

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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SPECIAL NOTICES

Transportation Administration

Request for Written Comment and Information on Tow Truck Rates

The Motor Carrier Division of the Utah Department of Transportation is requesting written comment from the public regarding the setting of maximum rates for the tow truck services regulated under Title 72, Chapter 9, Part 6, of the Utah Code.

Comments are due by May 1, 2002, and should be mailed to: Motor Carrier Division, Attn: TOW TRUCK COMMENTS, 4501 S 2700 W, P.O. BOX 148240, Salt Lake City, UT 84114-8420

Transportation Preconstruction, Right-of-Way Acquisition

Public Hearing on Amendment to Utah/Federal Agreement for the Control of Outdoor Advertising

On April 15, 2002, beginning at 6:00 p.m., and lasting until 8:30 p.m., the Utah Department of Transportation will be taking public comment on a proposal to amend the 1968 Agreement between the United States Department of Transportation and the State of Utah regarding the control of outdoor advertising. The proposed amendment follows:

AMENDMENT TO THE UTAH/FEDERAL AGREEMENT

The Utah/Federal Agreement For Carrying Out National Policy Relative to Control of Outdoor Advertising in Areas Adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System made and entered into on the 18th day of January, 1968, between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator and the State of Utah is proposed to be amended to read at Section III: STATE CONTROL, Paragraph 2.b. *Spacing of Signs* as follows:

The Utah/Federal agreement "For Carrying Out National Policy Relative to Control of Outdoor Advertising in Areas Adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System" made and entered into on the 18th day of January, 1968, between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator and the State of Utah has been amended to read at Section III: STATE CONTROL, Paragraph 2.b. *Spacing of Signs* as follows:

Outside of urbanized areas, as defined by 23 U.S.C. 101(a), no off-premise outdoor advertising structure may be located adjacent to or within 500 feet of an interchange, or intersection at grade, or rest area. Said 500 feet to be measured along the Interstate or freeway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

This Amendment to the Utah/Federal agreement shall become effective when signed and executed on behalf of both the State and the United States of America.

If you have any questions about the hearing or comments about the proposal before the meeting, please submit them in writing to: Jacqueline Nosack, Utah Department of Transportation, 4501 S 2700 W, P.O. Box 148420, Salt Lake City, UT 84114-8420

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between March 2, 2002, 12:00 a.m., and March 15, 2002, 11:59 p.m. are included in this, the April 1, 2002, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least May 1, 2002. 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 July 30, 2002, 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 (2001); 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.

**Administrative Services, Facilities
Construction and Management
R23-1-60
Construction Contract Clauses**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 24594
FILED: 03/15/2002, 12:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment updates the standard construction contract clauses that the state procurement code requires to be adopted by rule.

SUMMARY OF THE RULE OR CHANGE: The rule will incorporate by reference standard construction clauses that have been updated regarding the extension of the contract time and modification to the scope and cost of the contract.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63A, Chapter 5; Subsection 63-56-14(2); and Section 63-56-40

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Division of Facilities Construction and Management Required Construction Contract Clauses

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The revised contract clause provides greater clarity regarding the ability of a contractor to request time extensions and how modifications to the scope and cost of a contract will be addressed thus reducing the level of risk of unknown factors that would otherwise be assumed by a contractor and the state as they enter into a contract. This will reduce the level of cost increases and time extensions after the contract is awarded. This may result in small increases or decreases in the contractor's original bid depending on the circumstances of the project.

❖ **LOCAL GOVERNMENTS:** This rule does not affect local government.

❖ **OTHER PERSONS:** As noted above, under "State budget", the amendment clarifies and reduces the risks assumed by contractors building state facilities. It also allows contractors to address those risks in determining their bid amount.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As noted above, under "State budget", the amendment clarifies and reduces the risks assumed by contractors building state facilities. It also allows contractors to address those risks in determining their bid amount.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule amendment is beneficial to businesses as it improves their ability to predict their costs and risks when preparing their bids.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
ROOM 4110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kenneth Nye at the above address, by phone at 801-538-3284, by FAX at 801-538-3378, or by Internet E-mail at knye@drcm.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 PM on 05/01/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2002

AUTHORIZED BY: Joseph A. Jenkins, Director

R23. Administrative Services, Facilities Construction and Management.

R23-1. Procurement of Construction.

R23-1-60. Construction Contract Clauses.

(1) **Required Contract Clauses.** Pursuant to Section 63-56-40, the document entitled "Required Construction Contract Clauses", dated ~~January 13, 1995~~ January 28, 2002 and on file with the Division, is hereby incorporated by reference. Except as provided in Subsections R23-1-30(7) and R23-1-60(2), the Division shall include these clauses in all construction contracts for more than \$50,000.

(2) **Revisions to Contract Clauses.** The clauses required by this section may be modified for use in any particular contract when, pursuant to Subsection 63-56-40(5), the Director makes a written determination describing the circumstances justifying the variation or variations. Notice of any material variations from the contract clauses required by this section shall be included in any invitation for bids or request for proposals.

KEY: contracts, public buildings, procurement[±]

~~August 15, 2001~~ 2002

Notice of Continuation July 1, 1997

63A-5-103 et seq.

63-56-14(2)

63-56-20(7)

▼ ————— ▼
**Administrative Services, Fleet
Operations
R27-3
Vehicle Use Standards**

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE No.: 24578
 FILED: 03/12/2002, 13:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Legislative discussion has prompted Division of Fleet Operations management to make this change.

SUMMARY OF THE RULE OR CHANGE: Amended Section R27-3-11(2)(a) to require state employees to bring written approval to lease a 4x4 vehicle from the daily pool with them when picking up this type of vehicle. Nonsubstantive changes were also made to the title of this section.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63A-9-401(1)(c)(ii) and 63A-9-401(1)(c)(viii)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: By imposing additional requirements for the leasing of 4x4 SUVs, the Division hopes to reduce the number of unnecessary 4x4 leases. In the event that a lessor demands a 4x4, and the state daily pool does not have one available, the Division's contractor provides the vehicle at the rate of \$52 a day plus \$.10 per mile, far in excess of the daily pool rate of \$17.50 a day and \$.10 per mile. Unfortunately, the Division is unable to determine at this time how many 4x4 leases might be discouraged by this requirement.
- ❖ LOCAL GOVERNMENTS: None. Local governments are not bound by this rule.
- ❖ OTHER PERSONS: Cost for compliance with the added requirement would be covered by other budgets already in place.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost for compliance with the added requirement would be covered by other budgets already in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The state daily pool services only state agencies; private businesses do not lease vehicles from the pool. These additional requirements will, therefore, not have any fiscal impact on businesses.

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

ADMINISTRATIVE SERVICES
 FLEET OPERATIONS
 ROOM 4120 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alison Taylor at the above address, by phone at 801-538-3306, by FAX at 801-538-1773, or by Internet E-mail at ataylor@fo.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 PM on 05/01/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2002

AUTHORIZED BY: Steve Saltzgiver, Director

R27. Administrative Services, Fleet Operations.**R27-3. Vehicle Use Standards.****R27-3-1. Authority and Purpose.**

(1) This rule is established pursuant to Section 63A-9-401(1)(c)(ii) and Section 63A-9-401(1)(c)(viii), which authorize the Division of Fleet Operations (DFO) to establish the requirements for the use of state vehicles, including business and personal use practices, and commute standards.

(2) This rule defines the vehicle use standards for state employees while operating a state vehicle.

R27-3-2. Agency Contact.

(1) Each agency, as defined in Subsection 63A-9-101(a),(b) and (c), shall appoint and designate, in writing, a main contact person from within the agency to act as a liaison between the Division of Fleet Operations and the agency.

R27-3-3. Agency Authorization of Drivers.

(1) Agencies authorized to enter information into DFO's fleet information system shall, for each individual to whom the agency has granted the authority to operate a state vehicle, directly enter into DFO's fleet information system, the following information:

- (a) Driver's name and date of birth;
- (b) Driver license number;
- (c) State that issued the driver license;
- (d) Each Risk Management-approved driver training program(s) taken;
- (e) Date each driver safety program(s) was completed;
- (f) The type vehicle that each safety program is geared towards.

(2) Agencies without authorization to enter information into DFO's fleet information system shall provide the information required in paragraph 1 to DFO for entry into DFO's fleet information system.

(3) For the purposes of this rule, any individual whose fleet information system record does not have all the information required in paragraph 1 shall be deemed not to have the authority to drive state vehicles and shall not be allowed to drive either a monthly or a daily lease vehicle.

(4) To operate a state vehicle, individuals whose names have been entered into DFO's fleet information system as authorized drivers shall have:

- (a) a valid driver license for the type and class of vehicle being operated;
- (b) completed the driver safety course required by DFO and the Division of Risk Management for the type or class of vehicle being operated; and
- (c) met the age restrictions imposed by DFO and the Division of Risk Management for the type or class of vehicle being operated.

(5) Agencies shall develop and establish procedures to ensure that any individual listed as an authorized driver is not allowed to operate a state vehicle when the individual:

(a) does not have a valid driver license for the type or class of vehicle being operated; or

(b) has not completed all training and/or safety programs required by either DFO or the Division of Risk Management for the type or class of vehicle being operated; or

(c) does not meet the age restrictions imposed by either DFO or the Division of Risk Management for the type or class of vehicle being operated.

(6) A driver license verification check shall be conducted on a regular basis in order to verify the status of the driver license of each individual whose name appears in the DFO fleet information system as an authorized driver.

(7) In the event that an authorized driver is found not to have a valid driver license, the agency shall be notified, in writing, of the results of the driver license verification check.

(8) Any individual who has been found not to have a valid driver license shall have his or her authority to operate a state vehicle immediately withdrawn.

(9) Any individual who has been found not to have a valid driver license shall not have the authority to operate a state vehicle reinstated until such time as the individual provides proof that his or her driver license is once again valid.

(10) Authorized drivers shall operate a state vehicle in accordance with the restrictions or limitations imposed upon their respective driver license.

(11) Agencies shall comply with the requirements set forth in Risk Management General Rules, R37-1-8 (3) to R37-1-8 (9).

R27-3-4. Authorized and Unauthorized Use of State Vehicles.

(1) State vehicles shall only be used for official state business.

(2) Except in cases where it is customary to travel out of state in order to perform an employee's regular employment duties and responsibilities, the use of a state vehicle outside the State of Utah shall require the approval of the director of the department that employs the individual.

(3) Unless otherwise authorized, the following are examples of the unauthorized use of a state vehicle:

(a) Transporting family, friends, pets, associates or other persons who are not state employees or are not serving the interests of the state.

(b) Transporting hitchhikers.

(c) Transporting acids, explosives, weapons, ammunition, hazardous materials, flammable materials. The transport of the above-referenced items or materials is deemed authorized when it is specifically related to employment duties.

(d) Extending the length of time that the state vehicle is in the operator's possession beyond the time needed to complete the official purposes of the trip.

(e) Operating or being in actual physical control of a state vehicle in violation of Subsection 41-6-44(2), (Driving under the influence of alcohol, drugs or with specified or unsafe blood alcohol concentration), Subsection 53-3-231, (Person under 21 may not operate a vehicle with detectable alcohol in body), or an ordinance that complies with the requirements of Subsection 41-6-43(1), (Local DUI and related ordinances and reckless driving ordinances).

(f) Operating a state vehicle for personal use as defined in R27-1-2(30). Generally, except for approved personal uses set forth in R27-3-5 and when necessary for the performance of employment

duties, the use of a state vehicle for activities such as shopping, participating in sporting events, hunting, fishing, or any activity that is not included in the employee's job description, is not authorized.

(g) Using a state vehicle for personal convenience, such as when a personal vehicle is not operational.

(h) Pursuant to the provisions of R27-7-1 et[-] seq., the unauthorized use of a state vehicle may result in the suspension or revocation of state driving privileges.

R27-3-5. Personal Use Standards.

(1) Personal use of state vehicles is not allowed without the direct authorization of the Legislature. The following are circumstances where personal use of state vehicles are approved:

(a) Elected and appointed officials that receive a state vehicle as a part of their respective compensation package, and have been granted personal use privileges by state statute.

(b) Sworn law enforcement officers, as defined in Utah Code 53-13-103, whose agencies have received funding from the legislature for personal use of state vehicles.

(c) In an emergency, a state vehicle may be used as necessary to safeguard the life, health or safety of the driver or passenger.

(2) An employee or representative of the state spending at least one night on approved travel to conduct state business, may use a state vehicle in the general vicinity of the overnight lodging for the following approved activities:

(a) Travel to restaurants and stores for meals, breaks and personal needs;

(b) Travel to grooming, medical, fitness or laundry facilities; and

(c) Travel to and from recreational activities, such as to theaters, parks, or to the home of friends or relatives, provided said employee or representative has received approval for such travel from his or her supervisor.

(d) Pursuant to the provisions of R27-7-1 et[-] seq., the unauthorized personal use of a state vehicle may result in the suspension or revocation of state driving privileges.

R27-3-6. Application for Commute Use.

(1) Each petitioning agency shall submit a completed and agency approved commute form (MP-2) to DFO.

(2) Approval for commute privileges must be obtained from the director of the requesting agency before the commute form is submitted to DFO for tracking and reporting purposes.

(3) Commute use is considered a taxable fringe benefit. All approved commute use drivers will be assessed the IRS daily rate while using a state vehicle for commute use.

(4) For each individual with commute use privileges, the employing agency shall, pursuant to Division of Finance Policy FIACCT 10-01.00, prepare an Employee Reimbursement/Earnings Request Form and enter the amount of the commute fringe benefit into the payroll system on a monthly basis.

R27-3-7. Criteria for Commute Privilege Approval.

(1) Commute privileges are generally considered appropriate under the following circumstances:

(a) 24-hour "On-Call." Where the agency clearly demonstrates that the nature of a potential emergency is such that an increase in response time, if a commute privilege is not authorized, could endanger a human life or cause significant property damage. In the event that emergency response is the sole purpose of the commute privilege, each driver is required to submit a complete list of all call-

outs on the monthly DF-61 form, and to send copies to the Division of Fleet Operations. Approval for commute use under this subsection is effective for one (1) year only. A new application for commute use under this subsection must be submitted and approved annually for the commute use privilege to continue.

(b) Virtual office. Where an agency clearly demonstrates that an employee is required to work at home or out of a vehicle, a minimum of 80 percent of the time and the assigned vehicle is required to perform critical duties in a manner that is clearly in the best interest of the state.

(c) When the agency clearly demonstrates that it is more practical for the employee to go directly to an alternate work-site rather than report to a specific office to pick-up a state vehicle.

(d) When a vehicle is provided to appointed or elected government officials who are specifically allowed by law to have an assigned vehicle as part of their compensation package. Individuals using this criterion must cite the appropriate section of the Utah Code on the MP-2 form.

R27-3-8. Enforcement of Commute Use Standards.

(1) Agencies with drivers who have been granted commute privileges shall establish internal policies to enforce the commute use and personal use standards established in this rule. Agencies shall not adopt policies that are less stringent than the standards established in these rules.

(2) Commute use that is unauthorized shall result in the suspension or revocation of the commute use privilege. Additional instances of unauthorized commute use may result in the suspension or revocation of the state driving privilege.

R27-3-9. Use Requirements for Monthly Lease Vehicles.

(1) Agencies that have requested, and received monthly lease options on state vehicles shall:

(a) Ensure that only authorized drivers whose names and all other information required by R27-3-3(1) have been entered into DFO's fleet information system, completed all the training and/or safety programs, and met the age restrictions for the type of vehicle being operated, shall operate monthly lease vehicles.

(b) Report the correct odometer reading when refueling the vehicle. In the event that an incorrect odometer reading is reported, agencies shall be assessed a fee whenever the agency fails to correct the mileage within three (3) business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was a blatant disregard of the vehicle's actual odometer reading at the time of refueling, a fee shall be assessed to the agency even though the agency corrected the error within three (3) days of the notification.

(c) Return the vehicle in good repair and in clean condition at the completion of the replacement cycle period or when the vehicle has met the applicable mileage criterion for replacement, reassignment or reallocation.

(i) Agencies shall be assessed a detailing fee for vehicles returned that are in need of extensive cleaning.

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that is damaged when returned.

(d) Return the vehicle unaltered and in conformance with the manufacturer's specifications.

(e) Pay the applicable insurance deductible in the event that monthly lease vehicle in its possession or control is involved in an accident.

(f) Not place advertising or bumper stickers on state vehicles without prior approval of DFO.

(2) The provisions of Rule R27-4-6 shall govern agencies when requesting a monthly lease.

R27-3-10. Use Requirements for Daily Motor Pool Vehicles.

(1) DFO offers state vehicles for use on a daily basis at an approved daily rental rate. Drivers of a state vehicle offered through the daily pool shall:

(a) Provide DFO with at least 24 hours notice when requesting vehicles such as 15 passenger vans, sports utility vehicles and wheelchair accessible vehicles. Agencies should be aware that while DFO will attempt to accommodate all requests for vehicles, the limited number of vehicles in the daily pool not only requires that reservations be granted on a first come, first served basis, but also places DFO in a position of being unable to guarantee vehicle availability in some cases, even where the requesting driver or agency provides at least 24 hours notice.

(b) Be an authorized driver whose name and all other information required by R27-3-3(1) have been entered into DFO's fleet information system, completed all the training and/or safety programs, and met the age restrictions for the type of vehicle being operated. In the event that any of the information required by R27-3-3(1) has not been entered in DFO's fleet information system, the rental vehicle will not be released.

(c) Read the handouts, provided by DFO, containing information regarding the safe and proper operation of the vehicle being leased.

(d) Verify the condition of, and acknowledge responsibility for the care of, the vehicle prior to rental by filling out the MP-98 form provided by daily rental personnel.

