Weber	225

a) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

TABLE 8
Dry IV

1) Beaver	55
2) Box Elder	90
3) Cache	215
4) Carbon	55
5) Daggett	55
6) Davis	145
7) Duchesne	90
8) Emery	65
9) Garfield	55
10) Grand	55
11) Iron	95
12) Juab	100
13) Kane	55
14) Millard	125
15) Morgan	215 200
16) Piute	55
17) Rich	130
18) Salt Lake	75

19) San Juan	25
20) Sanpete	85
21) Sevier	65
22) Summit	65
23) Tooele	90
24) Uintah	105
25) Utah	65
26) Wasatch	65
27) Washington	45
28) Wayne	65
29) Weber	190

5. Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

TABLE 9
Grazing Land

a) Graze I	
1) All Counties	40
b) Graze II	
2) All Counties	12
c) Graze III	
3) All Counties	8
d) Graze IV	
4) All Counties	4

6. Land classified as nonproductive shall be assessed as follows on a per acre basis:

TABLE 10
Nonproductive Land

a) Nonproductive Land	
1) All Counties	4

**KEY: taxation, personal property, property tax, appraisal
1998 59-2-515
Notice of Continuation May 8, 1997**



End of the 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Administrative Services, Purchasing and General Services

R33-6

Modification and Termination of Contracts for Supplies and Services

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21514
FILED: 10/05/1998, 13:06
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: Section 63-56-7 assigns the Procurement Policy Board the responsibility to adopt rules governing procurement. Section 63-56-40 specifically authorizes this rule.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules governing the subject of this rule continued to be needed.

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

Administrative Services
Purchasing and General Services
3150 State Office Building
450 North Main
PO Box 141061
Salt Lake City, UT 84114-1061, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Douglas Richins at the above address, by phone at (801) 538-3143, by FAX at (801) 538-3882, or Internet E-mail at drichins@email.state.ut.us.

AUTHORIZED BY: Douglas Richins, Director

EFFECTIVE: 10/05/1998



Administrative Services, Purchasing and General Services

R33-7

Cost Principles

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21515
FILED: 10/05/1998, 13:06
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: Section 63-56-7 assigns the Procurement Policy Board the responsibility to adopt rules governing procurement. Section 63-56-28 specifically authorizes this rule.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules governing the subject of this rule continued to be needed.

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

Administrative Services
Purchasing and General Services
3150 State Office Building
450 North Main
PO Box 141061
Salt Lake City, UT 84114-1061, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Douglas Richins at the above address, by phone at (801) 538-3143, by FAX at (801) 538-3882, or Internet E-mail at drichins@email.state.ut.us.

AUTHORIZED BY: Douglas Richins, Director

EFFECTIVE: 10/05/1998



**Administrative Services, Purchasing
and General Services
R33-9
Insurance Procurement**

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 21516
FILED: 10/05/1998, 13:06
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: Section 63-56-7 assigns the Procurement Policy Board the responsibility to adopt rules governing procurement.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules governing the subject of this rule continued to be needed.

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

Administrative Services
Purchasing and General Services
3150 State Office Building
450 North Main
PO Box 141061
Salt Lake City, UT 84114-1061, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Douglas Richins at the above address, by phone at (801) 538-3143, by FAX at (801) 538-3882, or Internet E-mail at drichins@email.state.ut.us.

AUTHORIZED BY: Douglas Richins, Director

EFFECTIVE: 10/05/1998



**Agriculture and Food, Marketing and
Conservation
R65-2
Utah Cherry Marketing Order**

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 21512
FILED: 10/05/1998, 12:24
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 4-2-2(1)(e) authorizes the department to issue marketing orders for any designated agricultural product.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Cherry Marketing Order is established to set up a Board of Control and duties of the board.

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

Agriculture and Food
Marketing and Conservation
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:
Randy Parker at the above address, by phone at (801) 538-7114, by FAX at (801) 538-7126, or Internet E-mail at agmain.rparker@state.ut.us.

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 10/05/1998



Agriculture and Food, Marketing and Conservation

R65-5

Utah Red Tart and Sour Cherry Marketing Order

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 21513
FILED: 10/05/1998, 12:24
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 4-2-2(1)(e) authorizes the department to issue marketing orders for any designated agricultural product.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Red Tart and Sour Cherry Marketing Order is established to set up a Board of Control and duties of the board.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: Agriculture and Food Marketing and Conservation 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: Randy Parker at the above address, by phone at (801) 538-7114, by FAX at (801) 538-7126, or Internet E-mail at agmain.rparker@state.ut.us.

