

UTAH STATE BULLETIN

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

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Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

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

Division of Administrative Rules, Salt Lake City 84114

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TABLE OF CONTENTS

1. EDITOR'S NOTES

Publication Error in the June 1, 2005, Bulletin	1
-------------------------------------------------------	---

2. SPECIAL NOTICES

Natural Resources, Wildlife Resources: Public Notice of Emergency Changes to the 2005 Utah Fishing Regulations Established by the Wildlife Board for Taking Fish and Crayfish.....	2
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---

3. NOTICES OF PROPOSED RULES

Alcoholic Beverage Control

Administration

No. 27947 (Amendment): R81-1-6. Violation Schedule	4
No. 27948 (Amendment): R81-1-7. Disciplinary Hearings	5
No. 27949 (Amendment): R81-1-24. Responsible Alcohol Service Plan	7

Capitol Preservation Board (State)

Administration

No. 27973 (New Rule): R131-5. Board Review, Compensation and Incentive Award Process	9
No. 27974 (New Rule): R131-6. Board Designation of Space	12

Commerce

Occupational and Professional Licensing

No. 27942 (Amendment): R156-55a. Utah Construction Trades Licensing Act Rules.....	13
------------------------------------------------------------------------------------	----

Real Estate

No. 27951 (Amendment): R162-2-1. Exam Application	15
No. 27940 (Amendment): R162-6-1. Improper Practices.....	16
No. 27950 (Amendment): R162-103-5. Appraisal Education Requirements.....	17
No. 27946 (Amendment): R162-109. Administrative Proceedings	18
No. 27943 (Amendment): R162-202. Initial Application	21
No. 27945 (Amendment): R162-208. Continuing Education	22

Education

Administration

No. 27932 (Amendment): R277-444. Distribution of Funds to Arts and Sciences Organizations	24
No. 27933 (Repeal): R277-480. Advanced Readers at Risk	27

TABLE OF CONTENTS

Environmental Quality

Drinking Water

No. 27964 (Amendment): R309-100. Administration: Drinking Water Program.....29

No. 27959 (Amendment): R309-105-16. Reporting Test Results31

No. 27960 (Amendment): R309-110-3. Acronyms33

No. 27961 (Amendment): R309-200. Monitoring and Water Quality: Drinking Water Standards35

No. 27967 (Amendment): R309-205. Monitoring and Water Quality: Source Monitoring Requirements37

No. 27969 (Amendment): R309-215. Monitoring and Water Quality: Treatment Plant Monitoring Requirements43

No. 27962 (Amendment): R309-220. Monitoring and Water Quality: Public Notification Requirements45

No. 27963 (Amendment): R309-505. Facility Design and Operation: Minimum Treatment Requirements47

No. 27965 (Amendment): R309-535. Facility Design and Operation: Miscellaneous Treatment Methods.....49

Water Quality

No. 27944 (Amendment): R317-4. Onsite Wastewater Systems.....50

Health

Community and Family Health Services, Children with Special Health Care Needs

No. 27941 (Amendment): R398-10. Autism Spectrum Disorders and Mental Retardation Reporting.....61

Health Care Financing, Coverage and Reimbursement Policy

No. 27956 (Repeal): R414-33A. Targeted Case Management for the Chronically Mentally Ill.....62

No. 27958 (New Rule): R414-33D. Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness64

No. 27935 (Amendment): R414-507. Medicaid Long Term Care Managed Care.....66

Human Services

Recovery Services

No. 27938 (Repeal): R527-67. Locate, Use of Subpoena Duces Tecum67

Public Safety

Fire Marshal

No. 27976 (Amendment): R710-4-3. Amendments and Additions.....67

No. 27975 (Amendment): R710-9-6. Amendments and Additions.....69

Tax Commission

Auditing

No. 27929 (Amendment): R865-6F-35. S Corporation Determination of Tax Pursuant to Utah Code Ann. Section 59-7-703.....71