(e) Report the correct odometer reading when refueling the vehicle at authorized refueling sites, and when the vehicle is returned. In the event that incorrect odometer reading is reported, agencies shall be assessed a fee whenever the agency fails to correct the mileage within three (3) business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was a blatant disregard of the vehicle's actual odometer reading at the time of refueling, a fee shall be assessed to the agency even though the agency corrected the error within three (3) days of the notification.

(f) Return vehicles with at least 3/4 tank of fuel left. In the event that the vehicle has less than 3/4 of a tank of fuel left, the driver shall, prior to returning the vehicle, refuel the vehicle. Agencies shall be assessed a fee for vehicles that are returned with less than 3/4 of a tank of fuel.

(g) Return rental vehicles in good repair and in clean condition.

(i) Agencies shall be assessed a detailing fee for vehicles returned that are in need of extensive cleaning.

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that is damaged when returned.

(h) Call to extend the reservation in the event that they need to keep rental vehicles longer than scheduled. Agencies shall be assessed a late fee, in addition to applicable daily rental fees, for vehicles that are not returned on time.

(i) Use their best efforts to return rented vehicles during regular office hours. Agencies may be assessed a late fee equal to one day's rental for vehicles that are not returned on time.

(j) Call the daily pool where they made reservations, at least one hour before the scheduled pick-up time, to cancel the reservation. Agencies shall be assessed a fee for any unused reservation that has not been canceled.

(k) Not place advertising or bumpers stickers on state vehicles without prior approval from DFO.

(2) The vehicle shall be inspected upon its return. The agency shall either be held responsible for any damages not acknowledged prior to rental, or any applicable insurance deductibles associated with any repairs to the vehicle.

(3) Agencies are responsible for paying all applicable insurance deductibles whenever a vehicle operated by an authorized driver is involved in an accident.

(4) The DFO shall hold items left in daily rental vehicles for ten days. Items not retrieved within the ten-day period shall be turned over to the Surplus Property Office for sale or disposal.

R27-3-11. Daily Motor Pool Van, Four Wheel Drive[~~s~~] Sport Utility Vehicle (4x4 SUV), and Wheel Chair Accessible Vehicle Lease Criteria.

(1) The standard state vehicle is a compact sedan, and shall be the vehicle type most commonly used when conducting state business.

(2) Requests for vehicles other than a compact sedan may be honored in instances where the agency and/or driver is able to identify a specific need.

(a) Requests for a four wheel drive sport utility vehicle (4x4 SUV) may be granted in the event that State business is being conducted in areas where off-road or underdeveloped road conditions exist. An employee who wishes to lease a 4x4 SUV must provide written approval from that employee's supervisor. The approval must document the location and off-road activity that would require the use of this type of vehicle. Neither adverse weather conditions nor the fact that state business is being conducted at the Utah State Surplus Property location in Draper, Ut., for the purposes of this section, are considered a specific need.

(b) Requests for a seven passenger van may be granted in the event that the driver is going to be transporting more than three authorized passengers.

(c) Requests for a fifteen (15) passenger van may be granted in the event that the driver is going to be transporting more than six authorized passengers. Under no circumstances shall the number of occupants exceed the maximum number recommended by the Division of Risk Management.

(3) Cargo vans shall be used to transport cargo only. Passengers shall not be allowed in cargo vehicles.

(4) Non-traditional (alternative) fuel shall be the primary fuel used when driving a bi-fuel state vehicle. Drivers shall make every effort to use an alternative fuel.

R27-3-12. Alcohol and Drugs.

(1) No authorized driver shall operate or be in actual physical control of a State vehicle in violation of subsection 41-6-44(2), any ordinance that complies with the requirements of subsection 41-6-43(1), or subsection 53-3-231.

(2) Any individual on the list of authorized drivers who is convicted of Driving Under the Influence of alcohol or drugs(DUI), Reckless Driving or any felony in which a motor vehicle is used, either on-duty or off-duty, may have his or her state driving privileges withdrawn, suspended or revoked.

(3) No operator of a state vehicle shall transport alcohol or illegal drugs of any type in a State vehicle unless they are:

(a) Sworn peace officers, as defined in Section 53-13-102, in the process of investigating criminal activities;

(b) Employees of the Alcohol Beverage Control Commission conducting business within the guidelines of their daily operations.

(4) Except as provided in paragraph 3, above, any individual who uses a state vehicle for the transportation of alcohol or drugs may have his or her state driving privileges withdrawn, suspended or revoked.

R27-3-13. Violations of Motor Vehicle Laws.

(1) Authorized drivers shall obey all motor vehicle laws while operating a state vehicle.

(2) Any authorized driver who, while operating a state vehicle, receives a citation for violating a motor vehicle law shall immediately report the receipt of the citation to their respective supervisor. Failure to report the receipt of a citation may result in the withdrawal, suspension or revocation of State driving privileges.

(3) Any driver who receives a citation for violating a motor vehicle law while operating a state vehicle shall attend an additional Risk Management-approved mandatory defensive driver training program. The failure to attend the additional mandatory defensive driver training program shall result in the loss of state driving privileges.

(4) Any driver who receives a citation for a violation of motor vehicle laws, shall be personally responsible for paying fines associated with any and all citations. The failure to pay fines associated with citations for the violation of motor vehicle laws may result in the loss of state driving privileges.

R27-3-14. Seat Restraint Use.

(1) All operators and passengers in State vehicles shall wear seat belt restraints while in a moving vehicle.

(2) All children being transported in State vehicles shall be placed in proper safety restraints for their age and size as stated in Subsection 41-6-148(20)(2).

R27-3-15. Driver Training.

(1) Any individual shall, prior to the use of a state vehicle, complete all training required by DFO or the Division of Risk Management, including, but not limited to, the defensive driver training program offered through the Division of Risk Management.

(2) Each agency shall coordinate with the Division of Risk Management, specialty training for vehicles known to possess unique safety concerns, like 15 passenger vans and sport utility vehicles.

(3) Each employee shall have all training certifications required by DFO or the Division of Risk Management, and their respective agency renewed bi-annually.

(4) Agencies shall maintain a list of all employees who have completed the training courses required by DFO, Division of Risk Management and their respective agency.

(5) Employees operating state vehicles must have the correct license required for the vehicle they are operating and any special endorsements required in order to operate specialty vehicles.

R27-3-16. Smoking in State Vehicles.

(1) All multiple-user state vehicles are designated as "nonsmoking". Agencies shall be assessed fees for any damage incurred as a result of smoking in vehicles.

(2) Agencies that allow smoking in exclusive use vehicles shall be responsible for the cost of necessary repairs to, or refurbishment of, any vehicle in which smoking has been permitted to insure that the vehicle is suitable for reassignment, reallocation or sale when the vehicle reaches the applicable replacement criteria.

KEY: state vehicle use
October 17, 2000
53-13-102
63A-9-401(1)(c)(viii)

▼ ————— ▼

Environmental Quality, Air Quality **R307-110-10**

Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24593
FILED: 03/15/2002, 12:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the State Implementation Plan for PM10 for Utah County to meet conformity requirements and allow transportation construction projects to go forward in Utah County.

SUMMARY OF THE RULE OR CHANGE: The State Implementation Plan for PM10 that was adopted in 1991 projected that the health standard for PM10 would not be violated from 1993 through 2003. The Plan has been successful and there have been no violations. After the Plan was written and approved by EPA, a federal requirement was added to require that plans include emission budgets for vehicles. Until the budget is added, no transportation projects can be undertaken in Utah County. The revised Plan includes transportation conformity budgets for PM10 and nitrogen oxides for vehicles for the years 2003, 2010 and 2020. Projections based on current planning factors derived from expected population increases show compliance with the health standard for those years. New tables are added with daily and annual emission limits for primary PM10, nitrogen oxides and sulfur dioxide for 5 large industrial sources in Utah County; those limits are the same limits currently included in their approval orders and operating permits. (See separate filing in this issue for R307-110-17 for emission limits for industrial sources of PM10 in Utah County.) (DAR Note: The amendment to R307-110-17 is found under DAR No. 24592 in this issue of the Bulletin.)

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No changes are expected in the state budget as a result of this change. For the Division of Air Quality, costs to enforce the SIP will not change. For the Utah Department of Transportation, the changes in the State Implementation Plan will allow Utah County transportation projects to be among those funded, and will allow UDOT to seek additional federal funding for those projects.

❖ LOCAL GOVERNMENTS: There may be small increases in paperwork costs for Provo City Power and Springville City Power, the only local governments affected by this change.

❖ OTHER PERSONS: There may be small increases in paperwork costs for the 5 sources with emission limits included in the Plan; for the 10 smaller sources whose emission limits are being removed from the Plan, there should be small decreases in paperwork costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be small increases in paperwork costs for the 5 sources with emission limits included in the Plan; for the 10 smaller sources whose emission limits are being removed from the Plan, there should be small decreases in paperwork costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This Plan allows transportation projects to be undertaken while still preserving compliance with the federal health standard for PM10. The 5 sources whose emission limits are included in this Plan may have very small additional costs for paperwork, while the 10 smaller sources whose limits are being removed may have small savings due to reduced paperwork.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at jmiller@deq.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/01/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/23/2002 at 1:30 PM, Large Conference Room at Mountainland Association of Governments, 586 E. 800 N, Orem..

THIS RULE MAY BECOME EFFECTIVE ON: 06/05/2002

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.**R307-110. General Requirements: State Implementation Plan.
R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.**

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on [February 5, 1997]June 5, 2002, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution,small business assistance program[[±]], particulate matter[[±]], ozone
[October 2, 2001]2002
Notice of Continuation June 2, 1997
19-2-104(3)(e)

▼ ————— ▼

Environmental Quality, Air Quality

R307-110-16

Section IX, Control Measures for Area and Point Sources, Part G, Fluoride

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24595

FILED: 03/15/2002, 12:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To delete this section and the Plan that it incorporates by reference.

SUMMARY OF THE RULE OR CHANGE: The Plan was written in the early 1980s to control fluoride emissions from one industrial source. The source has been dismantled and the Plan is no longer needed.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Section IX, Control Measures for Area and Point Sources, Part G, Fluoride.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No change because no supervision has been needed in recent years since the plant was dismantled.
- ❖ LOCAL GOVERNMENTS: No local governments are affected by this action.
- ❖ OTHER PERSONS: No persons are affected by deleting the Plan because the only regulated source has been out of business for many years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No persons are affected by deleting the Plan because the only regulated source has been out of business for many years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only source regulated by

the Plan has been out of business for many years, and thus there is no fiscal impact on any business.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at jmiller@deq.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/01/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/24/2002 at 1:30 PM, Room 201 DEQ Building, 168 N. 1950 West, Salt Lake City.

THIS RULE MAY BECOME EFFECTIVE ON: 05/13/2002

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.**R307-110. General Requirements: State Implementation Plan.
R307-110-16. (Reserved.)[Section IX, Control Measures for Area and Point Sources, Part G, Fluoride.]**

Reserved.[The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part G, Fluoride, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.]

KEY: air pollution,small business assistance program[[±]], particulate matter[[±]], ozone
[October 2, 2001]2002
Notice of Continuation June 2, 1997
19-2-104(3)(e)

▼ ————— ▼

Environmental Quality, Air Quality

R307-110-17

Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24592

FILED: 03/15/2002, 12:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the State Implementation Plan for Utah County to meet conformity requirements and qualify the County for transportation construction project funding.

SUMMARY OF THE RULE OR CHANGE: PM10 emission limits for the following sources are revised to reflect limits and conditions in current approval orders and operating permits: LaRoche Industries, Inc. (now operating as Geneva Nitrogen, Inc.), Geneva Rock Products in Orem, Geneva Steel, Provo City Power, and Springville City Power. The following sources are still regulated with emission limits and conditions in approval orders and operating permits, but their emission limits are removed from Part H.1 as their emissions are too small to directly affect attainment of the health standard: Bonneville Pacific Corporation; Brigham Young University heating plant; Fifteen Fifty Associates, LLC; A.P. Green (now operating as Utah Refractories); Heckett Engineering; Pacific States Cast Iron Pipe Company; Reilly Industries; Utah Power and Light Hale plant (now operating as PacifiCorp); West Rock in Highland; and West Rock in Pleasant Grove. (See separate filing in this issue for R307-110-10, the PM10 plan for Utah County.)

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No change in the state budget; enforcement costs for the State Implementation Plan remain the same.
- ❖ LOCAL GOVERNMENTS: The only affected local governments are Provo City and Springville City, as they operate their own power plants. The only change in costs is a small increase in paperwork.
- ❖ OTHER PERSONS: There may be a small increase in paperwork costs for the 5 large sources whose limits are included in the plan; for the 10 smaller sources whose emission limits are being removed from the plan, there should be small decreases in paperwork costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a small increase in paperwork costs for the 5 large sources whose limits are included in the plan; for the 10 smaller sources whose emission limits are being removed from the Plan, there should be small decreases in paperwork costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This Plan allows transportation projects to be undertaken and also preserves compliance with the federal health standard for PM10. The 5 large sources affected by this change may have a small increase in costs for paperwork, while 10 smaller sources no longer included in the plan should see a small savings due to reduced paperwork.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at jmiller@deq.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/01/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/23/2002 at 1:30 PM, Large Conference Room at the Mountainland Association of Governments, 586 E. 800 North in Orem.

THIS RULE MAY BECOME EFFECTIVE ON: 06/05/2002

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan. R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits, as most recently amended by the Utah Air Quality Board on [~~February 5, 1997~~] June 5, 2002, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, small business assistance program^[§], particulate matter^[§], ozone
~~October 2, 2001~~ 2002
Notice of Continuation June 2, 1997
19-2-104(3)(e)



Environmental Quality, Air Quality **R307-310**

Salt Lake County: Trading of Emission Budgets for Transportation Conformity

NOTICE OF PROPOSED RULE (New Rule)

DAR FILE No.: 24591
FILED: 03/15/2002, 12:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Establishes procedures for combining emissions budgets for PM10 and

nitrogen oxides in Salt Lake County for purposes of establishing that a transportation plan conforms with the state implementation plan (SIP) for particulate matter (PM10).

SUMMARY OF THE RULE OR CHANGE: The rule allows Wasatch Front Regional Council (WFRC), the agency responsible for determining transportation conformity for Salt Lake County, to add a portion of the PM10 budget defined in the existing PM10 SIP to the budget for nitrogen oxides when showing conformity for nitrogen oxides. WFRC anticipates that trading will be needed only in the near term because the long-term emission projections for nitrogen oxides are below the budgets established in the PM10 SIP. Documentation to demonstrate the relationship of PM10 and nitrogen oxides is being added to the existing technical support documentation for the PM10 SIP; the documentation is also available for public comment. The supporting documentation includes a plan for periodic review to ensure that unforeseen adverse effects do not occur due to implementation of this rule.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** No change is expected for the Division of Air Quality. For the Utah Department of Transportation, use of the procedures defined in R307-310 will allow Salt Lake County transportation projects to be among those funded, and will allow UDOT to seek additional federal funding for those projects.

❖ **LOCAL GOVERNMENTS:** The only affected local government is Salt Lake County, where there will be no gap in funding for transportation projects.

❖ **OTHER PERSONS:** No change, as there will be no lapse in funding for transportation projects in Salt Lake County.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No change, as there will be no lapse in funding for transportation projects in Salt Lake County.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Adding this rule allows continued funding of transportation projects in Salt Lake County.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at jmiller@deq.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/01/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/22/2002 at 1:30 PM, Room 201, DEQ Building at 168 N. 1950 West, Salt Lake City.

THIS RULE MAY BECOME EFFECTIVE ON: 05/13/2002

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-310. Salt Lake County: Trading of Emission Budgets for Transportation Conformity.

R307-310-1. Purpose.

This rule establishes the procedures that may be used to trade a portion of the primary PM10 budget when demonstrating that a transportation plan, transportation improvement program, or project conforms with the motor vehicle emission budgets in the Salt Lake County portion of Section IX, Part A of the State Implementation Plan, "Fine Particulate Matter (PM10)"

R307-310-2. Definitions.

The definitions contained in 40 CFR 93.101, effective as of July 1, 2001, are incorporated into this rule by reference. The following additional definitions apply to this rule.

"Budget" means the motor vehicle emission projections used in the attainment demonstration in the Salt Lake County portion of Section IX, Part A of the State Implementation Plan, "Fine Particulate Matter (PM10)."

"NOx" means oxides of nitrogen.

"Primary PM10" means PM10 that is emitted directly by a source. Primary PM10 does not include particulate matter that is formed when gaseous emissions undergo chemical reactions in the ambient air.

"Transportation Conformity" means a demonstration that a transportation plan, transportation improvement program, or project conforms with the emissions budgets in a state implementation plan, as outlined in 40 CFR, Chapter 1, Part 93, "Determining Conformity of Federal Actions to State or Federal Implementation Plans."

R307-310-3. Applicability.

(1) This rule applies to agencies responsible for demonstrating transportation conformity with the Salt Lake County portion of Section IX, Part A of the State Implementation Plan, "Fine Particulate Matter (PM10)."

(2) This rule does not apply to emission budgets from Section IX, Part D.2 of the State Implementation Plan, "Ozone Maintenance Plan."

(3) This rule does not apply to emission budgets from Section IX, Part C.7 of the State Implementation Plan, "Carbon Monoxide Maintenance Provisions."

R307-310-4. Trading Between Emission Budgets.

(1) The agencies responsible for demonstrating transportation conformity are authorized to supplement the budget for NOx with a portion of the budget for primary PM10 for the purpose of demonstrating transportation conformity for NOx. The NOx budget shall be supplemented using the following procedures.

(a) The metropolitan planning organization shall include the following information in the transportation conformity demonstration:

(i) The budget for primary PM10 and NOx for each required year of the conformity demonstration, before trading allowed by this rule has been applied;

(ii) The portion of the primary PM10 budget that will be used to supplement the NOx budget, specified in tons per day using a 1:1 ratio of primary PM10 to NOx, for each required year of the conformity demonstration;

(iii) The remainder of the primary PM10 budget that will be used in the conformity demonstration for primary PM10, specified in tons per day for each required year of the conformity demonstration; and

(iv) The budget for primary PM10 and NOx for each required year of the conformity demonstration after the trading allowed by this rule has been applied.