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 10/05/1998



Agriculture and Food, Plant Industry

R68-5

Grain Inspection

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 21509
FILED: 10/05/1998, 09:32
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 4-2-2(2) authorizes the Department of Agriculture and Food to adopt a schedule of fees for services provided.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Establish a fee schedule for inspection and grading services provided by the department.

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: Dick Wilson at the above address, by phone at (801) 538-7180, by FAX at (801) 538-7126, or Internet E-mail at agmain.dwilson@state.ut.us.

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 10/05/1998



Agriculture and Food, Plant Industry

R68-9

Utah Noxious Weed Act

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 21510
FILED: 10/05/1998, 09:32
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 4-2-2 authorizes the Department of Agriculture and Food to administer and enforce rules, and Section 4-17-3 establishes the powers and duties for the department to control noxious weeds.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Establish a list of noxious weeds and rules to prevent the spread of noxious weeds within the state.

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:
Dick Wilson at the above address, by phone at (801) 538-7180, by FAX at (801) 538-7126, or Internet E-mail at agmain.dwilson@state.ut.us.

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 10/05/1998



Agriculture and Food, Plant Industry
R68-14
**Quarantine Pertaining to Gypsy Moth -
Lymantria Dispar**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 21511
FILED: 10/05/1998, 09:32
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: Sections 4-2-2 and 4-35-9 authorize the Department of Agriculture and Food 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: No comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Establish a quarantine to prevent the spread of Gypsy Moth within the state.

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:
Dick Wilson at the above address, by phone at (801) 538-7180, by FAX at (801) 538-7126, or Internet E-mail at agmain.dwilson@state.ut.us.

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 10/05/1998



**Health, Health Systems Improvement,
Primary Care and Rural Health**

R434-10

Rural Medical Financial Assistance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 21531
FILED: 10/08/1998, 18:06
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: The rule is required by Title 26, Chapter 9. The statute gives the responsibility to the committee to "make rules in accordance

with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement the provisions of this chapter," as per Subsection 26-9-204 (2)(f). The statute allows for the award of scholarships or loan repayment grants that are provided as a recruitment and retention incentive to an applicant selected to receive an award under this chapter. Applicants selected to receive an award under this chapter will fulfill a service obligation at a site designated by the committee as a medically underserved rural area and as underserved by physicians or physician assistants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review of the rule. The statutory committee has made recommendations in their statutory meetings for changes supporting the efforts of the program for inclusion in the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Title 26, Chapter 9 continues to be enacted and requires rules to implement the efforts and activities of the program.

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

Health
Health Systems Improvement,
Primary Care and Rural Health
Cannon Health Building
288 North 1460 West
PO Box 142005
Salt Lake City, UT 84114-2005, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Iona M. Thraen at the above address, by phone at (801) 538-6113, by FAX at (801) 538-6387, or Internet E-mail at None available at this time..

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 10/08/1998

◆ ————— ◆
**Natural Resources, Forestry, Fire and
State Lands**
R652-7
Public Petitions for Declaratory Orders

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE NO.: 21508
FILED: 10/02/1998, 09:21
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 63-46b-21(2) specifically requires agencies to issue rules regarding declaratory orders. This is a straight-forward requirement that needs no further explanation.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Although the Division's volume of business in declaratory orders is very low, continuation of the rule will provide consistency in processing requests for declaratory orders, and will maintain Division compliance with the statutory requirement for the rule.

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

Natural Resources
Forestry, Fire and State Lands
Room 3520
1594 West North Temple
PO Box 145703
Salt Lake City, UT 84114-5703, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jennifer M. Wilcox at the above address, by phone at (801) 538-5465, by FAX at (801) 533-4111, or Internet E-mail at nrsf.jwilcox@state.ut.us.

AUTHORIZED BY: Karl Kappe, Strategic Planner

EFFECTIVE: 10/02/1998

◆ ————— ◆
**Natural Resources, Forestry, Fire and
State Lands**
R652-110
Off-Highway Vehicle Designations

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE NO.: 21536
FILED: 10/13/1998, 10:09
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: This rule is enacted to comply with Section 41-22-10.1 which requires that off-highway vehicle designations will be made for all lands within the State. The Division of Forestry, Fire and State Lands has management authority for all sovereign lands, some of which are covered by water and some of which are high and dry.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Off-Highway Vehicle (OHV) use is allowed on some sovereign lands so the rule for management of OHV use is still needed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Forestry, Fire and State Lands
Room 3520
1594 West North Temple
PO Box 145703
Salt Lake City, UT 84114-5703, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jennifer M. Wilcox at the above address, by phone at (801) 538-5465, by FAX at (801) 533-4111, or Internet E-mail at nrsf.jwilcox@state.ut.us.