No. 27930 (Amendment): R865-9I-51. Withholding Tax License Pursuant to Utah Code Ann. Section 59-10-405.5	72
No. 27931 (Amendment): R865-19S-8. Bonds and Securities Pursuant to Utah Code Ann. Section 59-12-107	73
<u>Transportation</u>	
Motor Carrier, Ports of Entry	
No. 27953 (Repeal): R912-3. Overweight and/or Oversize Permitted Vehicle Restrictions on Certain Highways Throughout the State of Utah	74
No. 27970 (New Rule): R912-9. Pilot/Escort Requirements and Certification Program	74
No. 27971 (New Rule): R912-10. Requirements for Pilot/Escort Qualified Training and Certification Program	77
No. 27952 (New Rule): R912-11. Overweight and/or Oversize Permitted Vehicle Restrictions on Certain Highways Throughout the State of Utah	79
No. 27972 (Amendment): R912-14. Changes to Utah's Oversize/Overweight Permit Program - Semitrailer Exceeding 48 Feet in Length	82
Operations, Traffic and Safety	
No. 27955 (Amendment): R920-5. Manual and Specifications on School Crossing Zones. Supplemental to Part VII of the Manual on Uniform Traffic Control Devices	83
<u>Workforce Services</u>	
Employment Development	
No. 27957 (Amendment): R986-200. Family Employment Program	84
Workforce Information and Payment Services	
No. 27937 (Amendment): R994-403-123. Obligation of Department Employees	86
No. 27936 (Amendment): R994-508-109. Hearing Procedure	86
 4. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION	
<u>Health</u>	
Epidemiology and Laboratory Services, Epidemiology	
No. 27934: R386-800. Immunization Coordination	89
<u>Transportation</u>	
Motor Carrier, Ports of Entry	
No. 27954: R912-16. Special Mobile Equipment	89
 5. NOTICES OF RULE EFFECTIVE DATES	
91	
 6. RULES INDEX	
93	

EDITOR'S NOTES

PUBLICATION ERROR IN THE JUNE 1, 2005, BULLETIN

Two notices of effective date from the Department of Workforce Services (DWS) were published by mistake in the June 1, 2005, issue of the *Utah State Bulletin (Bulletin)*. DWS intended for proposed amendments to Section R986-200-214 (DAR No. 27771, originally published in the April 1, 2005, *Bulletin*) and for the proposed new Rule R994-304 (DAR No. 27770, originally published in the April 1, 2005, *Bulletin*) to lapse. Due to a clerical error at DWS, the notices of effective date for these proposed rulemaking actions were filed, resulting in their publication in the June 1, 2005, issue of the *Bulletin*.

DWS filed other rulemaking affecting Section R986-200-214 (DAR No. 27824) and Rule R994-304 (DAR No. 27823), which were published in the May 1, 2005, issue of the *Bulletin*. Those rulemaking actions have been made effective as of 06/01/2005, and their notices of effective date appear in this *Bulletin*.

Questions regarding the publication of these effective date notices should be directed to Nancy Lancaster by phone at 801-538-3218, by FAX at 801-538-1773, or by email at nllancaster@utah.gov.

End of the Editor's Notes Section

SPECIAL NOTICES

Natural Resources Wildlife Resources

Public Notice of Emergency Changes to the 2005 Utah Fishing Regulations Established by the Wildlife Board for Taking Fish and Crayfish

I, James F. Karpowitz, by authority granted in Section 23-14-8 of the Wildlife Resources Code of Utah, declare an emergency amendment to the 2005 Utah Fishing Regulations. The following has been amended:

HONEYVILLE PONDS (Cold Springs Lakes) (Box Elder County):

CLOSED January 1 through 6 a.m. May 28 (Saturday).

WELLSVILLE RESERVOIR (Cache County):

CLOSED January 1 through 6 a.m. May 28 (Saturday).

This change is being made to correct an error in the 2005 Utah Fishing Proclamation. The above waters were closed until 6 a.m. May 29. May 29 is a Sunday. According to state law, Subsection 23-14-18(3), a season cannot open on a Sunday.

Except for other emergency changes made since January 1, 2005, all other rules established in the 2005 Utah Fishing Regulations remain in effect.

UTAH DIVISION OF WILDLIFE RESOURCES

By: James F. Karpowitz, Director

Subscribed and sworn to before me this 17th day of May 2005.

Rebecca Johnson, Notary Public

My commission expires: April 7, 2007

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 May 17, 2005, 12:00 a.m., and June 1, 2005, 11:59 p.m. are included in this, the June 15, 2005, 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 July 15, 2005. 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 October 13, 2005, 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.