(b) Transportation conformity for NOx shall be demonstrated using the NOx budget supplemented by a portion of the primary PM10 budget as described in (a)(ii). Transportation conformity for primary PM10 shall be demonstrated using the remainder of the primary PM10 budget described in (a)(iii).

(c) The primary PM10 budget shall not be supplemented by using a portion of the NOx budget.

KEY: air pollution, transportation conformity, PM10
2002
19-2-104

Insurance, Administration **R590-78** Exchange Traded Options

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 24538

FILED: 03/04/2002, 10:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Accounting Practices and Procedures Manual, SSAP 31, noted in Subsection 31A-17-201(2)(a), provides more detail for the procedures to be followed in admitting the assets of an insurance company, therefore, Rule R590-78 is no longer needed.

SUMMARY OF THE RULE OR CHANGE: It is suggested that this rule be repealed since Subsection 31A-17-201(2)(a) gives greater detail for the procedures to be followed in admitting the assets of an insurance company.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-18-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The repeal of this rule will have no fiscal impact on the state's budget. The department will still need to examine companies to see that they follow the guidelines in the Accounting Policies and Procedures Manual noted in Subsection 31A-17-201(2)(a).

❖ LOCAL GOVERNMENTS: This rule change will not affect local government since the rule is regulated by a state government agency and relates only to that relationship.

❖ OTHER PERSONS: The requirements in Section 31A-17-201 are already being followed by insurers with no additional financial impact over what was required in Rule R590-78.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The requirements in Section 31A-17-201 are already being followed by insurers with no additional financial impact over what was required in Rule R590-78.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of Rule R590-78 will have no fiscal impact on the insurance industry or any other business in Utah.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.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 PM on 05/01/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

~~[R590-78. Exchange Traded Options.~~

~~R590-78-1. Authority.~~

~~—Section 31A-2-201 empowers the Commissioner of Insurance to make reasonable rules necessary for, or as an aid to, the effectuation of any provisions of the Insurance Code. Subsection 31A-18-105(13) gives the commissioner authority to write a rule listing other investments than those listed as authorized investments in the Insurance Code.~~

~~—It is the purpose of this rule to establish procedures and guidelines for all domestic insurance companies with respect to the sale and purchase of exchange traded call options.~~

~~R590-78-2. Definitions.~~

~~—The following words and terms, when used in this rule, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~—1. "Call Option" means an option contract or contracts, under which the holder of the option has the right, under the terms of the option, to purchase a specified number of shares or other units of the~~

underlying security covered by the option at a specified price per share or unit prior to the fixed expiration time of the option.

— 2. "Exchange" means a national securities exchange registered under the Securities Exchange Act of 1934, as amended, whose rules respecting transactions in options have been approved pursuant to Section 19(b) of this Act.

— 3. "Exchange Traded" means traded on the floor of an exchange.

— 4. "Security or Securities" means a security or securities authorized to be acquired and owned by a domestic insurance company under the applicable provisions of the Utah Insurance Code.

— 5. "Exercise Price" means the price per share or unit for which the holder of a call option may purchase the underlying security upon exercise of the option.

— 6. "Escrow Receipt" means a receipt issued to the Options Clearing Corporation with respect to the escrowed security held on deposit by a bank, trust company or other custodian approved by The Options Clearing Corporation for that purpose.

— 7. "Escrowed Security" means a security with respect to which an escrow receipt has been issued.

— 8. "Closing Purchase Transaction" means the purchase on an exchange, but not otherwise, of an exchange traded call option of the same series as an option previously sold, the effect of which is to reduce or terminate the obligation of an exchange traded call option seller with respect to the option previously sold.

— 9. "Class of Options" means options covering the same underlying security.

— 10. "Series of Options" means options of the same class having the same exercise price and expiration time.

R590-78-3. Transactions in Exchange Traded Call Options.

— A domestic insurance company can engage in the following transactions in call options on an exchange but not otherwise, and solely in accordance with the rules of the exchange on which these transactions take place:

— 1. the sale of exchange traded call options solely with respect to securities owned by it; and

— 2. the purchase of exchange traded call options solely in closing purchase transactions.

— A domestic insurance company cannot engage in any other exchange traded options transactions.

R590-78-4. Procedure for Selling Call Options.

— The following procedures shall be followed with respect to the sale of exchange traded call options by domestic insurers:

— Any domestic insurance company selling or intending to sell a call option shall enter into an agreement with the bank, trust company or other custodian with which the security underlying any such call option is or is to be deposited for issuance of an escrow receipt and a copy of the escrow receipt identifying the deposited securities with particularity and setting forth the terms of the option with respect to which the escrow receipt is issued shall be maintained by the insurance company and the escrow receipt shall be produced for inspection upon the request of the Insurance Commissioner.

R590-78-5. Accounting for Transactions.

— A domestic insurance company which engages in exchange-traded options transactions shall keep its books and records on a basis which clearly shows the nature and amount of each transaction

and is consistent with the provisions of the Internal Revenue Code as amended from time to time, and the tax regulations and rulings issued from time to time by the Internal Revenue Service of the United States, relating to the exchange traded options transactions.

R590-78-6. Valuation.

— Securities against which an exchange traded call option has been sold shall be valued at the lesser of the exercise price specified in the option contract or the market value of the securities at the date of valuation.

R590-78-7. Specific Requirements.

— 1. Each option transaction shall reflect prudent judgment and shall have a rationale related to conservative management of assets rather than speculation.

— 2. The domestic insurance company shall establish and maintain records as to each transaction.

R590-78-8. Severability.

— If any provision of this rule or its application to any person or situation is held invalid, this invalidity may not affect any other provision or application of the rule which can be given effect without the invalid provision or application and to this end the provisions of this rule are declared to be severable.

**KEY: insurance law
1994**

**Notice of Continuation March 19, 1997
31A-2-201
31A-18-105]**



Insurance, Administration **R590-131** Disability Coordination of Benefits Rule

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 24597
FILED: 03/15/2002, 16:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are being made to satisfy consumer complaints about the rule and to bring it up-to-date with current living standards.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "Disability" is replaced with "Accident and Health." Section R590-131-3, Definitions, makes changes to the way it is formatted, and also adds definitions for "Birthday", "Continuation Coverage", and makes changes to the definitions of "Plan" and "Primary Plan"; will require insurers to coordinate benefits after statutory personal injury protection limit has been met. Section R590-131-4, Rules for Coordination of Benefits, applies coordination procedures for unmarried couples living together or apart. Section R590-131-6, Miscellaneous Provisions, removes COBRA as secondary payor on a health policy; complies with Section 31A-26-301.6, the prompt pay code requirement, allows contracted providers

18 months to collect overpayments; department exemption to claim payment guidelines and timetable expressed under Section 31A-26-301.6 - Health care provider and claims practices, and Rule R590-192 - Unfair Health and Disability Claims Settlement Practices, for secondary coordination of benefit payors. Section R590-131-9, Enforcement Date, allows insurers affected by this rule, 45 days to implement changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-21-307

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Approximately 700 health insurers will need to refile their coordination of benefit policy forms with the department. The filing fee is \$25 per filing. The department will not need to hire additional help to process these filings.
- ❖ LOCAL GOVERNMENTS: This rule change will not affect local government since the rule is regulated by a state government agency and relates only to that relationship.
- ❖ OTHER PERSONS: Approximately 700 health insurers will need to refile their coordination of benefit forms with the department at a filing cost of \$25. These insurers will have to increase coordination of benefits payments to their insureds or provide the insured with credits for deductibles, copayments and coinsurance. This should not affect premiums.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Approximately 700 health insurers will need to refile their coordination of benefit forms with the department at a filing cost of \$25. These insurers will have to increase coordination of benefits payments to their insureds or provide the insured with credits for deductibles, copayments and coinsurance. This should not affect premiums.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost of complying with these changes will be minimal to the licensed health insurers in Utah.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.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 PM on 05/01/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/17/2002 at 10:00 AM, State Office Building, Room 1112, Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-131. ~~[Disability]~~ Accident and Health Coordination of Benefits Rule.

R590-131-1. Authority.

This rule is adopted and promulgated pursuant to Subsection 31A-2-201(3)(a) and Section 31A-22-619.

R590-131-2. Purpose.

The purpose of this rule is to:

- A. permit, but not require, plans to include a coordination of benefits, or COB, provision;
- B. establish an order of priority in which plans pay their COB claims;
- C. provide the authority for the orderly transfer of information needed to pay COB claims promptly;
- D. reduce duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan, pursuant to this rule, does not have to pay its benefits first;
- E. reduce COB claims payment delays; and
- F. make all contracts that contain a COB provision consistent with this rule.

R590-131-3. Definitions.

A. "Allowable Expense" means:

1. The amount on which a plan would base its benefit payment for covered services in the absence of any other coverage.
2. When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered as both an allowable expense and a benefit paid.
3. The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an allowable expense under the above definition unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.
4. When COB is restricted in its use to a specific coverage in a contract, for example, major medical or dental, the definition of allowable expense must include the corresponding expenses or services to which COB applies.

B. "Birthday" refers only to month and day in a calendar year, not the year in which the person was born.

C. "Claim" means a ~~[Claim-A]~~ request that benefits of a plan be provided or paid ~~[is a claim]~~. The benefits claimed may be in the form of:

1. services (including supplies);
2. payment for all or a portion of the expenses incurred;
3. a combination of (1) and (2) above; or
4. an indemnification.

D. "Continuation Coverage" means coverage provided under right of continuation pursuant to federal (COBRA) or state law (State Extension). For the purposes of this rule, a person's eligibility status will maintain the same classification under continuation coverage.

~~[C. Coordination of Benefits or COB is]~~ E. "Coordination of Benefits" or "COB" means the process of determining which of two or more ~~[disability]~~ accident and health insurance policies, or other

policies specifically included in this rule, covering a loss or claim, will have the primary responsibility to pay the loss or claim, and also the manner and extent to which the other policies shall pay or contribute.

~~[D. Custodial Parent]~~ F. "Custodial Parent" means the parent awarded custody of a child by a court decree. In the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation, is the custodial parent.

~~[E. Hospital]~~ G. "Hospital Indemnity Benefits" ~~Means~~ Benefits means benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to the insured the right to elect indemnity-type benefits at the time of claim.

~~[F. Noncomplying Plan]~~ H. "Noncomplying Plan" means a plan that is not subject to this Rule.

~~[G. Plan Plan]~~ I. "Plan" means a form of coverage with which coordination is allowed. The definition of plan in the contract must state the types of coverage, which will be considered in applying the COB provision of that contract.

~~[1. Any definition that satisfies this Subsection, R590-131-3-G., may be used.~~

~~2].~~ This rule uses the term plan. However, a contract may, instead, use "Program" or some other term.

~~[3]~~ 2. Plan shall include:

a. individual, group, or HMO health insurance contracts providing hospital expense or medical surgical expense benefits, except those explicitly excluded under Subsection R590-131-~~[3-G-4]~~ 3.1.3.;

b. group, group-type, and individual automobile "no-fault" medical payment contracts (after statutory PIP limit 31A-22-306 through 309); and

c. Medicare or other governmental benefits, except as provided in Subsection R590-131-~~[3-G-4-f]~~ 3.1.3.f. below. That part of the definition of plan may be limited to the hospital, medical, and surgical benefits of the governmental program.

~~[4]~~ 3. Plan may not include:

- a. hospital indemnity coverage;
- b. disability income protection coverage;
- c. accident only coverage;
- d. specified disease or specified accident coverage;
- e. nursing home and long-term care coverage;
- f. a state plan under Medicaid, and may not include a law or plan when, by state or federal law, its benefits are in excess of those of any private insurance plan or other non-governmental plan; and
- g. Medicare supplement policies.

~~[H. Primary Plan. A primary plan is]~~ J. "Primary Plan" means a plan whose benefits for a person's health care coverage must be determined first according to R590-131-4 B. ~~[There may be more than one primary plan, for example, two plans which have no order of benefit determination rules.]~~ A plan is a primary plan if either of the following conditions is true:

1. the plan has no order of benefit determination;
2. all plans which cover the person use the order of benefit determination provisions of this rule and under those requirements the plan determines its benefits first.

~~[I. Secondary Plan. A secondary plan is one]~~ K. "Secondary Plan" means a plan, which is not a primary plan. If a person is covered by more than one secondary plan, the order of benefit determination rules of this rule decides the order in which their benefits are determined in relation to each other. The benefits of

each secondary plan may take into consideration the benefits of the primary plan or plans and the benefits of any other plan, which, under the provisions of this rule, has its benefits determined before those of that secondary plan.

R590-131-4. Rules for Coordination of Benefits.

A. General Rules:

1. The primary plan must pay or provide its benefits as if the secondary plans or plan did not exist. A plan that does not include a coordination of benefits provision may not take the benefits of another plan into account when it determines its benefits.

2. A secondary plan may take the benefits of another plan into account only when, under these rules, it is secondary to that other plan.

B. Determining Order of Benefits. Each plan determines its order of benefits using the first of the following rules which ~~[applies]~~ apply:

1. The ~~[benefits of the]~~ plan benefits covering ~~[which covers]~~ the person as an employee, member or subscriber, ~~[that is, other than as a dependent,]~~ are determined before those of the plan ~~[which covers]~~ covering the person as a dependent.

2. Dependent Child/Parents ~~[Not Separated or Divorced]~~ Married or Living Together. The rules for the order of benefits for a dependent child when the parents are ~~[not separated or divorced]~~ married or living together are as follows.

a. The benefits of the plan of the parent whose birthday falls earlier in the calendar year are determined before those of the plan of the parent whose birthday falls later in the year.

b. If both parents have the same birthday, the benefits of the plan, which covered the parent longer, are determined before those of the plan which covered the other parent for a shorter period of time.

c. If the other plan, R590-131-~~[3-G-3-]~~ 3.1.2b, does not have the rule described in R590-131-4.B.1[-], 2 and 3, but instead has a rule based upon another order, and if, as a result, the coordinating plans do not agree on the order of benefits, the rule of the ~~[noncomplying]~~ other plan will determine the order of benefits.

~~[The word "birthday" refers only to month and day in a calendar year, not the year in which the person was born.~~

~~A contract which includes COB and which is issued or renewed, or which has an anniversary date on or after January 1, 1986 shall include the substance of the provisions in Subsections R590-131-4.B.1., 2, and 3 of this rule.~~

~~3. Dependent Child/Separated or Divorced Parents]~~ 3. Dependent Child/Parents Separated, Divorced or Not Living Together. If two or more plans cover a person as a dependent child of divorced ~~[or]~~, separated ~~[parents]~~ or not living together, benefits for the child are determined in the following order:

a. first, the plan of the custodial parent ~~[with custody]~~ of the child;

b. then, the plan of the spouse of the custodial parent ~~[with custody]~~ of the child; and

c. finally, the plan of the ~~[parent not having custody of the child]~~ non-custodial parent.

i. If the specific terms of a court decree state that one of the parents is responsible for the child's health care expenses or health insurance coverage, and the plan of that parent has actual knowledge of those terms, that plan is primary. If the parent with ~~[financial]~~ responsibility has no coverage for the child's health care services or expenses, but that parent's spouse does, the spouse's plan is primary.

This subparagraph shall not apply with respect to any claim

determination period or plan year during which benefits are paid or provided before the entity has actual knowledge.

ii. If the specific terms of a court decree state that the parents have joint custody, without stating that one of the parents is responsible for the health care expenses or health insurance coverage of the child and the child's residency is split between the parents, the order of benefit determination rules outlined in Subsection R590-131-4 B.2. Dependent Child/Parents Not Separated or Divorced shall apply. This subparagraph shall not apply with respect to any claim determination period or plan year during which benefits are paid or provided before the entity has actual knowledge.

d. If ~~[the parents are not married or are separated, whether or not they ever were married, or are divorced, and]~~ there is no court decree allocating responsibility for the child's health care services or expenses, the order of benefit determination among the plans of the parents and the parents' spouses, if any, is:

- i the plan of the custodial parent;
- ii the plan of the spouse of the custodial parent;
- iii the plan of the ~~[noncustodial]~~ non-custodial parent; and then
- iv the plan of the spouse of the ~~[noncustodial]~~ non-custodial parent.

4. Active/Inactive Employee, Member or Subscriber. The benefits of a plan which covers a person as an ~~[employee who is neither laid off nor retired,]~~ active employee, member, and subscriber or as that employee's dependent, are determined before those of a plan which ~~[covers]~~ cover that person as ~~[a laid off or retired]~~ an inactive employee, member, or subscriber, or as that employee's dependent. If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this provision is ignored.

5. Longer/Shorter Length of Coverage. If none of the above rules ~~[determines]~~ determine the order of benefits, the benefits of the plan which covered an employee, member, or subscriber longer are determined before those of the plan which covered that person for the shorter term.

a. To determine the length of time a person has been covered under a plan, two plans shall be treated as one if the claimant was eligible under the second within 24 hours after the first ended.

- b. The start of a new plan does not include:
- i. a change in the amount or scope of a plan's benefits;
 - ii. a change in the entity which pays, provides or administers the plan's benefits; or
 - iii. a change from one type of plan to another, such as, from a single employer plan to that of a multiple employer plan.

c. The claimant's length of time covered under a plan is measured from the claimant's first date of coverage under that plan. If that date is not readily available, the date the claimant first became a member of the group shall be used as the date from which to determine the length of time the claimant's coverage under the present plan has been in force.

R590-131-5. Procedure to be Followed by Secondary Plan.

A. When it is determined, pursuant to Section R590-131-4 that the plan is a secondary plan, benefits may be reduced as follows:

1. when one of the plans has contracted for discounted provider fees, the secondary plan may limit payment to any copayments and deductibles owed by the insured after payment by the primary plan; or

2. if none of the plans have contracted for discounted provider fees, the secondary plan may reduce its benefits so that total benefits

paid or provided by all plans for a covered service are not more than the highest allowable expense of any of the plans for that service.