AUTHORIZED BY: Karl Kappe, Strategic Planner

EFFECTIVE: 10/13/1998



**Public Safety, Peace Officer Standards
and Training
R728-501
Career Development Courses**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 21539
FILED: 10/14/1998, 16:50
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 53-6-105 gives the Director rulemaking authority.

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: This rule governs the Peace Officer Standards and Training (POST) Career Development Program which is in place and actively being followed at the current time.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Public Safety
Peace Officer Standards and Training
4525 South 2700 West
Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve DeMille or Bonnie Braegger at the above address, by phone at (801) 965-4370 or (801) 965-4099, by FAX at (801) 965-4619, or Internet E-mail at psmain.bbraelge@state.ut.us.

AUTHORIZED BY: Steve DeMille, Deputy Director

EFFECTIVE: 10/14/1998



**End of the Five-Year Notices of Review
and Statements of Continuation**

NOTICES OF EXPIRED RULES

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63-46a-9 (1996). These rules have expired and have been removed from the *Utah Administrative Code*. The expiration of administrative rules for failure to comply with the five-year review requirement is governed by *Utah Code* Subsection 63-46a-9(8) (1996).

Commerce

Securities

No. 21507: R164-2. Investment Adviser - Unlawful Acts.

Enacted: 10/01/93 (No. 14721, Filed 08/02/93 at 3:45 p.m., Published 08/15/93)

Expired: 10/01/98

End of the Notices of Expired Rules Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. 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

Plant Industry

No. 21389 (AMD): R68-3. Utah Fertilizer Act Governing Fertilizers and Soil Amendments.
Published: September 15, 1998
Effective: October 16, 1998

Commerce

Occupational and Professional Licensing

No. 21405 (AMD): R156-44a. Nurse Midwife Practice Act Rules.
Published: September 15, 1998
Effective: October 22, 1998

No. 21390 (AMD): R156-49. Dietitian Rules.
Published: September 15, 1998
Effective: October 19, 1998

Education

Administration

No. 21342 (NEW): R277-106. Professional Practices Advisory Commission Appointment Process.
Published: September 1, 1998
Effective: October 5, 1998

No. 21343 (AMD): R277-437. Student Enrollment Options.
Published: September 1, 1998
Effective: October 5, 1998

No. 21344 (AMD): R277-444. Distribution of Funds to Arts and Sciences Organizations.
Published: September 1, 1998
Effective: October 5, 1998

No. 21345 (NEW): R277-452. Procedures for Filing Comprehensive Capital Outlay Plan.
Published: September 1, 1998
Effective: October 5, 1998

Environmental Quality

Air Quality

DAR correction notice: In the October 1, 1998, Bulletin, an effective notice for R307-409 was printed. This notice was actually for R307-406. R307-409 does not exist. The notice should have been:

No. 21143 (NEW): R307-406. Visibility.
Published: June 1, 1998
Effective: September 15, 1998

Environmental Response and Remediation

No. 21360 (AMD): R311-201. Underground Storage Tanks: Certification Programs.
Published: September 1, 1998
Effective: October 9, 1998

No. 21361 (AMD): R311-204. Underground Storage Tanks: Closure.
Published: September 1, 1998
Effective: October 9, 1998

No. 21362 (AMD): R311-205. Underground Storage Tanks: Site Assessment Protocol.
Published: September 1, 1998
Effective: October 9, 1998

No. 21363 (AMD): R311-206. Underground Storage Tanks: Financial Assurance Mechanisms.
Published: September 1, 1998
Effective: October 9, 1998

No. 21364 (AMD): R311-207. Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks.
Published: September 1, 1998
Effective: October 9, 1998

No. 21365 (AMD): R311-209. State Cleanup Appropriation.
Published: September 1, 1998
Effective: October 9, 1998

No. 21366 (AMD): R311-210. Administrative Procedures for Underground Storage Tank Act Adjudicative Proceedings.
Published: September 1, 1998
Effective: October 9, 1998

NOTICES OF RULE EFFECTIVE DATES

No. 21367 (AMD): R311-212. Administration of the Petroleum Storage Tank Loan Fund.
Published: September 1, 1998
Effective: October 9, 1998

Human Services

Administration, Administrative Services, Licensing
No. 21391 (AMD): R501-7. Rules for Child Placing Agencies.
Published: September 15, 1998
Effective: October 16, 1998

Recovery Services

No. 21352 (AMD): R527-201. Medical Support Services.
Published: September 1, 1998
Effective: October 16, 1998