**Alcoholic Beverage Control,
Administration
R81-1-6
Violation Schedule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27947

FILED: 06/01/2005, 09:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Alcoholic Beverage Control (DABC) is proposing to amend Rule R81-1 by adding Section R81-1-24, which requires any licensee who has been found to have violated any provisions of the Alcoholic Beverage Control Act relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21 to write and submit to the department a Responsible Alcohol Service Plan. Since the requirement for the Responsible Alcohol Service Plan will be part of a licensee's violation penalty, it is necessary to amend the violation schedule in Section R81-1-6 to accommodate for this provision. (DAR NOTE: The proposed amendment of adding Section R81-1-24 is under DAR No. 27949 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This proposed amendment adds Subsection R81-1-6(3)(d)(iv) which states that, as part of a violation penalty, the Commission may require a licensee to have, and submit to the department, a written Responsible Alcohol Service Plan.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--Since the compliance staff of DABC is already established to regulate licensee operations, it is not anticipated that monitoring the compliance of this additional requirement for those licensees who have violated applicable laws will significantly affect the compliance officers' workloads. Therefore, there should be no additional cost or savings involved in implementing this rule amendment.

❖ **LOCAL GOVERNMENTS:** None--This proposed rule amendment only affects the Alcoholic Beverage Control Commission's administrative adjudication of licensee violations and will not affect local governments.

❖ **OTHER PERSONS:** There may be some cost to licensees who have violated applicable alcoholic beverage laws and are required to provide a Responsible Alcohol Service Plan. These costs will be related to the preparation and implementation of the Responsible Alcohol Service Plan and will vary depending on the size of the licensee's operation and the depth of the service plan.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some costs to licensees who have violated applicable alcoholic beverage laws and are required to provide a

Responsible Alcohol Service Plan. The costs will be related to the preparation and implementation of the plan and will vary depending on the size of the licensee's operation and the depth of the plan.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Compliance with the provisions of this proposed rule amendment will likely have a fiscal cost for licensees who have violated applicable laws as they develop a Responsible Alcohol Service Plan. However, when appropriately implemented, these service plans could reap huge savings to both the licensee and the community by addressing business and public safety issues surrounding the service of alcoholic beverages to minors and intoxicated persons. Kenneth F. Wynn, Director

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope, Definitions, and General Provisions.

R81-1-6. Violation Schedule.

(1) **Authority.** This rule is pursuant to Sections 32A-1-107(1)(c)(i), 32A-1-107(1)(e), 32A-1-107(4)(b), 32A-1-119(6) and (7). These provisions authorize the commission to establish criteria and procedures for imposing sanctions against licensees and permittees and their officers, employees and agents who violate statutes and commission rules relating to alcoholic beverages. The commission may revoke or suspend the licenses or permits, and may impose a fine against a licensee or permittee in addition to or in lieu of a suspension. The commission also may impose a fine against an officer, employee or agent of a licensee or permittee. Violations are adjudicated under procedures contained in Section 32A-1-119 and disciplinary hearing Section R81-1-7.

(2) **General Purpose.** This rule establishes a schedule setting forth a range of penalties which may be imposed by the commission for violations of the alcoholic beverage laws. It shall be used by department decision officers in processing violations, and by presiding officers in charging violations, in assisting parties in settlement negotiations, and in recommending penalties for violations. The schedule shall be used by the commission in

rendering its final decisions as to appropriate penalties for violations.

(3) Application of Rule.

(a) This rule governs violations committed by all commission licensees and permittees and their officers, employees and agents except single event permittees. Violations by single event permittees and their employees and agents are processed under Section 32A-7-106.

(b) This rule does not apply to situations where a licensee or permittee fails to maintain the minimum qualifications provided by law for holding a license or permit. These might include failure to maintain a bond or insurance, or a conviction for a criminal offense that disqualifies the licensee or permittee from holding the license or permit. These are fundamental licensing and permitting requirements and failure to maintain them may result in immediate suspension or forfeiture of the license or permit. Thus, they are not processed in accordance with the Administrative Procedures Act, Title 63, Chapter 46b or Section R81-1-7. They are administered by issuance of an order to show cause requiring the licensee or permittee to provide the commission with proof of qualification to maintain their license or permit.

(c) If a licensee or permittee has not received a letter of admonishment, as defined in Sections R81-1-2 and R81-1-7(2)(b), or been found by the commission to be in violation of Utah statutes or commission rules for a period of 36 consecutive months, its violation record shall be expunged for purposes of determining future penalties sought. The expungement period shall run from the date the last offense was finally adjudicated by the commission.