B. The secondary plan must calculate the amount of benefits it would normally pay in the absence of coordination, including the application of credits to any policy maximums, and apply the payable amount to unpaid covered charges owed by the insured member after benefits have been paid by the primary plan. This amount must include deductibles, coinsurance and copays left owing by the insured member. The secondary plan can use its own deductibles, coinsurance and copays to figure the amount it would have paid in the absence of coordination, and a secondary plan is not required to pay a higher amount than what they would have paid in the absence of coordination. A secondary plan shall only apply its own deductibles, coinsurance and copays to the total allowable expenses, not to the amount left owing after payment by any primary plans.

Insurers must coordinate with plans listed under Subsection R590-131.3.I.2.b. with the same provisions under Subsection R590-131.5.B.

C. Nothing in this rule is intended to require a secondary plan to make payment for any service that is not covered as a benefit by the secondary plan.

R590-131-6. Miscellaneous Provisions.

A. Reasonable Cash Value of Services. A secondary plan which provides benefits in the form of services may recover the reasonable cash value of providing the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this provision may be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan which provides benefits in the form of services.

B. Excess and Other Nonconforming Provisions.

1. No policy, or plan as defined by this rule, may contain a provision that its benefits are "excess" or "always secondary" to any other plan or policy. ~~[However, a COBRA or state extension of benefits plan which covers a person as a former employee, a dependent of a former employee, or a former dependent of an employee is a secondary plan.]~~

2. A plan with order of benefit determination rules which comply with this rule, which is called a complying plan, may coordinate its benefits with a plan which is "excess" or "always secondary" or which uses order of benefit determination rules which are inconsistent with those contained in this rule, which is called a noncomplying plan, on the following basis:

a. if the complying plan is the primary plan, it shall pay or provide its benefits on a primary basis;

b. if the complying plan is the secondary plan, it shall pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the complying plan were the secondary plan. In such a situation, such payment shall be the limit of the complying plan's liability; and

c. if the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall assume that the benefits of the noncomplying plan are identical to its own, and shall pay its benefits accordingly. However, the complying plan shall adjust any payments it makes based on such assumption whenever information becomes available as to the actual benefits of the noncomplying plan.

3. If the noncomplying plan reduces its benefits so that the employee, subscriber, or member receives less in benefits than he or she would have received had the complying plan paid or provided its benefits as the secondary plan and the noncomplying plan paid or provided its benefits as the primary plan and governing state law allows the right of subrogation set forth below, then the complying plan shall advance to or on behalf of the employee, subscriber, or member an amount equal to such difference.

a. In no event may the complying plan advance more than the complying plan would have paid had it been the primary plan, less any amount it previously paid.

b. In consideration of such advance, the complying plan shall be subrogated to all rights of the employee, subscriber, or member against the noncomplying plan.

C. Allowable Expense. A term such as "usual and customary," "usual and prevailing," or "reasonable and customary," may be substituted for the term "necessary, reasonable and customary." Terms such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the COB provisions apply.

D. Subrogation. The COB concept clearly differs from that of subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

E. Right To Receive and Release Needed Information. Certain facts are needed to apply these COB rules. An insurer has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person. An insurer need not tell, or get the consent of, any person to do this. Each person claiming benefits under a plan shall give the insurer any facts it needs to pay the claim.

F. Facility of Payment. A payment made under another plan may include an amount which should have been paid under the plan. If it does, the insurer may pay that amount to the organization which made that payment. That amount will then be treated as though it were a benefit paid under the plan. The insurer will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

G. Right of Recovery. If the amount of the payments made by an insurer is more than it should have paid under the provisions of this rule, it may recover the excess from one or more of the following:

1. The insurer may recover from ~~the persons it has paid or for whom];~~

a. the insured it has paid. However, reversals of payments made due to issues related to coordination of benefits are limited to a time period of 120 days from the date a payment is made unless the reversal is due to fraudulent acts, fraudulent statements, or material misrepresentation by the insured.

~~Reversals of payments made to providers of service in instances where the provider is prevented from billing insureds are not subject to this time limit]~~

b. the non-contracted provider it has paid. It is the insurers responsibility to see that the proper adjustments between ~~carriers]~~insurers and providers are made. ~~Agreements between carriers or carriers and their contracted providers regarding]~~However, reversals of payments made due to issues related to coordination of benefits [adjustments that would not result in a provider billing an insured, or would not involve an insured

~~other than notification to an insured regarding the order of coordination of benefits for future benefit payments, are not subject to a time limit]are limited to a time period of 120 days from the date a payment is made unless the reversal is due to fraudulent acts, fraudulent statements, or material misrepresentation by the insured.~~
c. contracted providers it has paid . Subject to 31A-26-301.6(15)(a)(i)(ii) (iii).

2. The insurer may recover from insurance companies. or

3. The insurer may recover from other organizations.

H. The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

I. A plan, whether primary or secondary, may not be required to pay a greater total benefit than would have been required had there been no other plan.

J. ~~[A plan may include in its contract a provision to the effect that when the covered person is required by Section 41-12a-301 to have insurance in effect, the plan may exclude charges for that covered person up to the minimum coverage required by Sections 31A-22-306 through 309 before calculating benefits payable, whether or not such coverage is in effect.]Exception to claim payment guidelines and timetables expressed under 31A-26-301.6 and R590-192-7, for coordination of benefit claims are allowed by the secondary plan if:~~

1. The secondary plan has proof that they are the secondary plan; and

2. A claim is submitted without an explanation of benefits from the primary plan.

R590-131-7. Penalties.

Any insurer, which fails to comply with the provisions of this rule, shall be subject to the forfeiture and penalty provisions of Section 31A-2-308.

R590-131-8. Separability.

If any provision of this rule or the application of it to any person is for any reason held to be invalid, the remainder of the rule and the application of any provision to other persons or circumstances, may not be affected.

R590-131-9. ~~Existing Contracts~~ Enforcement Date.

~~[A. This rule is applicable to group contract which provides health care benefits and is issued on or after the effective date.~~

~~B. Contracts issued prior to the effective date of this rule shall be brought into compliance with this rule on the next anniversary date of the contract if benefits or premiums are changed.]The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date. Non-revised provisions are enforceable as of the effective date.~~

KEY: insurance law

~~June 29, 2000~~2002

Notice of Continuation December 3, 1997

31A-2-201

31A-21-307



Pardons (Board Of), Administration
R671-305
 Notification of Board Decision

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 24568
 FILED: 03/08/2002, 08:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: For clarification of the process.

SUMMARY OF THE RULE OR CHANGE: Vague wording has been removed or changed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-9.7

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None. The changes are wording changes only and have no effect on the process outcome or the cost.
- ❖ LOCAL GOVERNMENTS: None. The changes are wording changes only and have no effect on the process outcome or the cost.
- ❖ OTHER PERSONS: None. The changes are wording changes only and have no effect on the process outcome or the cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None. The changes are wording changes only and have no effect on the process outcome or the cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None. This is a housekeeping change with no additional fiscal impact.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 ROOM 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson.bpmain@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 PM on 05/01/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-305. Notification of Board Decision.
R671-305-1. Notification of Board's Decision.

The decision of the Board will be reached by a majority vote and reduced to writing, including a [general statement of] rationale for the decision. Copies of the written decision are [given] sent to the offender, the institution and Field Operations. The Board will publish written results of Board decisions.

The Board should be reasonably assured that the offender has been notified before the information [has been] is released [for] to the public [dissemination].

KEY: government hearings
[February 18, 1998] 2002
77-27-9.7



Regents (Board Of), University of Utah,
 Parking and Transportation Services
R810-5
 Permit Types, Eligibility and Designated
 Parking Areas

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 24588
 FILED: 03/14/2002, 15:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change reflects changes made in the permit types available.

SUMMARY OF THE RULE OR CHANGE: The car pool permit has been deleted, the S permit has been replaced with zone decals attached to the other University permits for students residing in on-campus housing, some terrace parking permits have been changed to be lot specific.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53B-3-103 and 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Permit fees are not affected by this rule. The restructuring of permit types and the removal of one permit category do not materially affect the state budget.
- ❖ LOCAL GOVERNMENTS: None--Costs for permits that might be purchased by local government representatives have not been changed by this rule. The restructuring of permit types and the removal of one permit category do not materially affect local government.
- ❖ OTHER PERSONS: None--Costs for permits that might be purchased by other persons have not been changed by this rule. The restructuring of permit types and the removal of one permit category do not materially affect other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Permits are sold at varying costs depending on where an individual chooses to park. The ranges for the current and next academic year are Terrace Permit \$390/yr; A permit (full time staff and faculty preferred) \$180; U permit (student preferred) \$120; D permit (for eligible disabled drivers) \$120; Disabled T (for eligible disabled drivers who want to park in terraces) \$390; E permits (student economy) \$60; M (motorcycle)\$35; 24 Reserved stall \$1,050; 12 hour reserved stall \$840; V (vendor for University departments and associated agencies) \$360; Semester U \$68 Semester E \$35. Costs for permits that might be purchased by other persons have not been changed by this rule. The restructuring of permit types and the removal of one permit category do not materially affect other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses may choose to purchase vendor permits if they are on campus on a regular basis.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
ROOM 101
1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2002

AUTHORIZED BY: John Crawford, Office Operations Manager

R810. Regents (Board of), University of Utah, Parking and Transportation Services.

R810-5. Permit Types, Eligibility and Designated Parking Areas.

R810-5-1. Parking Permits and Permit Parking Areas.

A vehicle may be parked only in a vacant space in a parking lot for which the displayed permit shows eligibility. Possession of a parking permit does not guarantee space in a specific parking lot except for permits which provide for reserved stalls. Permit fees cover the period designated on the permit. Display of a current University parking permit allows free parking in non-reserved areas for University sponsored special events and athletic events during the permit year.

All parking areas are marked by signs indicating which permits are valid in that area. Parking is subject to change without notice.

R810-5-2. Utah Residents.

Permit classifications, eligibility and designated parking areas are as follows:

~~[A.] Car Pool Permit. Three or more faculty, staff or enrolled students can form a car pool group. To qualify for a car pool "A" permit, all members must be eligible faculty and staff. All other car pool groups will be issued "U" permit parking. Each car pool vehicle shall display a window permit, and the car pool group receives one transferable permit that must be displayed from the rear view mirror of the vehicle parked on campus. An additional member may be added to the pool at any time. No rebates or proration of charges will be given to individuals who withdraw from the pool.~~

~~[B.]~~ "U" Permit. This permit is issued to students, faculty and staff. The number of "U" permits sold may be restricted by Transportation and Parking Services when necessary. The holder may park in "U" or "E" lots.

~~[C.]~~ "A" Permit. Only one permit shall be available to each qualified faculty or staff member. The "A" permit holder may park in "A," "U," or "E" lots. Persons eligible are:

1. All full-time salaried personnel, 75 percent full time equivalent.
2. Faculty approved by the academic vice president.
3. Other personnel as designated by the University administration.

~~[D.]~~ "Temporary" Permit. This permit is issued by Parking Services for periods exceeding one day and is valid in "U" areas for students and "A" and "U" areas for qualified faculty, staff and visitors. It is not valid on vehicles displaying another current University parking permit.

~~[E.] "S" Permit. This permit is issued to residence halls residents with the hall in which they live designated on the permit.]~~ D. Zone Decals. Students residing in the University resident halls must display a zone sticker on their University parking permit. The decal authorizes parking in a specific zone. Vehicles parked in zones other than those for which they are eligible may be ticketed.

~~[F.]~~ "Day Pass." This pass is valid for one day only and must be clearly dated in ink. It is not valid on vehicles displaying another current University parking permit. This permit allows parking in "A" or "U" lots as designated.

Fines for displaying an altered permit, shall be the same for a fraudulent permit.

~~[G.]~~ "M" Permit. This permit is issued for motorcycles, mopeds, motorscooters and motorbikes. The permit must be prominently displayed near the license plate.

~~[H.]~~ "D" Permit. This permit is issued to qualified drivers with disabilities. Applicants must qualify under state statutes which govern parking for the disabled. "D" permits allow parking in designated spaces, and in adjacent areas.

Persons bringing individuals with disabilities to campus are not entitled to "D" parking privileges.

~~[I.]~~ Reserved Permit. Reserved stall permits are issued to full time faculty and staff members who lease one specific space. Unauthorized vehicles in reserved stalls may be impounded without notification. Upon purchase of a permit, all other valid permits must be surrendered.

~~[J.]~~ "X" Permit. This permit is issued to members of the Board of Regents, the Board of Trustees and the Governor. The vehicle may be parked in any "A," or "U" area.

[K]. "E" Permit. This permit is issued to students, faculty, and staff. Holders of this permit may park in "E" lots only.

[L]. [~~Quarterly~~]"Semester" Permit. This permit is issued for one academic [~~quarter~~]semester only and is valid in those areas for which it was issued. The price of this permit may be used toward the purchase of an annual permit if surrendered on or before the expiration date on the permit.

L. "T" Permits. These permits are issued as lot specific or for parking in more than one terrace. The requirements are:

(1) HCI (Huntsman Cancer Institute) "T" permits. These permits allow parking in the HCI Terrace only plus "A", "U" or "E" lots.

(2) South Terrace "T" permits. These permits allow parking in the South Terrace only plus "A", "U" or "E" lots.

(3) Regular "T" permits. These permits allow parking in the South or West Terraces only plus "A", "U", or "E" lots.

Other permits may be issued from time to time by University Transportation and Parking Services to control parking areas.

KEY: parking facilities

[1994]2002

Notice of Continuation May 2, 1997

53B-3-103

53B-3-107



Regents (Board Of), University of Utah, Parking and Transportation Services

R810-10

Enforcement System

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24540

FILED: 03/05/2002, 11:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change reflects a change in parking meter enforcement hours for a limited number of meters thus bringing it in line with the amendment filed for Rule R810-2. Previous years have shown that some violators receive three or more parking tickets then leave before the unpaid ticket fines can be collected. We are deleting the word "unpaid" so that these violators can be impounded on their third ticket. This allows us to either collect fines due or resolve a problem for the violator so that the receipt of more tickets can possibly be avoided. We are also emphasizing that all violators are subject to impounds and towing in Subsections R810-10-3(1)(A), (B), and (C) as stated in Subsection R810-10-3(1). We are going to further clarify this area. (DAR Note: the amendment to Rule R810-2 alluded to above is found in the March 15, 2002, issue of the Utah State Bulletin, under DAR No. 24505.)

SUMMARY OF THE RULE OR CHANGE: Meter hours are changed in Section R810-10-2. "Unpaid" is deleted from Subsection R810-10-3(1). Subsections R810-10-3(1)(A), (B), and (C) have added the words "to include vehicle impounds, towing". Serial comma has been added between "referrals and redress" in Subsections R810-10-3(1)(A), (B), and (C).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53B-3-103 and 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The rule change simply clarifies hours of parking meter enforcement on certain areas of campus. Parking enforcement generally is already being performed at those hours.

❖ LOCAL GOVERNMENTS: To the extent that representatives of local government park at the University campus, they will need to be aware of the posted hours of enforcement at parking meters. Violators may be subject to fines, and other costs associated with impounding and towing vehicles.

❖ OTHER PERSONS: To the extent that other persons park at the University campus, they will need to be aware of the posted hours of enforcement at parking meters. Violators may be subject to fines, and other costs associated with impounding and towing vehicles.

COMPLIANCE COSTS FOR AFFECTED PERSONS: To the extent that other persons park at the University campus, they will need to be aware of the posted hours of enforcement at parking meters. Violators may be subject to fines, and other costs associated with impounding and towing vehicles.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should have no impact on businesses.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
ROOM 101
1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/01/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2002

AUTHORIZED BY: John Crawford, Office Operations Manager

R810. Regents (Board of), University of Utah, Parking and Transportation Services.**R810-10. Enforcement System.****R810-10-1. Responsibility.**

Parking tickets are issued to registered owners of vehicles or registered permit holders. Tickets are not excused on the plea that another person was driving the vehicle.

A. To keep registration information current, any change in license plates must be immediately reported to Parking Services.

R810-10-2. Hours Of Enforcement.

Parking regulations are enforced year-round, including periods between quarters. Permit parking is enforced from 7 a.m. to 6 p.m. Monday through Friday and until 10 p.m. where posted. Parking meters are enforced from 8 a.m. until 6 p.m. Monday through Friday or from 9 a.m. to 10 p.m. where posted. Permit areas and meters are not regulated on University observed state holidays. Fire lanes, restricted areas, designated reserved spaces and parking spaces for the disabled are enforced 24 hours every day of the year.

Multiple citations may be issued to violators who remain illegally parked for three hours or more at parking meters and loading zones.

R810-10-3. University Violation Fee Payment and Penalties.

1. Fees are charged for late payment in accordance with amounts listed on the ticket. Vehicles with three or more ~~unpaid~~ tickets will be impounded and towed at the owner's expense. The University may also apply other remedies listed below. When applicable, additional charges associated with these actions will be assessed. Partial payment will not satisfy the debt.

A. Students.

1. Registration Holds. Students will not be allowed to register until all outstanding parking tickets have been paid. It is the student's responsibility to notify Transportation and Parking ~~and Transportation~~ Services of any address change. Parking tickets will not be excused due to incorrect addresses.

2. Registration Cancellation. Students who register without clearing all parking tickets will have their registration canceled unless the tickets are cleared within 10 days of receiving notice of such tickets.

3. Transcripts of credits are withheld for students leaving the University with delinquent parking tickets.

4. Other actions, to include vehicle impounds, towing, collections referrals, and redress through the court system, may be used.

B. Staff and faculty. In the event an employee fails to pay assessed violation fees within 30 days, the fees will be withheld from the employee's pay. Other actions, to include vehicle impounds, towing, collections referrals, and redress through the court system, may be used.