Natural Resources

Wildlife Resources

No. 21414 (AMD): R657-5. Taking Big Game.
Published: September 15, 1998
Effective: October 16, 1998

No. 21400 (AMD): R657-9. Taking Waterfowl, Wilson's Snipe and Coot.
Published: September 15, 1998
Effective: October 16, 1998

No. 21401 (AMD): R657-10. Taking Cougar.
Published: September 15, 1998
Effective: October 16, 1998

No. 21402 (AMD): R657-44. Big Game Depredation.
Published: September 15, 1998
Effective: October 16, 1998

Tax Commission

Administration

No. 21321 (AMD): R861-1A-9. Tax Commission as Board of Equalization Pursuant to Utah Code Ann. Sections 59-2-212, 59-2-1003, and 59-2-1011.
Published: August 15, 1998
Effective: October 14, 1998

Auditing

No. 21322 (AMD): R865-6F-33. Taxation of Telecommunications Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.
Published: August 15, 1998
Effective: October 14, 1998

No. 21323 (AMD): R865-19S-20. Basis for Reporting Tax Pursuant to Utah Code Ann. Section 59-12-107.
Published: August 15, 1998
Effective: October 14, 1998

No. 21324 (AMD): R865-20T-10. Procedures for the Renewal and Reinstatement of License Issues Pursuant to Utah Code Ann. Section 59-14-202.
Published: August 15, 1998
Effective: October 14, 1998

Motor Vehicle

No. 21355 (AMD): R873-22M-11. Copies of Registration Cards Pursuant to Utah Code Ann. Section 41-1a-214.
Published: September 1, 1998
Effective: October 14, 1998

No. 21356 (AMD): R873-22M-40. Age of Vehicle for Purposes of Safety Inspection Pursuant to Utah Code Ann. Section 53-8-205.
Published: September 1, 1998
Effective: October 14, 1998

Property Tax

No. 21357 (AMD): R884-24P-33. 1998 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.
Published: September 1, 1998
Effective: October 14, 1998

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all changes to Utah's administrative rules from January 2, 1998, to the present (current as of October 25, 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).

DAR NOTE: Because of space constraints, the Keyword Index is not included in this *Bulletin*.

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	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-1	Public Petitions for Declaratory Orders	21435	5YR	09/11/98	98-19/104
R13-2	Access to Records	20537	NSC	01/06/98	Not Printed
R13-3	American With Disabilities Act Grievance Procedures	20631	5YR	01/08/98	98-3/89
<u>Administrative Rules</u>					
R15-4	Administrative Rulemaking Procedures	20976	AMD	07/01/98	98-9/3
R15-4-3	Publication Dates and Deadlines	20952	AMD	07/01/98	98-8/2
R15-5	Administrative Rules Adjudicative Proceedings	21393	5YR	08/21/98	98-18/49
R15-5	Administrative Rules Adjudicative Proceedings	21394	NSC	10/17/98	Not Printed
<u>Facilities Construction and Management</u>					
R23-4	Suspension/Debarment From Consideration for Award of State Contracts	20702	5YR	01/28/98	98-4/128
R23-5	Contingency Funds	20703	5YR	01/28/98	98-4/128

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-6	Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations	20704	5YR	01/28/98	98-4/129
R23-7	Utah State Building Board Policy Statement Master Planning	20705	5YR	01/28/98	98-4/129
R23-8	Planning Fund Use	20706	5YR	01/28/98	98-4/130
R23-9	Building Board State/Local Cooperation Policy	20707	5YR	01/28/98	98-4/130
R23-10	Naming of State Buildings	20708	5YR	01/28/98	98-4/131
R23-11	Facilities Allocation and Sale Procedures	20709	5YR	01/28/98	98-4/131
R23-12	State of Utah Parking Policy	21186	5YR	06/01/98	98-12/37
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	21150	5YR	05/15/98	98-11/200
R23-21	Division of Facilities Construction and Management Lease Procedures	20710	5YR	01/28/98	98-4/132
R23-24	Capital Projects Utilizing Non-appropriated Funds	20711	5YR	01/28/98	98-4/132
<u>Purchasing and General Services</u>					
R33-6	Modification and Termination of Contracts for Supplies and Services	21514	5YR	10/05/98	98-21/96
R33-7	Cost Principles	21515	5YR	10/05/98	98-21/96
R33-9	Insurance Procurement	21516	5YR	10/05/98	98-21/97
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	20931	5YR	03/19/98	98-8/63
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	21337	AMD	09/15/98	98-16/3
R58-18-9	Identification	21182	AMD	07/16/98	98-12/10
R58-19	Compliance Procedures	20279	NEW	01/05/98	97-24/12
<u>Marketing and Conservation</u>					
R65-2	Utah Cherry Marketing Order	21512	5YR	10/05/98	98-21/97
R65-5	Utah Red Tart and Sour Cherry Marketing Order	21513	5YR	10/05/98	98-21/98
R65-11	Utah Sheep Marketing Order	20699	NEW	03/19/98	98-4/8
<u>Plant Industry</u>					
R68-3	Utah Fertilizer Act Governing Fertilizers and Soil Amendments	21389	AMD	10/16/98	98-18/13
R68-5	Grain Inspection	21509	5YR	10/05/98	98-21/98
R68-9	Utah Noxious Weed Act	21510	5YR	10/05/98	98-21/98
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	21511	5YR	10/05/98	98-21/99