(d) In addition to the penalty classifications contained in this rule, the commission may:

(i) upon revocation of a license or permit, take action to forfeit the bond of any licensee or permittee;

(ii) prohibit an officer, employee or agent of a licensee or permittee from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee or permittee for a period determined by the commission;

(iii) order the removal of a manufacturer's, supplier's or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer directly committed the violation, or solicited, requested, commanded encouraged, or intentionally aided another to engage in the violation.

(iv) require a licensee to have a written responsible alcohol service plan as provided in R81-1-24.

(e) When the commission imposes a fine or administrative costs, it shall establish a date on which the payment is due. Failure of a licensee or permittee or its officer, employee or agent to make payment on or before that date shall result in the immediate suspension of the license or permit or the suspension of the employment of the officer, employee or agent to serve, sell, distribute, manufacture, wholesale, warehouse or handle alcoholic beverages with any licensee or permittee until payment is made. Failure of a licensee or permittee to pay a fine or administrative costs within 30 days of the initial date established by the commission shall result in the issuance of an order to show cause why the license or permit should not be revoked and the licensee's or permittee's compliance bond forfeited. The commission shall consider the order to show cause at its next regularly scheduled meeting.

(f) Violations of any local ordinance are handled by each individual local jurisdiction.

.....

KEY: alcoholic beverages

~~June 1, 2004~~ 2005

Notice of Continuation December 26, 2001

32A-1-107

32A-1-119(5)(c)

32A-3-103(1)(a)

32A-4-103(1)(a)

32A-4-203(1)(a)

32A-5-103(3)(c)

32A-6-103(2)(a)

32A-7-103(2)(a)

32A-8-103(1)(a)

32A-9-103(1)(a)

32A-10-203(1)(a)

32A-11-103(1)(a)



**Alcoholic Beverage Control,
Administration
R81-1-7
Disciplinary Hearings**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 27948
FILED: 06/01/2005, 09:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Alcoholic Beverage Control (DABC) is proposing to amend Rule R81-1 by adding Section R81-1-24, which requires any licensee who has been found to have violated any provisions of the Alcoholic Beverage Control Act relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21 to write and submit to the department a Responsible Alcohol Service Plan. Since the requirement for the Responsible Alcohol Service Plan will be part of a licensee's violation penalty, it is necessary to amend the disciplinary hearings section to accommodate for this provision. (DAR NOTE: The proposed amendment of adding Section R81-1-24 is under DAR No. 27949 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This proposed amendment adds the additional possible penalty to those listed in Subsection R81-1-7(1)(e) of requiring that a licensee have a written Responsible Alcohol Service Plan in place.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Since the compliance staff of DABC is already established to regulate licensee operations, it is not anticipated that monitoring the compliance of this additional requirement for those licensees who have violated applicable laws will significantly affect the compliance officers' workloads. Therefore, there should be no additional cost or savings involved in implementing this rule amendment.

❖ LOCAL GOVERNMENTS: None--This proposed rule amendment only affects the Alcoholic Beverage Control Commission's administrative adjudication of licensee violations and will not affect local governments.

❖ OTHER PERSONS: There may be some cost to licensees who have violated applicable alcohol beverage laws and are required to provide a Responsible Alcohol Service Plan. These costs will be related to the preparation and implementation of the Responsible Alcohol Service Plan and will vary depending on the size of the licensee's operation and the depth of the service plan.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some costs to licensees who have violated applicable alcoholic beverage laws and are required to provide a Responsible Alcoholic Beverage Plan. The costs will be related to the preparation and implementation of the plan and will vary depending on the size of the licensee's operation and the depth of the plan.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Compliance with the provisions of this proposed rule amendment will likely have a fiscal cost for licensees who have violated applicable laws as they develop a Responsible Alcohol Service Plan. However, when appropriately implemented, these service plans could reap huge savings to both the licensee and the community by addressing business and public safety issues surrounding the service of alcoholic beverages to minors and intoxicated persons. Kenneth F. Wynn, Director

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.**R81-1. Scope, Definitions, and General Provisions.****R81-1-7. Disciplinary Hearings.**

(1) General Provisions.

(a) This rule is promulgated pursuant to Section 32A-1-107(1)(c)(i) and shall govern the procedure for disciplinary actions under the jurisdiction of the commission. Package agencies are expressly excluded from the provisions of this rule, and are governed by the terms of the package agency contract.

(b) Liberal Construction. Provisions of this rule shall be liberally construed to secure just, speedy and economical determination of all issues presented in any disciplinary action.