C. Others. In the event the assessed violation fees are not paid, the University will take action necessary to collect such fees. Actions will include vehicle impounds, towing, collections referrals, and redress through the court system.

KEY: parking facilities~~1994~~2002

Notice of Continuation March 7, 2002

53B-3-103

53B-3-107

**Regents (Board Of), University of Utah,
Parking and Transportation Services****R810-11-1****Appealing Parking Tickets****NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 24570

FILED: 03/08/2002, 09:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change outlines the process for appealing parking fines once the account has been sent to the State Division of Finance for collection.

SUMMARY OF THE RULE OR CHANGE: Accounts for outstanding tickets that have been sent to the State Division of Finance must be appealed through that agency's appeals process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53B-3-103 and 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--This rule change simply provides clarification on the appeal process, and imposes no new burden on the state budget.

❖ **LOCAL GOVERNMENTS:** Local government is only affected by this rule to the extent that its representatives may need to park at the University campus. In this case, there is no cost change associated with this rule change, as this change simply provides clarification on the appeal process, and imposes no new burden on local government.

❖ **OTHER PERSONS:** Other persons are only affected by this rule to the extent that they may need to park at the University campus. In this case, there is no cost change associated with this rule change, as this change simply provides clarification on the appeal process, and imposes no new burden on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Other persons are only affected by this rule to the extent that they may need to park at the University campus. In this case, there is no cost change associated with this rule change, as this change simply provides clarification on the appeal process, and imposes no new burden on other persons. Appealed fines are either denied, reduced, or waived, often resulting in the individual paying a lesser or no fine but never a higher fine.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no impact on businesses.

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

REGENTS (BOARD OF)

UNIVERSITY OF UTAH,

PARKING AND TRANSPORTATION SERVICES

ROOM 101

1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/01/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2002

AUTHORIZED BY: John Crawford, Office Operations Manager

R810. Regents (Board of), University of Utah, Parking and Transportation Services.

R810-11. Appeals System.

R810-11-1. Appealing Parking Tickets.

Appeals for parking tickets must be made to the Appeals Office in person or in writing up to the time a small claims affidavit has

been filed or the ticket account has been forwarded to the Utah Division of Finance for collection through that department.

The decision of the hearings officer may be appealed to the Campus Parking Ticket Appeals Committee after the ticket has been paid.

The Campus Parking Ticket Appeals Committee is the final step in the appeals process.

Once a small claims affidavit has been filed, no appeals can be made to the Appeals Office or the Campus Parking Ticket Appeals Committee. All appeals must be made through the Utah court system.

Tickets listed on accounts sent to the Utah Division of Finance must be appealed through that department's appeals process once the account has been turned over to them. No appeals on tickets sent to the Division of Finance can be made to the Appeals Office or the Campus Parking Ticket Appeals Committee.

KEY: parking facilities

~~[1994]~~2002

Notice of Continuation March 7, 2002

53B-3-103

53B-3-107

▼ _____ ▼

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (.) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends May 1, 2002. At its option, the agency may hold public hearings.

From the end of the waiting period through July 30, 2002, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Insurance, Administration
R590-203
Health Care Benefits-Grievance Review
and Adverse Benefit Determination
Procedure Rule

NOTICE OF CHANGE IN PROPOSED RULE
(THIRD)

DAR File No.: 23814
 Filed: 03/15/2002, 15:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Further changes are being made to this rule to implement suggested changes made during the last comment period and hearing.

SUMMARY OF THE RULE OR CHANGE: Section R590-203-3 was changed to clarify what policies the grievance rule applies to, specifically excluding long-term care. Section R590-203-4 includes an additional definition for "Benefit Plans," "Scientific Evidence," and expands on the definition of "Medical Necessity." In Section R590-203-5, changed the application date to comply with the federal claims procedure regulations. In Section R590-203-6, added a requirement to confirm an oral request for an expedited review. (DAR NOTE: This is the third change in proposed rule (CPR) for R590-203. The original new rule upon which the first CPR was based was published in June 15, 2001, issue of the Utah State Bulletin, on page 52. The first CPR upon which the second CPR was based was published in the September 15, 2001, issue of the Utah State Bulletin, on page 49. The second CPR upon which this third CPR is based was published in the December 1, 2001, issue of the Utah State Bulletin, on page 126. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the first CPR, the second CPR, the third CPR, and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-203, and 31A-22-629

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Additional changes will need to be added to the form filing that was required as a result of the first set of changes proposed to this rule. The department will not need to hire additional people to process this filing.
- ❖ **LOCAL GOVERNMENTS:** This rule change will not affect local government since the rule is regulated by a state government agency and relates only to that relationship.
- ❖ **OTHER PERSONS:** The insurer will need to provide a written confirmation for all oral requests for expedited reviews. The number of oral requests each company will receive is unknown but it is likely the number will be small. Some carriers will have to create and print the single page form, if

they do not already have one, and then pay for the postage. Because the anticipated cost is minimal, it is unlikely that they will be passed onto the insured through an increase to their premium.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The insurer will need to provide a written confirmation for all oral requests for expedited reviews. The number of oral requests each company will receive is unknown but it is likely the number will be small. Some carriers will have to create and print the single page form, if they do not already have one, and then pay for the postage. Because the anticipated cost is minimal, it is unlikely that they will be passed onto the insured through an increase to their premium.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These additional requirements will have a very minor financial impact on insurers licensed to do business in Utah.

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

INSURANCE
 ADMINISTRATION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.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 PM on 05/01/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

4/17/2002 at 9:00 AM, State Office Building (behind the Capitol), Room 1112, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 05/02/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-203. Health Care ~~Benefits Grievance Review and Adverse Benefit Determination Procedure~~ Benefit Plans-Grievance and Voluntary Independent Review Procedures Rule.
R590-203-1. Authority.

This rule is specifically authorized by 31A-22-629(4) and 31A-4-116 which requires the commissioner to establish minimum standards for grievance review procedures. The rule is also promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions

of this title. The authority to examine insurer records, files, and documentation is provided by 31A-2-203.

R590-203-2. Purpose.

The purpose of this rule is to ensure that health insurer's grievance review procedures for individual and employer health benefit plans comply with the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for Administration and Enforcement: Claims Procedure, 29 CFR 2560.503-1, Utah Code Sections 31A-4-116 and 31A-22-629.

R590-203-3. Applicability and Scope.

This rule applies to all health insurance policies and health maintenance organization contracts, as defined by 31A-1-301 covering individual ~~[health] and group~~ benefit plans ~~[and employer benefit plans sold in the State of Utah]~~ issued or renewed and effective on or after January 1, 2001. Long Term Care and Medicare supplement policies are not considered health insurance [policies] for the purpose of this rule.

R590-203-4. Definitions.

For the purposes of this rule:

(1) "Benefit Plans" means health insurance as defined in 31A-1-301.

(2) "Medical Necessity" means:

(a) health care services or products that a prudent health care professional would provide to a patient for the purpose of preventing, diagnosing or treating an illness, injury, disease or its symptoms in a manner that is:

(i) in accordance with generally accepted standards of medical practice in the United States;

(ii) clinically appropriate in terms of type, frequency, extent, site, and duration;

(iii) not primarily for the convenience of the patient, physician, or other health care provider; and

(iv) covered under the contract; and

(b) when a medical question-of-fact ~~[or the determination that an intervention recommended by a treating health care professional is]~~ exists medical necessity shall include the most appropriate available supply or level of service for the individual in question, considering potential benefits and harms to the individual, and known to be effective ~~[in improving health outcomes].~~

(i) For interventions not yet in widespread use, the effectiveness shall be based on scientific evidence.

(ii) For established interventions, the effectiveness shall be based on:

(a) scientific evidence~~[-]~~;

(b) professional standards ~~[and expert opinion]~~; and

(c) expert opinion.

(3) "Scientific evidence" means:

(a) scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff; or

(b) findings, studies or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes.

(c) Scientific evidence shall not include published peer-reviewed literature sponsored to a significant extent by a

pharmaceutical manufacturing company or medical device manufacturer or a single study without other supportable studies.

R590-203-5. Adverse Benefit Determination Reviews.

(1) An insurer's adverse benefit determination review procedure shall be compliant with the adverse benefit determination review requirements set forth in the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for Administration and Enforcement: Claims Procedure, 29 CFR 2560.503-1, effective January 20, 2001. This document is incorporated by reference and available for inspection at the Insurance Department and the Department of Administrative Rules.

(2) ~~The provision of this rule and federal regulation applies to claims filed [on or after January 1, 2002, except claims filed] under [an] individual or group [health plan] plans on or after the first day of the first plan year beginning on or after July 1, 2002, but no later than January 1, 2003.~~

(3) An insurer's adverse benefit determination appeal board or body shall include at least one consumer representative that shall be present at every meeting.

R590-203-6. Independent and Expedited Adverse Benefit Determination Reviews.

(1) An insurer shall provide an independent review procedure as a voluntary option for the resolution of adverse benefit determinations of medical necessity.

(2) An independent review procedure shall be conducted by an independent review organization, person, or entity other than the insurer, the plan, the plan's fiduciary, the employer, or any employee or agent of any of the foregoing, that do not have any material professional, familial, or financial conflict of interest with the health plan, any officer, director, or management employee of the health plan, the enrollee, the enrollee's health care provider, the provider's medical group or independent practice association, the health care facility where service would be provided and the developer or manufacturer of the service being provided.

(3) Independent review organizations shall be designated by the insurer, and the independent review organization chosen shall not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control with a health insurance plan, a national, state, or local trade association of health insurance plans, and a national, state, or local trade association of health care providers.

(4) The submission to an independent review procedure is purely voluntary and left to the discretion of the claimant.

(5) An insurer's voluntary independent review procedure shall:

(a) waive any right to assert that a claimant has failed to exhaust administrative remedies because the claimant did not elect to submit a dispute of medical necessity to a voluntary level of appeal provided by the plan;

(b) agree that any statute of limitations or other defense based on timeliness is tolled during the time a voluntary appeal is pending;

(c) allow a claimant to submit a dispute of medical necessity to a voluntary level of appeal only after exhaustion of~~[-]~~

~~(i) an insurer's current internal claims review procedure until July 1, 2002; or~~

~~(ii) the appeals permitted under 29 CFR Subsection 2560.503-1(c)(2), of the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulation for the Administration and Enforcement: Claims Procedure.~~

(d) upon request from any claimant, provide sufficient information relating to the voluntary level of appeal to enable the claimant to make an informed decision about whether to submit a dispute of medical necessity to the voluntary level of appeal. This information shall contain a statement that the decision to use a voluntary level of appeal will not effect the claimant's rights to any other benefits under the plan and information about the applicable rules, the claimants right to representation, the process for selecting the decision maker~~], and, if any, the circumstance that may affect the impartiality of the decision maker such as any financial or personal interests in the result or any past or present relationship with any party to the review process; and]~~.

(6) Standards for voluntary independent review:

(a) The insurer's internal adverse benefit determination process must be exhausted unless the insurer and insured mutually agree to waive the internal process.

(b) Any adverse benefit determination of medical necessity may be the subject of an independent review.

(c) The claimant has 180 calendar days from the date of the final internal review decision to request an independent review.

(d) An insurer shall use the same minimum standards and times of notification requirement for an independent review that are used for internal levels of review, as set forth in 29 CFR Subsection 2560.503-1(h)(3),(i)(2) and (j).

(7) An insurer shall provide an expedited review process for cases involving urgent care claims.

(8) A request for an expedited review of an adverse benefit determination of medical necessity may be submitted either orally or in writing. ~~[The]~~If the request is made orally an insurer shall, within 24 hours, send written confirmation to the claimant acknowledging the receipt of the request for an expedited review.

(9) An expedited review requires:

(a) all necessary information, including the plan's original benefit determination be transmitted between the plan and the claimant by telephone, facsimile, or other available similarly expeditious method;

(b) an insurer to notify the claimant of the benefit review determination, as soon as possible, taking into account the medical urgency, but not later than 72 hours after receipt of the claimant's request for review of an adverse benefit determination; and

(c) an insurer to use the same minimum standard for timing and notification as set forth in 29 CFR Subsection 2560.503-1(h), 503-1(i)(2)(i), 503-1(j).

R590-203-7. File and Record Documentation.

An insurer shall make available upon request by the commissioner, or the commissioner's duly appointed designees, all adverse benefit determination reviews files and related documentation.

R590-203-8. Compliance.

Insurers are to be compliant with the provisions of this rule and the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for Administration and Enforcement: Claims Procedure, 29 CFR 2560.503-1, by July 1, 2002.

R590-203-9. Relationship to Federal Rules.

If an insurer complies with the requirements of the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for Administration and Enforcement: Claims Procedure, 29 CFR 2560.503-1, then this rule is not applicable to employer benefit plans, except for Sections R590-203-4, R590-203-5, R590-203-6, and R590-203-7. All individual health benefit plans will remain subject to this rule in its ~~[entirety]~~entirety.

R590-203-10. Severability.

If a provision or clause of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of these provisions shall not be affected.

KEY: insurance

2002

31A-2-201

31A-2-203

31A-22-629



End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

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 (2001); and *Utah Administrative Code* Section R15-4-8.

Agriculture and Food, Animal Industry **R58-18** Elk Farming

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE No.: 24544
FILED: 03/05/2002, 13:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To help prevent Chronic Wasting Disease in domestic elk in the State of Utah.

SUMMARY OF THE RULE OR CHANGE: Will change import regulations of domestic elk, to help State Veterinarians office prevent elk that may have been exposed to CWD (Chronic Wasting Disease) from entering Utah and endangering the domestic elk, wild elk, and unknown risks associated with public health.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-39-106; Federal Register, Vol. 66, No. 188, dated September 27, 2001, Declaration of Emergency Because of CWD

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be no cost to the state budget associated with the amendments of this rule. The amendments are being made to prevent the spread of CWD (Chronic Wasting Disease) of domestic elk within the State of Utah.
- ❖ LOCAL GOVERNMENTS: There will be no cost to the local government associated with the amendments of this rule. The amendments are being made to prevent the spread of CWD

(Chronic Wasting Disease) of domestic elk within the State of Utah.

❖ OTHER PERSONS: There will be no cost associated with the amendments of this rule. The amendments are merely clarifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no cost associated with the amendments of this rule. The amendments are merely clarifications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: May result in the five licensed hunting parks in Utah having to pay a higher price for the elk they purchase to harvest on the hunting parks. May also, result in the reduction of bulls that are available for this business.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

The purpose of the change is to prevent the spread of Chronic Wasting Disease (CWD) in domestic elk.

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mike Marshall, Terry Menlove, or Earl Rogers at the above address, by phone at 801-538-7160, 801-538-7166, or 801-538-7162, by FAX at 801-538-7169, 801-538-7169, or 801-538-7169, or by Internet E-mail at

agmain.mmarshall@state.ut.us,
agmain.tmenlove@state.ut.us,
or agmain.erogers@state.ut.us

THIS RULE IS EFFECTIVE ON: 03/06/2002

AUTHORIZED BY: Cary Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-18. Elk Farming.

R58-18-1. Authority.

Regulations governing elk farming promulgated under authority of 4-39-106.

R58-18-2. Definitions.

In addition to the definitions found in Sections 4-1-8, 4-7-3, 4-24-2, 4-32-3 and 4-39-102, the following terms are defined for purposes of this rule:

(1) "Raised" as used in the act means any possession of domestic elk for any purpose other than hunting.

(2) "Separate location" as used in Subsection 4-39-203(5) means any facility that may be separated by two distinct perimeter fences, not more than 10 miles apart, owned by the same person.

(3) "Domestic elk" as used in this chapter, in addition to 4-39-102, means any elk which has been born inside of, and has spent its entire life within captivity.

(4) "Quarantine Facility" means a confined area where selected elk can be secured, contained and isolated from all other elk and livestock.

(5) "Secure Enclosure" means a perimeter fence or barrier that is so constructed as to prevent domestic elk from escaping into the wild or the ingress of native wildlife into the facility.

(6) "Elk" as used in this chapter means North American Wapiti or *Cervus Elaphus Canadensis*.

(7) "Affected herd" means a herd of Cervidae where an animal has been diagnosed with Chronic Wasting Disease (CWD) caused by protease resistant prion protein (PrP), and confirmed by means of an approved test, within the previous 5 years.

(8) "Trace Back Herd/Source Herd" means any herd of Cervidae where an animal affected with CWD has resided up to 36 months prior to death.

(9) "Trace Forward Herd" means any herd of Cervidae which has received animals that originated from a herd where CWD has been diagnosed, in the previous 36 months prior to the death of the affected (index) animal.

(10) "Adjacent Herd" means a herd of Cervidae occupying premises that border an affected herd, including herds separated by fences, roads or streams, herds occupying a premise where CWD was previously diagnosed, and herds that share the same license as the affected or source herd, even if separate records are maintained and no commingling has taken place.

(11) "Approved test" means approved tests for CWD surveillance shall be those laboratory or diagnostic tests accepted nationally by USDA and approved by the state veterinarian.

(12) "Herd of Origin" means the herd, which an imported animal has resided in, or does reside in, prior to importation.

(13) "Destination Herd" means the intended herd of residence, which will be occupied by the animal which is proposed for importation.

R58-18-3. Application and Licensing Process.

(1) Each applicant for a license shall submit a signed, complete, accurate and legible application on a department issued form.

(2) In addition to the application, a general plot plan should be submitted showing the location of the proposed farm in conjunction with roads, towns, etc. in the immediate area.

(3) A facility number shall be assigned to an elk farm at the time a completed application is received at the Department of Agriculture and Food building.

(4) A complete facility inspection and approval shall be conducted prior to the issuing of a license or entry of elk to any facility. This inspection shall be made by an approved Department of Agriculture and Food employee and Division of Wildlife Resource employee. It shall be the responsibility of the applicant to request this inspection at least 72 hours in advance.