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	20838	5YR	03/05/98	98-7/72
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	20962	AMD	05/16/98	98-8/2
R68-15-1	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	21471	NSC	10/17/98	Not Printed
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R501-7	Rules for Child Placing Agencies	21391	AMD	10/16/98	98-18/21
R501-12	Foster Care Core Standards	21258	AMD	08/17/98	98-14/66
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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
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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
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R510-109	Definition of Significant Population of Older Native Americans	20641	5YR	01/08/98	98-3/102
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R510-200	Long-Term Care Ombudsman Program Policy	20643	5YR	01/08/98	98-3/103
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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
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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
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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
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R525-6	Weapons at the Utah State Hospital	20891	CPR	08/15/98	98-14/93
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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
R527-200	Administrative Procedures	21424	NSC	10/20/98	Not Printed
R527-201	Medical Support Services	21352	AMD	10/16/98	98-17/34
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
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R527-301	Non IV-D Income Withholding	20724	AMD	03/18/98	98-4/80
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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
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R590-186	Bail Bond Surety Business	21162	CPR	09/25/98	98-16/76
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R590-187	Assessment of Title Insurance Agencies and Title Insurers for Costs Related to Regulation of Title Insurance	21204	CPR	09/25/98	98-16/79
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R612-2-24	Review of Medical Payments	21537	NSC	10/22/98	Not Printed
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R651-211	Assigned Numbers	21407	NSC	10/20/98	Not Printed
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R651-301	State Recreation Fiscal Assistance Programs	21315	5YR	07/21/98	98-16/94
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R657-5	Taking Big Game	21414	AMD	10/16/98	98-18/23
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R657-9	Taking Waterfowl, Wilson's Snipe and Coot	21400	AMD	10/16/98	98-18/26
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R657-10	Taking Cougar	21401	AMD	10/16/98	98-18/29
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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
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R671-205	Credit for Time Served	20486	AMD	02/18/98	98-1/76
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R671-303	Offender Access to Information	20447	AMD	02/18/98	98-1/82
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R671-308	Offender Hearing Assistance	20453	AMD	02/18/98	98-1/84
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R671-311	Special Attention Hearings and Reviews	21200	NSC	06/17/98	Not Printed
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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
R671-312	Commutation Hearings for Death Penalty Cases	21313	NEW	09/15/98	98-16/49
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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
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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
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R710-3	Residential Care and Assisted Living Facilities	21290	AMD	09/01/98	98-15/44
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R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	21291	AMD	09/01/98	98-15/46
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R710-6	Liquefied Petroleum Gas Rules	21292	AMD	09/01/98	98-15/49
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R710-7	Concerns Servicing Automatic Fire Suppression Systems	21293	AMD	09/01/98	98-15/53
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R728-403	Qualifications For Admission To Certified Peace Officer Training Academies	20784	NSC	02/23/98	Not Printed
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R986-703	Child Care Programs	21285	AMD	10/01/98	98-15/74
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
R986-706	Provider Payment and Contracting	21286	AMD	10/01/98	98-15/75
R986-707	Eligibility	20760	5YR	02/06/98	98-5/79
R986-707	Eligibility	20876	NSC	04/01/98	Not Printed
R986-707	Eligibility	21287	AMD	10/01/98	98-15/77
R986-709	Cash Out Child Care Program	20877	NSC	04/01/98	Not Printed
R986-709	Cash Out Child Care Program	21288	REP	10/01/98	98-15/78

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Workforce Information and Payment Services</u>					
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)					
<u>Employment Development (Changed to Health Care Financing, Coverage and Reimbursement Policy -- 06/01/98)</u>					
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
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
R986-413	Program Standards	21496	EMR	10/01/98	98-20/35