(c) Emergency Adjudication Proceedings. The department or commission may issue an order on an emergency basis without complying with the Utah Administrative Procedures Act in accordance with the procedures outlined in Section 63-46b-20.

(d) Utah Administrative Procedures Act. Proceedings under this rule shall be in accordance with Title 63, Chapter 46b, Utah Administrative Procedures Act (UAPA), and Sections 32A-1-119 and -120.

(e) Penalties. This rule shall govern the imposition of any penalty against a commission licensee, permittee, or certificate of approval holder, an officer, employee or agent of a licensee, permittee, or certificate of approval holder, and a manufacturer, supplier or importer whose products are listed in this state. Penalties may include a letter of admonishment, imposition of a fine, the suspension or revocation of a commission license, permit, or certificate of approval, the requirement that a licensee have a written responsible alcohol service plan as provided in R81-1-24, the assessment of costs of action, an order prohibiting an officer, employee or agent of a licensee, permittee, or certificate of approval holder, from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee, permittee, or certificate of approval holder for a period determined by the commission, the forfeiture of bonds, an order removing a manufacturer's, supplier's or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission, and an order removing the products of a certificate of approval holder from the state approved sales list, and a suspension of the purchase of the products in the state. Department administrative costs are the hourly pay rate plus benefits of each department employee involved in processing and conducting the adjudicative proceedings on the violation, an hourly charge for department overhead costs, the amount billed the department by an independent contractor for services rendered in conjunction with an adjudicative proceeding, and any additional extraordinary or incidental costs incurred by the department. The commission may also assess additional costs if a respondent fails to appear before the commission at the final stage of the adjudicative process. Department overhead costs are calculated by taking the previous year's total department expenditures less staff payroll charges expended on violations, dividing it by the previous year's total staff hours spent on violations, and multiplying this by a rate derived by taking the previous year's total staff payroll spent on violations to the previous year's total payroll of all office employees. The overhead cost figure shall be recalculated at the beginning of each fiscal year.

(f) Perjured Statements. Any person who makes any false or perjured statement in the course of a disciplinary action is subject to criminal prosecution under Section 32A-12-304.

(g) Service. Service of any document shall be satisfied by service personally or by certified mail upon any respondent, or upon any officer or manager of a corporate or limited liability company respondent, or upon an attorney for a respondent, or by service personally or by certified mail to the last known address of the respondent or any of the following:

- (i) Service personally or by certified mail upon any employee working in the respondent's premises; or
- (ii) Posting of the document or a notice of certified mail upon a respondent's premises; or
- (iii) Actual notice. Proof of service shall be satisfied by a receipt of service signed by the person served or by a certificate of service signed by the person served, or by certificate of service signed by the server, or by verification of posting on the respondent's premises.

(h) Filing of Pleadings or Documents. Filing by a respondent of any pleading or document shall be satisfied by timely delivery to the department office, 1625 South 900 West, Salt Lake City, or by timely delivery to P. O. Box 30408, Salt Lake City, Utah 84130-0408.

(i) Representation. A respondent who is not a corporation or limited liability company may represent himself in any disciplinary action, or may be represented by an agent duly authorized by the respondent in writing, or by an attorney. A corporate or limited liability company respondent may be represented by a member of the governing board of the corporation or manager of the limited liability company, or by a person duly authorized and appointed by the respondent in writing to represent the governing board of the corporation or manager of the limited liability company, or by an attorney.

(j) Presiding Officers. The commission or the director may appoint presiding officers to receive evidence in disciplinary actions, and to submit to the commission orders containing written findings of fact, conclusions of law, and recommendations for commission action.

(i) If fairness to the respondent is not compromised, the commission or director may substitute one presiding officer for another during any proceeding.

(ii) A person who acts as a presiding officer at one phase of a proceeding need not continue as presiding officer through all phases of a proceeding.

(iii) Nothing precludes the commission from acting as presiding officer over all or any portion of an adjudication proceeding.

(iv) At any time during an adjudicative proceeding the presiding officer may hold a conference with the department and the respondent to:

- (A) encourage settlement;
- (B) clarify issues;
- (C) simplify the evidence; or
- (D) expedite the proceedings.

(k) Definitions. The definitions found in Sections 32A-1-105 and Title 63, Chapter 46b apply to this rule.

(l) Computation of Time. The time within which any act shall be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or state or federal holiday, in which case the next business day shall count as the last day.