(5) Upon receipt of an application, inspection and approval of the facility and completion of the facility approval form and receipt of the license fee, a license will be issued.

(6) All licenses expire on July 1st in the year following the year of issuance.

(7) Elk may enter into the facility only after a license is issued by the department and received by the applicant.

R58-18-4. License Renewal.

(1) Each elk farm must make renewal application to the department on the prescribed form no later than April 30th indicating its desire to continue as an elk farm. This application shall be accompanied by the required fee.

(2) Any license renewal application received after April 30th will have a late fee assessed.

(3) Any license received after July 1st is delinquent and any animals on the farm will be quarantined until due process of law against the current owner has occurred. This may result in revocation of the license, loss of the facility number, closure of the facility and or removal of the elk from the premise.

(4) Prior to renewal of the license, the facility will again be inspected by a Utah Department of Agriculture and Food employee. Documentation that all fencing and facility requirements are met [is] required.

(5) An inventory check will be completed of all elk on the premise, and a visual general health check of all animals will be made. Documentation showing that genetic purity has been maintained throughout the year is also required for annual license renewal.

(6) The licensee shall provide a copy of the inventory sheet to the inspector at the time of inspection.

R58-18-5. Facilities.

(1) All perimeter fences and gates shall meet the minimum standard as defined in Section 4-39-201.

(2) Internal handling facilities shall be capable of humanely restraining an individual animal for the applying or reading of any animal identification, the taking of blood or tissue samples, or conducting other required testing by an inspector or veterinarian. Any such restraint shall be properly constructed to protect inspection personnel while handling the animals. Minimum requirements include a working pen, an alley way and a restraining chute.

(3) The licensee shall provide an isolation or quarantine holding facility which is adequate to contain the animals and provide proper feed, water and other care necessary for the physical well

being of the animal(s) for the period of time necessary to separate the animal from other animals on the farm.

(4) Each location of a licensed facility with separate perimeter fences must have its own separate loading facility.

R58-18-6. Records.

(1) Licensed elk farms shall maintain accurate and legible office records showing the inventory of all elk on the facility. The inventory record of each animal shall include:

(a) Name and address of agent(s) which the elk was purchased from

(b) Identification number (tattoo or chip)

(c) Age

(d) Sex

(e) Date of purchase or birth

(f) Date of death or change of ownership

The inventory sheet may be one that is either provided by the department or may be a personal design of similar format.

(2) Any animal born on the property or transported into a facility must be added to the inventory sheet within seven days.

(3) Any elk purchased must be shown on the inventory sheet within 30 days after acquisition, including source.

R58-18-7. Genetic Purity.

(1) All animals entering Utah must have written evidence of genetic purity. Written evidence of genetic purity will include one of the following:

(a) Test charts from an approved lab that have run either a:

(i) Blood genetic purity test or

(ii) DNA genetic purity test.

(b) Registration papers from the North American Elk Breeders Association.

(c) Herd purity certification papers issued by another state agency.

(2) Genetic purity records must be kept on file and presented to the inspector at the time elk are brought into the state and also each year during the license renewal process.

(3) Any elk identified as having red deer genetic influence shall be destroyed, or immediately removed from the state.

R58-18-8. Acquisition of Elk.

(1) Only domesticated elk will be allowed to enter and be kept on any elk farm in Utah.

(2) All new elk brought into a facility shall be held in a quarantine facility until a livestock inspector has inspected the animal(s) to verify that all health, identification and genetic purity requirements have been met. New animals may not co-mingle with any elk already on the premise until this verification is completed by the livestock inspector.

R58-18-9. Identification.

(1) All elk shall be permanently identified with either a tattoo or micro chip.

(2) If the identification method chosen to use is the micro chip, a reader must be made available, by the owner, to the inspector at the time of any inspection to verify chip number. The chip shall be placed in the right ear.

(3) If tattooing is the chosen method of identification, each elk shall bear a tattoo number consisting of the following:

(a) UT (indicating Utah) followed by a number assigned by the department (indicating the facility number of the elk farm) and

(b) Any alphanumeric combination of letters or numbers consisting of not less than 3 digits, indicating the individual animal number herein referred to as the "ID number".

Example:

UTxxx

ID number (001)

(c) Each elk shall be tattooed on either the right peri-anal hairless area beside the tail or in the right ear.

(d) Each alphanumeric character must be at least 3/8 inch high.

(e) Each newly purchased elk will not need to be retattooed or chipped if they already have this type of identification.

(f) Any purchased elk not already identified shall be tattooed or chipped within 30 days after arriving on the farm.

(g) All calves must be tattooed within 15 days after weaning or in no case later than January 1st.

(4) In addition to one of the two above mentioned identification methods, each elk shall be identified by the official USDA ear tag or other ear tag approved by the director.

R58-18-10. Inspections.

(1) All facilities must be inspected within 60 days before a license or the renewal of an existing license is issued. It is the responsibility of the applicant to arrange for an appointment with the department for such inspection, giving the department ample time to respond to such a request.

(2) All elk must be inspected for inventory purposes within 60 days before a license renewal can be issued.

(3) All elk must be inspected when any change of ownership, moving out of state, leaving the facility, slaughter or selling of elk products, such as antlers, occurs except as indicated in (f) below.

(a) It is the responsibility of the licensee to arrange for any inspection with the local state livestock inspector.

(b) A minimum of 48 hours advance notice shall be given to the inspector.

(c) When inspected, the licensee or his representative shall make available such records as will certify ownership, genetic purity, and animal health.

(d) All elk to be inspected shall be properly contained in facilities adequate to confine each individual animal for proper inspection.

(e) Animals shall be inspected before being loaded or moved outside the facility.

(f) Animals moving from one perimeter fence to another within the facility may move directly from one site to another site without a brand inspection, but must be accompanied with a copy of the facility license.

(4) Any elk purchased or brought into the facility from an out-of-state source shall be inspected upon arrival at a licensed farm before being released into an area inhabited by other elk. All requirements of R58-18-10(3) above shall apply to the inspection of such animals.

(5) A Utah Brand Inspection Certificate shall accompany any shipment of elk or elk products, including velveted antlers, which are to be moved from a Utah elk farm. Shed antlers are excluded from needing an inspection. Proof of ownership and proper health papers shall accompany all interstate movement of elk to a Utah destination.

(6) Proof of ownership may include:

(a) A brand inspection certificate issued by another state.

(b) A purchase invoice from a licensed public livestock market showing individual animal identification.

- (c) Court orders.
- (d) Registration papers showing individual animal identification.
- (e) A duly executed bill (notarized) of sale.

R58-18-11. Health Rules.

(1) Prior to the importation of elk, whether by live animals, gametes, eggs, sperm or other genetic material into the State of Utah, the importing party must obtain an entry permit from the Utah State Veterinarians office. (801-538-7164)

(a) An entry permit number shall be issued only if the destination is licensed as an elk farm by the Utah Department of Agriculture and Food.

(b) The entry permit number for Utah shall be obtained by the local veterinarian conducting the official health inspection by contacting the Utah Department of Agriculture and Food permit desk at 801-538-7164.

(2) All elk imported into Utah must be examined by an accredited veterinarian prior to importation and must be accompanied by a valid certificate of veterinary inspection, health certificate, certifying a disease free status.

(a) Minimum specific disease testing results or health statements must be included on the certificate of veterinary inspection.

(b) A negative tuberculosis test must be completed within 60 days prior to entry into the state. A retest is also optional at the discretion of the state veterinarian.

(c) If animals do not originate from a tuberculosis accredited, qualified or monitored herd, they may be imported only if accompanied by a certificate stating that such domestic cervidae have been classified negative to two official tuberculosis tests that were conducted not less than 90 days apart, that the second test was conducted within 60 days prior to the date of movement. The test eligible age is six months or older, or less than six months of age if not accompanied by a negative testing dam.

(d) All elk being imported shall test negative for brucellosis if six months of age or older, by at least two types of official USDA brucellosis tests, one of which shall be the rivanol test.

(e) The certificate of veterinary inspection must also include the following signed statement: "To the best of my knowledge the elk listed herein are not infected with Johne's Disease (Paratuberculosis), Chronic Wasting Disease or Malignant Catarrhal Fever and have never been east of the 100 degree meridian."

(f) The certificate of veterinary inspection shall also contain the name and address of the shipper and receiver, the number, sex, age and any individual identification on each animal.

(3) Additional disease testing may be required at the discretion of the state veterinarian prior to importation or when there is reason to believe other disease(s), or parasites are present, or that some other health concerns are present.

(4) Imported or existing elk may be required to be quarantined at an elk farm if the state veterinarian determines the need for and the length of such a quarantine.

(5) Any movement of elk outside a licensed elk farm shall comply with standards as provided in the document entitled: "Uniform Methods and Rules (UM and R)", as approved and published by the USDA. The documents, entitled: "Tuberculosis Eradication in Cervidae, Uniform Methods and Rules", the May 15, 1994 edition, and "Brucellosis Eradication, Uniform Methods and Rules", the May 6, 1992 edition as published by the USDA, are hereby incorporated by reference into this rule. These are the

standards for tuberculosis and brucellosis eradication in domestic cervidae. Copies of the methods and rules are on file and available for public inspection at the Division of Animal Industry, Department of Agriculture and Food offices located at 350 North Redwood Road, Salt Lake City, Utah.

(6) Treatment of all elk for internal and external parasites is required within 30 days prior to entry.

(7) All elk imported into Utah must originate from a state or province, which requires that all suspected or confirmed cases of Chronic Wasting Disease (CWD), be reported to the State Veterinarian or regulatory authority. The state or province of origin must have the authority to quarantine source herds and herds affected with or exposed to CWD.

(8) Elk imported into Utah shall only originate from states, which have implemented a Program for Surveillance, Control, and Eradication of CWD in Domestic Elk. All elk imported to Utah must originate from herds that ~~[are participating in a CWD surveillance program]~~ have been participating in a verified CWD surveillance program for a minimum of 5 years. Animals will be accepted for movement only if epidemiology based on vertical and horizontal transmission is in place. ~~[The number of years under a recognized CWD surveillance program, completed by the herd of origin, shall be stated on the Certificate of Veterinary Inspection. The number of years of CWD surveillance completed by the herd of origin shall be at least equal to the number of years of CWD surveillance completed by the destination herd, until such time as both herds have been under surveillance for at least three years. Beginning July 1, 2005, only elk from herds under surveillance for at least three years will qualify, regarding CWD, for entrance into Utah.]~~

(9) No elk originating from a CWD affected herd, trace back herd/[]source herd, trace forward herd, ~~[or]~~ adjacent herd, or from an area considered to be endemic to CWD, may be imported to Utah.

(10) Elk semen, eggs, or gametes, require a Certificate of Veterinary Inspection verifying the individual source animal has been tested for genetic purity for Rocky Mountain Elk genes and certifying that it has never resided on a premise where Chronic Wasting Disease has been identified or traced. An import Entry Permit obtained by the issuing veterinarian must be listed on the Certificate of Veterinary Inspection. Permits may be obtained by calling 801-538-7164 during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

R58-18-12. Chronic Wasting Disease Surveillance.

(1) The owner, veterinarian, or inspector of any elk which is suspected or confirmed to be affected with Chronic Wasting Disease (CWD) in Utah is required to report that finding to the State Veterinarian.

(2) Each elk farm, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) of any elk over 16 months of age that dies or is otherwise slaughtered or destroyed, for testing for Chronic Wasting Disease (CWD) by an official test. The samples shall be collected by an accredited veterinarian, or an approved laboratory, or person trained and approved by the state veterinarian.

(3) Each hunting park, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) of all elk over 16 months of age that die; and the brain stem from 50% of all elk from each herd of origin that are otherwise slaughtered, killed, or destroyed, for testing for Chronic Wasting Disease with an official

test. The samples shall be collected by an accredited veterinarian, approved laboratory, or person trained and approved by the State Veterinarian.

(4) The CWD surveillance samples from elk residing on licensed elk farms and elk hunting parks shall be collected and preserved in formalin within 48 hours following the death of the animal, and submitted within 7 days, to a laboratory approved by the State Veterinarian. Training of approved personnel shall include collection, handling, shipping, and identification of specimens for submission.

(5) Laboratory fees and expenses incurred for collection and shipping of samples shall be the responsibility of the participating elk farm or hunting park.

(6) The disposition of CWD affected herds in Utah shall be determined by the State Veterinarian.

KEY: inspections

March 6, 2002

4-39-106



End of the Notices of 120-Day (Emergency) Rules Section

The Five-Year Notices of Review and Statements of Continuation Begin on the Following Page

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Administrative Services, Fleet Operations, Surplus Property **R28-1** State Surplus Property Disposal

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24545
FILED: 03/05/2002, 15:41

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 63A-9-801 states that the division shall make rules establishing a state surplus property program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments on the content of this rule during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Procedures for disposing of state surplus property are still required under Section 63A-9-801.

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

ADMINISTRATIVE SERVICES
FLEET OPERATIONS, SURPLUS PROPERTY
ROOM 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alison Taylor at the above address, by phone at 801-538-3306, by FAX at 801-538-1773, or by Internet E-mail at ataylor@fo.state.ut.us

AUTHORIZED BY: Steve Saltzgeber, Director

EFFECTIVE: 03/25/2002



Corrections, Administration **R251-106** Media Relations

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24583
FILED: 03/13/2002, 07:46

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 under the authority of Sections 63-46a-3 and 77-19-11. Section 63-46a-3 requires a rule when agency action applies to a class of persons. Section 77-19-11 authorizes the Department of Corrections to adopt rules governing the attendance of persons at an execution.

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: The procedures adopted in this rule have provided an effective and efficient process for

the news media's access to correctional institutions, inmates, and other supervised offenders and should be continued.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at gduncan@udc.state.ut.us

AUTHORIZED BY: Michael P. Chabries, Executive Director

EFFECTIVE: 03/25/2002

Corrections, Administration
R251-108
Adjudicative Proceedings

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24584
FILED: 03/13/2002, 07:47

**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 under the authority of Sections 63-46a-3, 63-46b-4, and 63-46b-5 and is administered in accordance with the Utah Administrative Procedures Act.

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: The provisions of this rule have provided an effective and efficient process for handling petitions from persons outside the Department. Continuation of this rule is necessary for the success of the petition process.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at gduncan@udc.state.ut.us

AUTHORIZED BY: Michael P. Chabries, Executive Director

EFFECTIVE: 03/25/2002

Corrections, Administration
R251-703
Vehicle Direction Station

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24582
FILED: 03/13/2002, 07:45

**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 64-13-14 requires the Department to maintain and operate secure correctional facilities for the incarceration of offenders. Section 64-13-10 allows the Department to make rules to carry out the provisions of this chapter.

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: The vehicle direction station is the main check point for entrance into and exit from secure prison facilities. This rule is necessary to establish and maintain safety and security measures to protect staff, inmates, visitors, and state property and should be continued.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at gduncan@udc.state.ut.us

AUTHORIZED BY: Michael P. Chabries, Executive Director

EFFECTIVE: 03/25/2002

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Corrections, Administration
R251-705
Inmate Mail Procedures

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24580
FILED: 03/13/2002, 07:39

**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 64-13-17(3) authorizes offenders to send and receive correspondence subject to the rules of the Department. Section 64-13-10 authorizes the Department to make rules to carry out the provisions of this chapter.

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: This rule establishes the process by which mail may be sent to and from correctional facilities. This rule is necessary to maintain the safety and security of staff, offenders, and facilities and should be continued.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at gduncan@udc.state.ut.us

AUTHORIZED BY: Michael P. Chabries, Executive Director

EFFECTIVE: 03/25/2002

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Corrections, Administration
R251-706
Inmate Visiting

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24581
FILED: 03/13/2002, 07:42

**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 64-13-17 allows visitors to correctional facilities who are authorized under the rules prescribed by the Department. Section 64-13-10 authorized the Department to make rules to accomplish the purposes of the Department.

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: This rule establishes the process for inmate visitation at secure correctional facilities. This rule is necessary to maintain the safety and security of staff, inmates, and facilities and should be continued.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at gduncan@udc.state.ut.us

AUTHORIZED BY: Michael P. Chabries, Executive Director

EFFECTIVE: 03/25/2002

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Environmental Quality, Drinking Water
R309-300
**Certification Rules for Water Supply
Operators**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24539
FILED: 03/04/2002, 13:18

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-4-104(2) authorizes the Drinking Water Board to adopt and enforce standards and establish fees for certification of operators of any public water system.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support of or opposing this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will help to ensure that the individuals involved in operating drinking water systems are and remain competent to do so. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public. The certification of operators is required by the United States Environmental Protection Agency and is required to retain primacy for the drinking water program.

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

ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, 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 801-536-4211, or by Internet E-mail at kbousfie@deq.state.ut.us or pfauver@deq.state.ut.us

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 03/25/2002



**Environmental Quality, Environmental
Response and Remediation
R311-200
Underground Storage Tanks:
Definitions**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24548
FILED: 03/06/2002, 14:01

**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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for certification of tank installers, inspectors, testers, removers, and consultants; registration of tanks; administration of the petroleum storage tank program; participation of nonregulated tanks; and the adoption of applicable Federal UST regulations. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1999, during the rulemaking public comment period, a rule change to create a definition of "Practical Quantitation Limit" was proposed. This term refers to the limitations of laboratory equipment to detect substances during analysis of samples. The comment was that the term "Practical Quantitation Limit" was not universally used by laboratories and therefore would not apply to all laboratories.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for continued operation of the UST program because it contains important definitions which clarify terms found elsewhere in the UST rules. The summary of the responses to the comment received since the last five-year review as mentioned above is: the proposed definition was removed based on the comment, and a more generic term was used in the body of Rule R311-205, to allow for use of other terminology by individual laboratories. No change was actually made to the rule.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002



**Environmental Quality, Environmental
Response and Remediation
R311-201
Underground Storage Tanks:
Certification Programs**

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24549
FILED: 03/06/2002, 14:03

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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for certification of tank installers, inspectors, testers, removers, and consultants; and for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1998, during the rulemaking public comment period, the comment was made that the need for continued testing for re-certification of UST consultants should be eliminated in favor of an ongoing educational program. Periodic testing is not required for other professionals, such as attorneys, doctors, and engineers. 2) In 2000, during the rulemaking public comment period, a rule change was proposed to clarify the examination requirements for renewal of UST consultant certifications. The comment expressed the belief that the rule change was not necessary because the rule already gave the Executive Secretary of the Board the option of administering a renewal examination which is less comprehensive than the exam for initial certification.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for continued operation of the UST program. As directed by Subsection 19-6-403(1) of the UST, it provides for the certification of individuals who remediate leaking UST sites, and those who install, remove, test, and inspect USTs. The summary of the responses to the comments received since the last five-year review as mentioned above are: 1) while this comment did not focus on a rule change which was being considered at the time, it was taken under advisement, and a modified examination requirement was put into rule in 2000; and 2) the proposed change was considered necessary to clarify the renewal testing requirements and provide notification to certified consultants that they would be required to take the initial certification exam if they apply for re-certification after allowing the certification to lapse. The proposed change was implemented.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002

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Environmental Quality, Environmental Response and Remediation **R311-202** Underground Storage Tank Technical Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24550
FILED: 03/06/2002, 14:04

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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank program and the adoption of applicable Federal UST regulations. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs. This rule adopts the federal UST regulations by reference.

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 on this rule have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for the continued operation of the UST program. It provides for the incorporation by reference of the federal UST regulations, and is specifically mandated by Subsection 19-6-403(1)(b) of the UST Act.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102,

by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002

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Environmental Quality, Environmental Response and Remediation

R311-203

Underground Storage Tanks: Notification, New Installations, and Registration Fees

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24551
FILED: 03/06/2002, 14:05

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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for registration of tanks and administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs. Subsection 19-6-411(2)(b) of the UST Act mandates that the Board make rules specifying which portions of an UST installation shall be subject to the per-tank permitting fee when less than a full UST system is installed. Section 19-6-408 of the UST Act provides for the assessment of an annual registration fee on regulated USTs.

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 on this rule have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for continued operation of the UST program. It clarifies when UST owners and installers must notify on new installations, upgrades, and changes of ownership. It provides for the administration of the UST registration fee mandated by Section 19-6-408, installer permitting fees mandated by Section 19-6-411, and installer notification requirements mandated by Section 19-6-407.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002

▼ ————— ▼

Environmental Quality, Environmental Response and Remediation

R311-204

Underground Storage Tanks: Closure and Remediation

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24552
FILED: 03/06/2002, 14:06

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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs.

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 on this rule have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for continued operation of the UST program. It specifies the requirements for submitting UST closure plans and specifies labeling and disposal methods for USTs which have been removed.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002

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Environmental Quality, Environmental Response and Remediation **R311-205** Underground Storage Tanks: Site Assessment Protocol

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24553
FILED: 03/06/2002, 14:07

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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 1) In 1997, during the rulemaking public comment period, comments were received regarding incorrect rule citation format (mixing references to state rules and federal regulations), references which implied prospective incorporation, and a reference to a rule subsection which did not exist. 2) In 1998, during the rulemaking public comment period, a reference to a document specifying laboratory methods to be used to analyze soil and groundwater samples for contamination should include a more specific reference to the document, not simply a reference to the most current version. 3) In 1998, comments indicated that references to the Total Petroleum Hydrocarbons laboratory analysis method should be clarified to specify analysis for gasoline and diesel range organic compounds separately. 4) In 1998, representatives of analytical laboratories commented

that references to sample dilution and detection levels were too vague, and the use of the term "should" made the requirement nonbinding. 5) In 1999, during the rulemaking public comment period, several comments were received regarding proposed changes which would standardize and update the analytical methods used by laboratories to analyze samples for contamination. The comments dealt with the use of the word "should" as opposed to "shall" in the rule; the placement of the definition of "Practical Quantitation Limit" in Rule R311-200 rather than in Rule R311-205; a laboratory's ability to modify the standard allowed analysis method; concern over whether the laboratories were certified to use the allowed methods or had the equipment to perform them; possible interference preventing methyl tertiary butyl ether (MTBE) from being recognized by one method; a request for clarification of the methods to be used for analysis of Unified Soil Classification samples; the amount of Quality Control required; clarification of laboratory cleanup methods; and how to report samples which were diluted multiple times.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for continued operation of the UST program. It specifies the requirements for soil and groundwater sampling and the laboratory analysis of these samples. It clarifies reporting and recordkeeping requirements for UST sites which have had releases. The summary of the responses to the comments received since the last five-year review as mentioned above are: 1) the rule was changed to incorporate the comments and correct wording or references which were incorrect; 2) the reference was subsequently changed to cite a specific dated version of the document; 3) the wording was changed in 1999 to be more specific; 4) the wording was changed in 1999 to be more specific--"shall" was substituted for "should"; and 5) some changes were made to the proposed rules, based on the comments; in other cases, no further changes were recommended. "Shall" was substituted for "should" to strengthen the requirements where appropriate. The definition of "Practical Quantitation Limit," intended to be placed in Rule R311-200 was removed. It was determined that footnotes could be added to the referenced sample analysis method table to allow for some modifications in sample collection and analysis. Laboratories could choose to remain certified in current or future analytical methods, and the equipment needed was already standard equipment and would not place any added burden on the laboratories. MTBE interference is not common, and could be avoided with a different analytical technique. Unified Soil Classification methods were not the subject of the proposed rule and were therefore not considered at that time. Some modifications for quality control would be allowed, and would be specified in footnotes in the sample analysis method table. Changes to the rule were made to deal with the laboratory cleanup and dilution issues.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W

SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002



Environmental Quality, Environmental Response and Remediation

R311-206

Underground Storage Tanks: Financial Assurance Mechanisms

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24554
FILED: 03/06/2002, 14:08

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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank (PST) program, including participation of nonregulated tanks. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 1) In 1997, during the rulemaking public comment period, comments were received regarding incorrect rule citation format (mixing references to state rules and federal regulations), references which implied prospective incorporation, and an incorrect rule citation. 2) In 1997, during the rulemaking public comment period, based on changes made to the UST Act, changes to the rule were proposed to specify requirements for UST owners and operators who use commercial insurance for showing financial responsibility for their underground petroleum storage tanks. The proposed wording, as interpreted by representatives of the insurance industry, would require the insurance companies to insure pollution from leaking USTs regardless of the time the pollution was found or reported, a standard higher than normal industry practices. Other comments indicated that the wording should remain as proposed, and a solution should be worked out at a later date. 3) In 1997, during the rulemaking public comment period, based on changes made to the UST Act, wording was proposed to specify that

compliance with certain sections of the Uniform Fire Code would be required of owner/operators of above-ground storage tanks which voluntarily participated in the PST Trust Fund. The comment stated that the initial proposed requirements were inadequate and the rule should require compliance with additional sections of the fire code. 4) In 1997, during the rulemaking public comment period, comments were made regarding the difficulty for UST owner/operators who desired to re-apply for coverage of their tanks under the PST Trust Fund after a period of nonparticipation in the Fund, the requirement to pay all back fees which would have been assessed during the period of nonparticipation, the lack of coverage for releases which were discovered after leaving the fund, and the requirement to do a site assessment and tank testing before re-applying for Fund coverage. 5) In 2001, regarding Subsection R311-206-5(c)(2)(B)(i), one insurer asked whether the Division's interpretation of Subsection R311-206-5(c)(2)(B)(i) requires the insurance company to provide coverage of a claim discovered but not reported during the coverage period on a claims-made policy. (The rule requires insurance companies to include a state endorsement in addition to the federally-required endorsements.)

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for continued operation of the UST program. It specifies requirements for UST owners and operators participating in the PST Trust Fund and for those who show financial responsibility by other methods. It provides rules for identification of compliant tanks, as mandated by Subsection 19-6-411(7)(b) of the UST Act. The summary of the responses to the comments received since the last five-year review as mentioned above: 1) the rule was changed to incorporate the comments and correct wording or references which were incorrect; 2) because comments were received which favored and opposed the proposed addition, it was decided to allow the wording to be adopted as proposed, and change it at a later date if necessary; 3) wording was added to refer to the additional sections of the fire code; 4) these comments referred to proposed rules which were made necessary by statutory changes to the UST Act. Changes to the rule could not be made unless changes were made to the UST Act also. Subsequently, changes to the Act were made, and the rules changed accordingly; and 5) the Division does not interpret Subsection R311-206-5(c)(2)(B)(i) as requiring the insurer to provide coverage of a claim discovered but not reported during the coverage period on a claims-made policy. This is because Subsection R311-206-5(c)(2)(B)(i) also requires insurers to use the endorsement language specified in 40 CFR 280.97 which in turn requires coverage of "claims for any occurrence that commenced during the term of the policy that is discovered and reported to the "Insurer" or "Group" within six months of the effective date of the cancellation or termination of the policy." However, a rule change will be initiated to modify or remove the subsection which is the source of the problem.

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

ENVIRONMENTAL QUALITY
 ENVIRONMENTAL RESPONSE AND REMEDIATION
 168 N 1950 W
 SALT LAKE CITY UT 84116-3085, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102,
 by FAX at 801-359-8853, or by Internet E-mail at
 gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002



**Environmental Quality, Environmental
 Response and Remediation
 R311-207
 Accessing the Petroleum Storage Tank
 Trust Fund for Leaking Petroleum
 Storage Tanks**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 24555
 FILED: 03/06/2002, 14:09

**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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs. Section 19-6-419 of the UST Act provides for accessing the Petroleum Storage Tank (PST) Trust Fund for costs involved in investigating and cleaning up UST release sites. Section 19-6-402 of the UST Act provides definitions pertaining to the PST Fund.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1997, during the rulemaking public comment period, a proposal was made to remove the word "Underground" from the title of this rule, based on a statutory change to the UST Act which provided for coverage of above-ground storage tanks under the PST Trust Fund. The comment was that the removal of the word left open the possibility that the Fund could be used to clean up releases from above-ground tanks. 2) In 1998, during the rulemaking public comment period, the Division of Administrative Rules requested that a reference to a consultant qualification and task description table being

incorporated by reference be expanded to include a short description of the material in the table. 3) In 1999, in Subsection R311-207-5(d)(3), one consultant commented that a markup on a subcontractor work is essential to make a profit and remain in business because reimbursement for time spent on project management on an hourly basis does not allow the consultant to make a sufficient profit. (The time a consultant spends on project management is an eligible expense submitted on a claim, but a percentage markup on subcontractor's work is not.) 4) In 2000, in Subsections R311-207-3(d)(2), (3), and (7), one contractor commented that the payment bond requirement is onerous and unnecessary. (Contents of the work plan must show that the claimant's contract with the consultant meets certain criteria, including a payment bond or other equivalent assurance.)

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is an integral part of the PST Trust Fund, and provides the necessary protocol allowing access to fund monies for investigating and cleaning up petroleum releases covered by the fund. It helps maintain the financial viability of the PST Fund to provide owner/operators federally-mandated financial assurance and reimbursement for expenses associated with a petroleum release. The summary of the responses to the comments received since the last five-year review as mentioned above are: 1) because the statutory change allowed for above-ground tanks to participate in the Fund, removing the word "Underground" from the rule title was considered appropriate, because above-ground tanks could now be covered by the Fund; 2) a description of the material in the table was added to the wording of the rule; 3) the Division believes that a limitation on markups is necessary to control PST Fund expenditures when reimbursement is based on time and materials. The Solid and Hazardous Waste Control Board affirmed this stance at a regularly-scheduled meeting where the consultant who questioned the rule spoke to the board to request a change. As an alternative, the rule also allows reimbursement on a pay-for-performance basis, where a consultant provides a firm, fixed price to achieve specified cleanup levels. There are no limitations on markups under a pay-for-performance reimbursement scheme; and 4) the Division does not believe that the bonding requirement is onerous because the claimant is not required to use a payment bond. The rule allows for "other equivalent assurance," identified when the work plan is submitted, to guarantee payment to consultants and subcontractors. When a payment bond is not used, the claimant acknowledges that the PST fund will not pay subcontractors whom the contractor fails to pay. The Division believes that the requirement is necessary to alert owners that they, not the PST Fund, bear the risk of subcontractors not being paid, so the owners can take the measures they deem necessary to protect their interests. The Solid and Hazardous Waste Control Board affirmed this stance at a regularly-scheduled meeting where the consultant who questioned the rule spoke to the board to request a change.

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

ENVIRONMENTAL QUALITY
 ENVIRONMENTAL RESPONSE AND REMEDIATION
 168 N 1950 W
 SALT LAKE CITY UT 84116-3085, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002



Environmental Quality, Environmental
 Response and Remediation
R311-208
 Underground Storage Tank Penalty
 Guidance

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 24556
 FILED: 03/06/2002, 14:10

**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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs.

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 on this rule have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule provides guidance to the Executive Secretary of the Board in imposing and negotiating appropriate penalties against the various degrees of violations. The guidance provides that penalties shall be in accordance with the severity of the violation, risk of harm, and the willingness of individuals to cooperate.

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

ENVIRONMENTAL QUALITY
 ENVIRONMENTAL RESPONSE AND REMEDIATION
 168 N 1950 W
 SALT LAKE CITY UT 84116-3085, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002



Environmental Quality, Environmental
 Response and Remediation
R311-209
 Petroleum Storage Tank Cleanup Fund
 and State Cleanup Appropriation

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 24557
 FILED: 03/06/2002, 14:12

**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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs. Section 19-6-409 of the UST Act gives the Executive Secretary of the Board the authority to investigate, abate, or take corrective action regarding releases from USTs that are not covered by the Petroleum Storage Tank (PST) Trust Fund.

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 on this rule have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is integral to the goals of the UST Act to protect human health and the environment. It provides criteria for use of the PST Cleanup Fund created by Section 19-6-405.7 of the UST Act and the Cleanup Appropriations in Subsections 19-6-409(5) and (6) of the UST Act.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002

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Environmental Quality, Environmental Response and Remediation **R311-210** Administrative Procedures for Underground Storage Tank Act Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24558
FILED: 03/06/2002, 14:13

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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs. Subsection 63-46b-1(6) of the Utah Administrative Procedures Act (UAPA) authorizes agencies to make rules to supplement UAPA to address adjudicative needs of the agency. The UST Act has provisions under which adjudicative proceedings take place, such as the identifying of responsible parties, apportioning liability, revoking certificates of compliance, and agency review of appeals or orders.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments on this rule have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The UAPA exempts UST

Act initial orders and notices of violation from UAPA requirements, but the UAPA becomes applicable if a UAPA-exempt order is contested or appealed. This rule provides necessary procedures for the transition of UAPA-exempt orders into UAPA proceedings when an order is contested. The rule is necessary to address agency adjudicative needs not addressed in the UAPA, such as delineating the role of a presiding officer, providing a standard of agency review, designating proceedings as formal or informal, and providing specific procedures for involved formal adjudications. Without the rule, it would be difficult or impossible to conduct UST Act adjudications adequately.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002

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Environmental Quality, Environmental Response and Remediation **R311-211** Corrective Action Clean-up Standards Policy - UST and CERCLA Sites

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24559
FILED: 03/06/2002, 14:14

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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank program and the adoption of applicable Federal UST regulations. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs. Section 19-6-303 of the Hazardous Substance Mitigation Act authorizes the Executive Director to make rules consistent with the State's responsibilities and involvement with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

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 on this rule have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides essential standards to be used in directing corrective action at contaminated UST and CERCLA sites. This oversight of cleanup is an essential part of the agency's statutory responsibility.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002



Environmental Quality, Environmental
Response and Remediation
R311-212
Administration of the Petroleum Storage
Tank Loan Fund

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24560
FILED: 03/06/2002, 14:14

**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 19-6-403 of the Utah Underground Storage Tank (UST) Act authorizes the Utah Solid and Hazardous Waste Control Board to make rules for administration of the petroleum storage tank (PST) program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act authorizes the Board to make rules which establish standards governing USTs. Subsection 19-6-405.3(7) of the UST Act authorizes the Board to make rules for the administration of the PST Loan Fund.

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 on this rule have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for continued operation of the PST loan program, and is required by statute. The statute contains the basic framework of the loan program and mandates that the Board make rules for the program's administration.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4102, by FAX at 801-359-8853, or by Internet E-mail at gastin@deq.state.ut.us

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 03/25/2002



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-4A
Outpatient Hospital Services: Payment
of Triage Fee

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24576
FILED: 03/12/2002, 08:55

**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 26-18-2.3 requires the Department to implement cost-containment measures and to operate the Medicaid program in an efficient, economical manner. Section 26-18-3.5 provides for the payment by Medicaid recipients of fees and other cost sharing charges.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes a

triage fee that helps reduce unnecessary visits to hospital emergency rooms. This rule is an integral part of the Medicaid program and should be continued.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at Irmartin@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 03/25/2002

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Health, Health Care Financing, Coverage and Reimbursement Policy **R414-7C** Alternative Remedies for Nursing Facilities

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24575
FILED: 03/12/2002, 08:41

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 required as an integral part of the Medicaid program. The Medicaid program is authorized by Title XIX of the Social Security Act, and Sections 26-1-5, 26-18-2.1, and 26-18-2.3. Authority to apply the remedies described in this rule is defined in the federal Omnibus Budget Reconciliation Act (OBRA) of 1987 (Pub. L. No. 100-203), which mandates compliance with requirements of participation for the Medicaid program, and in Section 26-18-3. Section 1919(h) of the Social Security Act specifies remedies available to a state when a skilled nursing facility (SNF) or nursing facility (NF) is out of compliance with the requirements for participation in the Medicaid program. This section requires the state to ensure prompt compliance, and it further specifies that the available remedies are in addition to other remedies available under state or federal law and, except for fines, are imposed prior to the conduct of a hearing.