(m) Default.

(i) The presiding officer may enter an order of default against a respondent if the respondent in an adjudicative proceeding fails to attend or participate in the proceeding.

(ii) The order shall include a statement of the grounds for default, and shall be mailed to the respondent and the department.

(iii) A defaulted respondent may seek to have the default order set aside according to procedures outlined in the Utah Rules of Civil Procedure.

(iv) After issuing the order of default, the commission or presiding officer shall conduct any further proceedings necessary to complete the adjudicative proceeding without the participation of the respondent in default and shall determine all issues in the adjudicative proceeding, including those affecting the defaulting respondent.

.....

KEY: alcoholic beverages

~~June 1, 2004~~ **2005**

Notice of Continuation December 26, 2001

32A-1-107

32A-1-119(5)(c)

32A-3-103(1)(a)

32A-4-103(1)(a)

32A-4-203(1)(a)

32A-5-103(3)(c)

32A-6-103(2)(a)

32A-7-103(2)(a)

32A-8-103(1)(a)

32A-9-103(1)(a)

32A-10-203(1)(a)

32A-11-103(1)(a)



**Alcoholic Beverage Control,
Administration
R81-1-24
Responsible Alcohol Service Plan**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27949

FILED: 06/01/2005, 09:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment will give the Alcoholic Beverage Control (ABC) Commission the authority to require any licensee who has been found to have violated any provisions of the Alcoholic Beverage Control Act relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21 to write and submit to the department a Responsible Alcohol Service Plan. This plan will outline what steps the licensee will take to ensure that these types of violations are not repeated.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment adds a new Section R81-1-24 which authorizes the ABC Commission to require licensees who have violated provisions of the Alcoholic Beverage Control Act relating to the sale, service, or furnishing of alcoholic beverages to persons who are intoxicated or who are under the age of 21 to produce and submit to the department a Responsible Alcohol Service Plan. It outlines what is minimally expected to be covered by the service plan and makes clear that noncompliance may result in a suspension or revocation of the licensee's alcoholic beverage license.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The Department of Alcoholic Beverage Control (DABC) has a staff of compliance officers whose job it is to oversee the operations of liquor license holders. It is not anticipated that reviewing the compliance of licensees required to produce and maintain a Responsible Alcohol Service Plan will substantially add to the workload of the compliance staff. Therefore, it is anticipated that the implementation of this proposed rule amendment will have no significant effect on the state budget.

❖ LOCAL GOVERNMENTS: None--This proposed rule amendment only affects the ABC Commission's administrative adjudication of licensee violations and will not affect local governments.

❖ OTHER PERSONS: Licensees who have violated certain provisions of the Alcoholic Beverage Control Act will be required to produce and implement a Responsible Alcohol Service Plan. There will, no doubt, be some costs involved in this effort. The costs will vary depending the size of each licensee's operation and the depth and scope of each individual service plan.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will be some costs involved in the creation and implementation of a Responsible Alcohol Service Plan for those licensees who are required to comply. The costs will vary depending on the size of the licensee's operation and the depth of the service plan they create.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Compliance with the provisions of this proposed rule amendment will almost certainly involve a monetary cost to those licensees who have violated certain provision of the Alcohol Beverage Control Act. But, if the creation and implementation of a Responsible Alcohol Service Plan will deter these licensees from having subsequent violations of selling alcoholic beverages to minors or intoxicated persons, the savings to both the licensee and the community will far outweigh the costs. Kenneth F. Wynn, Director

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kenneth F. Wynn, Director

**R81. Alcoholic Beverage Control, Administration.
R81-1. Scope, Definitions, and General Provisions.
R81-1-24. Responsible Alcohol Service Plan.**

(1) Authority. This rule is pursuant to the commission's powers and duties under 32A-1-107 to act as a general policymaking body on the subject of alcoholic beverage control; set policy by written rules that establish criteria and procedures for suspending or revoking licenses; and prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored.

(2) Purpose. This rule allows the commission to require a business licensed by the commission to sell, serve or store alcoholic beverages for consumption on the licensed premises that has been found by the commission to have violated any provision of the Alcoholic Beverage Control Act relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21, to have a written Responsible Alcohol Service Plan.

(3) Definitions.

(a) "Commission" means the Alcoholic Beverage Control Commission.

(b) "Department" means the Department of Alcoholic Beverage Control.

(c) "Intoxication" and "intoxicated" means a person who is actually, apparently, or obviously under the influence of an alcoholic beverage, a controlled substance, a substance having the property of releasing toxic vapors, or a combination of alcoholic beverages or said substances, to a degree that the person may endanger himself or another.

(d) "Licensed Business" is a person or business entity licensed by the commission to sell, serve, and store alcoholic beverages for consumption on the premises of the business.

(e) "Manager" means a person chosen or appointed to manage, direct, or administer the operations at a licensed business. A manager may also be a supervisor.

(f) "Responsible Alcohol Service Plan" or "Plan" means a written set of policies and procedures of a licensed business that outline measures that will be taken by the business to prevent employees of the licensed business from:

(i) over-serving alcoholic beverages to customers;

(ii) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(iii) serving alcoholic beverages to persons under the age of 21.

(h) "Server" means an employee who actually makes available, serves to, or provides an alcoholic beverage to a customer for consumption on the business premises.

(i) "Supervisor" means an employee who, under the direction of a manager or owner, directs or has the responsibility to direct, transfer, or assign duties to employees who actually provide alcoholic beverages to customers on the premises of the business.

(4) Application of Rule.

(a)(i) The commission may direct that a licensed business that has been found by the commission to have violated any provision of the Alcoholic Beverage Control Act relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21, submit to the department a Responsible Alcohol Service Plan.

(ii) The licensee thereafter shall maintain a Plan as a condition of continued licensing and relicensing by the commission.

(b) Any Plan at a minimum shall:

(i) outline the policies and procedures of the licensed business to:

(A) prevent over-service of alcohol;

(B) prevent service of alcohol to persons who are intoxicated;

(C) prevent service of alcohol to persons under the age of 21;

(D) provide alternate transportation options for problem customers; and

(E) deal with hostile customers;

(ii) require that all managers, supervisors, servers, security personnel, and others who are involved in the sale, service or furnishing of alcohol, agree to follow the policies and procedures of the Plan;

(iii) require adherence to the Plan as a condition of employment;

(iv) require a commitment by management to monitor employee compliance with the Plan;

(v) require periodic training sessions on the house policies and procedures in the Plan, and on the techniques of responsible service of alcohol taught in the Alcohol Training and Education Seminar required by 62A-15-401, such as:

(A) identifying legal forms of ID, checking ID, and recognizing fake ID;

(B) identifying persons under the age of 21;

(C) discussing the legal definition of intoxication;

(D) identifying behavioral signs of intoxication;

(E) discussing techniques for monitoring and controlling consumption such as:

(1) drink counting;

(2) slowing down alcohol service;

(3) offering food or nonalcoholic beverages; and

(4) cutting off alcohol service;

(F) discussing third party or "dram shop" liability for the unlawful service of alcohol to intoxicated persons and persons under the age of 21 as outlined in 32A-14a-101 through -105; and

(G) discussing the potential criminal, civil and administrative penalties for over-serving alcohol, selling, serving, or otherwise furnishing alcohol to persons who are intoxicated, or to persons who are under the age of 21.

(c) The licensed business may choose to include in the Plan incentives for those employees who deserve special recognition for their responsible service of alcohol.

(d) The Plan shall be available on the premises of the licensed business so as to be accessible to all employees of the licensed

business who are involved in the sale, service or furnishing of alcohol.

(e) The Plan shall be available on the premises of the licensed business for inspection by representatives of the commission, department and by law enforcement officers.

(f) Any licensed business that fails to submit to the department a Plan as directed by the commission pursuant to Subsection (4)(a), or to have a Plan available for inspection as required by Subsection (4)(e), shall be subject to the immediate suspension or revocation of its current license, and shall not be granted a renewal of its license by the commission.

(g) The department, at the request of a licensed business, may provide assistance in the preparation of a Plan.

KEY: alcoholic beverages

[June 1, 2004]2005

Notice of Continuation December 26, 2001

32A-1-107

32A-1-119(5)(c)

32A-3-103(1)(a)

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32A-6-103(2)(a)

32A-7-103(2)(a)

32A-8-103(1)(a)

32A-9-103(1)(a)

32A-10-203(1)(a)

32A-11-103(1)(a)



**Capitol Preservation Board (State),
Administration**

R131-5

**Board Review, Compensation and
Incentive Award Process**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27973

FILED: 06/01/2005, 18:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new proposed rule, by authority of Section 63C-9-401, directs the Capitol Preservation Board to make rules to govern, administer, and regulate the executive director and staff.