This rule establishes criteria for the imposition of remedies authorized by statute and adopts and incorporates by reference the regulations in 42 CFR, Part 488-Survey,

Certification, and Enforcement Procedures, as amended in the Federal Register for November 10, 1994, 59 FR 56237.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule allows remedies such as civil fines and interest penalties to be imposed on nursing facilities to eliminate deficiencies and force compliance with state and federal Medicaid Standards and should be continued.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at Irmartin@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 03/25/2002

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Health, Health Care Financing, Coverage and Reimbursement Policy **R414-10** Physician Services

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24573
FILED: 03/08/2002, 13:51

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 26-18-3 requires the Department to develop implementing policy for the Medicaid program. This rule describes the physician services that are reimbursed under the program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS

SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required as an integral part of the Medicaid program and should be continued. Without it, most of the services provided by the Medicaid program would not be possible.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at Irmartin@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 03/25/2002



**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-10A
Transplant Services Standards**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24577
FILED: 03/12/2002, 11:50

**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 required as an integral part of the Medicaid program. The Medicaid program is authorized by Title XIX of the Social Security Act, and Sections 26-1-5, 26-18-2.1, and 26-18-2.3. Transplantation services are authorized by Section 9507 of the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), codified as section 1903(i)(1) of the Social Security Act, requires states, as part of the Medicaid program, to establish standards for coverage of transplantation services. Under the ruling issued by the Federal District Court for the District of Utah, Central Division, Civil No. 96405, the Department of Health has absolute discretion to fund transplantation services under Title XIX of the Social Security

Act and if transplantation services are covered, there must be no discrimination on the basis of age.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: A variety of concerns have been raised through the hearing process. Those issues include outdated criteria and the inability of providers to meet criteria. Those issues have been addressed through the hearing process, however. A revision of this rule is forthcoming.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule conforms with federal requirements for coverage of transplantation services and as such must be continued.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at Irmartin@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 03/25/2002



**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-45
Personal Supervision by a Physician**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24574
FILED: 03/08/2002, 13:57

**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 required as an integral part of the Medicaid program. The Medicaid program is authorized by Title XIX of the Social Security Act, and Sections 26-1-5, 26-18-2.1, and 26-18-2.3. Physician services are authorized by Sections 1901 and 1905(a)(5) of the Social Security Act, and 42 CFR 440.50, 491.2, October

1992 ed., which are adopted and incorporated by reference in the rule. Reference is also made to Title 58, Chapters 12 and 31; and Rules R156-12d and R156-31.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: A variety of concerns have been raised by the physician's assistants' association, from within the Division, and by members of the Medical Care Advisory Committee. There is also a change in licensing in Utah. As a result, a revision of this rule is forthcoming.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines medical services provided under the supervision of a physician or osteopath. Until the revision is completed, this rule needs to be in place to assure adequate physician supervision.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at Irmartin@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 03/25/2002



Human Services, Child and Family
Services

R512-43

Adoption Assistance

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24587
FILED: 03/14/2002, 14:44

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-106 allows the division to provide services directly or through contract. Section 62A-4a-108 outlines adoption assistance agreements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Changes are needed and will be filed soon.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued as adoption assistance for families who adopt the children in the custody of the Division is essential to provide the funds for the medical, educational, and other needs of these adopted children.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
ROOM 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradfor@hs.state.ut.us

AUTHORIZED BY: Richard Anderson, Director

EFFECTIVE: 03/25/2002



Insurance, Administration
R590-116
Valuation of Assets

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24571
FILED: 03/08/2002, 11:51

**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 31A-2-201 authorizes the commissioner to write rules to implement the provisions of Title 31A. Subsection 31A-17-401(3)(a)(ii) allows the commissioner to write a rule to determine the present value of future income derived from securities owned by an insurer. Subsection 31A-17-401(4) requires the commissioner to adopt rules to implement the provisions of Section 31A-17-401, Valuation and Reserves. Section R590-116-4 of the rule sets standards for the valuation of an insurer's assets securities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not

received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to set a standard for all insurers to use in determining the value of their company's assets and should be continued.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.state.ut.us

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/25/2002

IN OPPOSITION TO THE RULE, IF ANY: This rule standardizes those liabilities that should be listed on an insurer's annual statement, as well as how they are to be valued and should be continued. It is important that all licensed insurers in Utah be judged by the same standard in listing and assessing their liabilities. Knowing the true value of these liabilities is one way the Insurance Department has in determining the financial health of these insurers.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.state.ut.us

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/25/2002

Insurance, Administration
R590-117
Valuation of Liabilities

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24572
FILED: 03/08/2002, 12:23

**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 31A-2-201 gives the commissioner the authority to implement the provisions of Title 31A by rule. Section 31A-17-402 requires the commissioner to adopt rules specifying the liabilities insurers are required to report on their annual financial statement as well as the method for valuing these liabilities. Section R590-117-4 of the rule states the liabilities that are to be listed on the insurer's financial statement and also the method by which these liabilities are to be valued.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS

Pardons (Board Of), Administration
R671-305
Notification of Board Decision

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24569
FILED: 03/08/2002, 08:02

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-9.7 requires the Board to notify a victim when an offender will be released.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Staff responding to requests for information on decisions by the Board have asked for clarification 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: This rule is required under statute and provides notice of the decision and the rationale to the offender before the decision is made public.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson.bpmain@state.ut.us

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 03/25/2002

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**Public Service Commission,
Administration
R746-349
Competitive Entry and Reporting
Requirements**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24585
FILED: 03/13/2002, 09:13

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-8b-2.1 allows the Commission to issue certificates to multiple providers of telecommunications services. This rule identifies information that applicants should file in order to establish their qualifications for a certificate. The Federal Telecommunications Act of 1996 and Section 54-8b-2.2 require telecommunications providers to interconnect their networks and make their facilities available to one another. Sections 54-8b-16 and 54-8b-17 require the Commission to resolve interconnection disputes and this rule identifies information service providers in order for the Commission to resolve service and interconnection disputes. Section 54-8b-18 deals with changes in telecommunications services providers and this rule addresses the procedure needed to comply with the statute and assist the Commission in resolving disputes. Section 54-8b-3 provides that the Commission may grant exemption from Code requirements and this rule addresses the exemptions the Commission has determined appropriate for Competitive Local Exchange Carriers. Subsection 54-8b-3.3(3) deals with incumbent telecommunications corporations' price floors and this rule addresses how and when the Commission will determine compliance with that statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS

SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule during the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It continues to be necessary for the Commission to have this rule for obtaining certificates, reporting requirements, imputation, essential facilities, and procedures for corporations applying to be competitors in providing local exchange services or other public telecommunications services in all or part of the service territory of an incumbent telephone corporation.

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

PUBLIC SERVICE COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Barbara Stroud at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at bstroud.pupsc@state.ut.us

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 03/26/2002

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**Regents (Board Of), University of Utah,
Parking and Transportation Services
R810-5
Permit Types, Eligibility, and
Designated Parking Areas**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24586
FILED: 03/13/2002, 15:39

**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 53B-3-103 give the board authority to enact regulations governing the conduct of University students, faculty, and employees. Section 53B-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Parking at the University of Utah is self-funded. The sale of permits allows the University to obtain funds to build and maintain parking lots and to provide a way of controlling parking assets on campus.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
ROOM 101
1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 03/25/2002

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Tax Commission, Auditing **R865-4D** Special Fuel Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24589
FILED: 03/15/2002, 11:02

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 59-13-102 provides definitions relating to the motor and special fuel taxes. Section 59-13-301 imposes a tax on special fuels and provides for exemptions to the tax. Section 59-13-302 requires users of special fuel to obtain a license, and provides guidelines for obtaining and maintaining the license. Section 59-13-303 requires special fuel users to obtain a special fuel permit. The section also allows a user to obtain a 96-hour special fuel trip permit, in place of the special fuel permit. Section 59-13-304 provides for a user of clean fuel to obtain a special fuel tax exemption certificate and sets fees for obtaining the certificate. Section 59-13-305 requires the user to file a report with the Tax Commission showing the fuel purchased and used in the state. Section 59-13-307 requires the supplier to file a report with the Tax Commission showing fuel delivered to or removed from the state. Section 59-13-312 requires users and user-dealers to keep records in a form prescribed by the commission, of all purchases, receipts, and sales.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-4D-1 defines "motor vehicle" and "user" for purposes of imposing the special fuels tax. Section R865-4D-2 provides guidance on when the fee for the special fuel tax exemption certificate shall be paid; clarifies when the special fuel tax exemption applies; and outlines formula for calculating fuel use. Section R865-4D-3 provides procedures for purchase and use of special fuel user-dealer's license. Section R865-4D-5 provides guidance on the use of a special fuel tax entrance permit. Section R865-4D-6 sets forth the record-keeping requirements for special fuel user-dealers. Section R865-4D-18 sets forth the record-keeping requirements for special fuel users. Section R865-4D-19 outlines how a government entity is to obtain a refund for special fuel taxes paid and indicates records needed to support the refund. Section R865-4D-20 indicates the conditions under which the exemption or refund for exported undyed diesel fuel shall apply. Section R865-4D-21 defines "gross gallon" and "net gallon;" requires suppliers to calculate tax liability on a consistent gross gallon or net gallon basis; and specifies that both gross and net amounts must be on all invoices, bills of lading, and special fuel tax returns.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 03/25/2002

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Tax Commission, Auditing **R865-14W** Mineral Producers' Withholding Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24590
FILED: 03/15/2002, 11:26

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 59-6-101 defines terms used in this chapter. Section 59-6-102 requires a producer to withhold an amount equal to 5% of payments made for the production of minerals in this state and provides for a credit for a person from whom payment has been withheld. Section 59-6-103 requires producers to file a return with the commission on forms prescribed by the commission. Section 59-6-104 provides that the provisions of the income tax withholding, Title 59, Chapter 10, Part 4, shall apply to this chapter.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-14W-1 defines "working interest owner," "first purchaser," "person," and "producer" with regard to the state mineral producer's withholding tax; clarifies withholding requirements, who is responsible to pay tax, and how claims for credits against the withholding tax should be made; provides guidelines for filing different return forms, and who is responsible for unpaid tax.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 03/25/2002

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Transportation, Motor Carrier
R909-1
Safety Regulation for Motor Carriers

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24546
FILED: 03/06/2002, 13:41

**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 72-9-103 gives the department specific authority to issue rules needed to carry out its role in regulating the safety of motor carriers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is needed to inform the public and the regulated industry about the mandates placed upon it and that Utah has adopted federal regulations.

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@dot.state.ut.us

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 03/25/2002

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Transportation, Motor Carrier
R909-75
Safety Regulations for Motor Carriers
Transporting Hazardous Materials
and/or Hazardous Wastes

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24547
FILED: 03/06/2002, 13:48

**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 72-9-103 provides authority to issue rules regarding incorporation of federal regulations and for the administration and enforcement of motor carrier regulation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to carry out the department's responsibility to regulate the transportation of hazardous wastes and hazardous materials.

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@dot.state.ut.us

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 03/25/2002



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

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. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1996).

Community and Economic Development

Community Development, Community Services

No. 24561 (filed 03/06/2002 at 2:37 p.m.): R202-201.
Energy Assistance: General Provisions.

Enacted or Last Five-Year Review: 03/07/97 as R513-601 (No. 18746, 5YR, filed 03/07/97 at 9:13 a.m., published 04/01/97)

(NOTE: Changed from R513-601 to R495-601 on 11/29/97, No. 20111; and then changed from R495-601 to R202-201 on 10/23/98, No. 21518)

Extended Due Date: 07/05/2002

No. 24562 (filed 03/06/2002 at 2:40 p.m.): R202-202.
Energy Assistance: Program Standards.

Enacted or Last Five-Year Review: 03/07/97 as R513-602 (No. 18747, 5YR, filed 03/07/97 at 9:13 a.m., published 04/01/97)

(NOTE: Changed from R513-602 to R495-602 on 11/29/97, No. 20112; and then changed from R495-602 to R202-202 on 10/23/98, No. 21519)

Extended Due Date: 07/05/2002

No. 24563 (filed 03/06/2002 at 2:45 p.m.): R202-203.
Energy Assistance Income Standards, Income Eligibility, and Payment Determination.

Enacted or Last Five-Year Review: 03/07/97 as R513-603 (No. 18748, 5YR, filed 03/07/97 at 9:13 a.m., published 04/01/97)

(NOTE: Changed from R513-603 to R495-603 on 11/29/97, No. 20113; and then changed from R495-603 to R202-203 on 10/23/98, No. 21520)

Extended Due Date: 07/05/2002

No. 24564 (filed 03/06/2002 at 2:49 p.m.): R202-204.
Energy Assistance: Asset Standards.

Enacted or Last Five-Year Review: 03/07/97 as R513-604 (No. 18749, 5YR, filed 03/07/97 at 9:13 a.m., published 04/01/97)

(NOTE: Changed from R513-604 to R495-604 on 11/29/97, No. 20114; and then changed from R495-604 to R202-204 on 10/23/98, No. 21521)

Extended Due Date: 07/05/2002

No. 24565 (filed 03/06/2002 at 2:51 p.m.): R202-205.
Energy Assistance: Program Benefits.

Enacted or Last Five-Year Review: 03/07/97 as R513-605 (No. 18750, 5YR, filed 03/07/97 at 9:13 a.m., published 04/01/97)

(NOTE: Changed from R513-605 to R495-605 on 11/29/97, No. 20115; and then changed from R495-605 to R202-205 on 10/23/98, No. 21522)

Extended Due Date: 07/05/2002

No. 24566 (filed 03/06/2002 at 2:53 p.m.): R202-206.
Energy Assistance: Eligibility.

Enacted or Last Five-Year Review: 03/07/97 as R513-606 (No. 18751, 5YR, filed 03/07/97 at 9:13 a.m., published 04/01/97)

(NOTE: Changed from R513-606 to R495-606 on 11/29/97, No. 20116; and then changed from R495-606 to R202-206 on 10/23/98, No. 21523)

Extended Due Date: 07/05/2002

No. 24567 (filed 03/06/2002 at 2:55 p.m.): R202-208.
Energy Assistance: Special State Programs.

Enacted or Last Five-Year Review: 03/07/97 as R513-608 (No. 18752, 5YR, filed 03/07/97 at 9:13 a.m., published 04/01/97)

(NOTE: Changed from R513-608 to R495-608 on 11/29/97, No. 20118; and then changed from R495-608 to R202-208 on 10/23/98, No. 21525)

Extended Due Date: 07/05/2002

Notices of Effective Dates Begin on the Following Page

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

Education

Administration

No. 24398 (AMD): R277-517. Athletic Coaching Endorsements.

Published: February 1, 2002

Effective: March 5, 2002

No. 24399 (AMD): R277-605. Extracurricular Student Activities.

Published: February 1, 2002

Effective: March 5, 2002

No. 24400 (R&R): R277-700. The Elementary and Secondary School Core Curriculum and High School Graduation Requirements.

Published: February 1, 2002

Effective: March 5, 2002

No. 24401 (NEW): R277-705. Secondary School Completion and Diplomas.

Published: February 1, 2002

Effective: March 5, 2002

Human Services

Recovery Services

No. 24359 (AMD): R527-200. Administrative Procedures.

Published: February 1, 2002

Effective: March 5, 2002

Insurance

Administration

No. 24393 (AMD): R590-91. Credit Life and Disability Insurance.

Published: February 1, 2002

Effective: March 13, 2002

Labor Commission

Industrial Accidents

No. 24389 (AMD): R612-1-11. Burial Expenses.

Published: February 1, 2002

Effective: March 5, 2002

Natural Resources

Wildlife Resources

No. 24382 (AMD): R657-5. Taking Big Game.

Published: February 1, 2002

Effective: March 5, 2002

No. 24383 (AMD): R657-6. Taking Upland Game.

Published: February 1, 2002

Effective: March 5, 2002

No. 24384 (AMD): R657-9. Taking Waterfowl, Wilson's Snipe and Coot.

Published: February 1, 2002

Effective: March 5, 2002

No. 24385 (AMD): R657-10. Taking Cougar.

Published: February 1, 2002

Effective: March 5, 2002

No. 24386 (AMD): R657-11. Taking Furbearers.

Published: February 1, 2002

Effective: March 5, 2002

No. 24387 (AMD): R657-12. Authorization to Hunt from a Vehicle and Fishing License for the Disabled.

Published: February 1, 2002

Effective: March 5, 2002

No. 24388 (AMD): R657-46. The Use of Game Birds in Dog Field Trials and Training.

Published: February 1, 2002

Effective: March 5, 2002

Transportation

Motor Carrier

No. 24335 (REP): R909-4. Safety Regulations for Tow Truck (Wrecker) Operations - Tow Truck Requirements, Equipment and Operation.

Published: January 15, 2002

Effective: March 6, 2002

Rules Index Begins on the Following Page

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2002, including notices of effective date received through March 15, 2002, the effective dates of which are no later than April 1, 2002. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	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>Fleet Operations</u>					
R27-1	Definitions	24187	R&R	01/23/2002	2001-22/8
R27-3	Vehicle Use Standards	24186	R&R	01/23/2002	2001-22/11
<u>Fleet Operations, Surplus Property</u>					
R28-1	State Surplus Property Disposal	24545	5YR	03/25/2002	2002-7/34
Agriculture and Food					
<u>Animal Industry</u>					
R58-7-3	Livestock Markets	24194	AMD	02/12/2002	2001-23/4
R58-18	Elk Farming	24544	EMR	03/06/2002	2002-7/28
R58-19	Compliance Procedures	24191	AMD	02/12/2002	2001-23/5
<u>Regulatory Services</u>					
R70-910	Voluntary Registration of Servicemen and Service Agencies for Commercial Weighing and Measuring Devices	24200	AMD	02/12/2002	2001-23/7
R70-940	Standards and Testing of Motor Fuel	24198	AMD	02/12/2002	2001-23/9

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

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