SUMMARY OF THE RULE OR CHANGE: Rule R131-5 defines the responsibility which the Capitol Preservation Board has for the review, compensation, and bonus process for the executive director and staff.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-9-401

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Costs, when awarded, will be available from existing budgets.
- ❖ LOCAL GOVERNMENTS: The actions of the Capitol Preservation Board do not affect local government. Therefore, there is no anticipated cost or savings to local government.
- ❖ OTHER PERSONS: The actions of the Capitol Preservation Board do not affect other persons. Therefore, there is no anticipated cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The action of the Capitol Preservation Board does not affect compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The action of the Capitol Preservation Board does not affect businesses. David Hart, AIA, Executive Director

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

CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
Room E110 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2110, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sarah Whitney at the above address, by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at whitney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: David H. Hart, AIA, Executive Director

R131. Capitol Preservation Board (State), Administration.**R131-5. Board Review, Compensation and Incentive Award Process.****R131-5-1. Purpose.**

Pursuant to Section 63C-9-401, Utah Code, which provides that the Board shall appoint an executive director to assist them, this rule defines the board's review, compensation and bonus procedure for the executive director and staff.

R131-5-2. Authority.

This rule is authorized by Subsection 63C-9-301 and 63C-9-401, Utah Code, directing the Board to make rules to govern, administer and regulate the executive director and staff.

R131-5-3. Definitions.

(1) "Board" or "CPB" means Capitol Preservation Board as provided for in Section 63-9-101, et seq., Utah Code.

(2) DHRM means the Division of Human Resource Management within the Utah Department of Administrative Services.

R131-5-4. Authority of the Board.

(1) The Capitol Preservation Board is the authorizing agent to approve, by majority vote of members present, compensation amount(s), incentive and bonus awards recommended by the Executive Director and the Budget Development and Board Operations Subcommittee for staff.

(2) The Board shall be the sole approving authority, and shall sanction appropriate awards in accordance with these rules.

R131-5-5. Performance Review of Executive Director.

(1) The Budget Development and Board Operation Subcommittee of the Board shall oversee a performance evaluation review of the Executive Director of the Board.

(2) This review shall be conducted by an appointed performance review panel of three members of the subcommittee and shall be comprised of one member from the executive branch, one from the house and one from the senate. The chair of the subcommittee shall designate members of the panel.

(3) Pursuant to Sections 63C-9-401 and 402, Utah Code, the panel shall review the work-plan as developed by the Executive Director and approved by the Board. The panel shall then meet with the Executive Director to review his performance, to include the following:

(a) day to day activities and functions of the office and staff under his direction;

(b) management and oversight of ongoing construction projects under his direction;

(c) fiduciary management of funds appropriated, earned or donated to the board for the management of the office, upkeep of capitol hill, and restoration or construction of projects with in the responsibilities of the Board;

(d) personal and working relationships which have been developed with the members of the Board as well as groups associated with Capitol Hill;

(e) other assignments, functions, or responsibilities that the panel finds a need to discuss.

(2) The review shall take place in a timely manner, at least annually, and prior to the first of July of each year.

R131-5-6. Performance Review of Staff.

(1) The Executive Director shall define performance standards for each staff person under his supervision, evaluate their performance, and make recommendations to the Budget Development and Board Operations Sub-Committee. The Board shall review the recommendations and pass as to final approval.

(2) In accordance with rule Section R477-10, Utah Administrative Code, the Executive Director shall implement the following general performance methodology for each staff employee:

(a) An employee performance plan shall be developed by August 30 of each fiscal year, or in the case of a new employee, within 60-days of the hiring-date, whichever is later;

(b) Employees shall be provided with periodic verbal and written feedback based on the standards of performance and conduct outlined in the performance plan.

(c) Each employee shall be informed concerning the actions to be taken, time frames, and the supervisor's role in providing assistance to improve performance and increase the value of service.

(3) The Executive Director shall implement the following performance management rating system by August 30 to be effective for the fiscal year:

Exceptional = 3, Highly Successful = 2.5, Successful = 2, Marginal = 1, Unsuccessful = 0

(4) Each employee shall receive a performance evaluation effective on or before the beginning of the first pay period of each fiscal year. A new employee shall receive a performance evaluation at the end of a 6-month probationary period and again prior to the beginning of the first pay period of the fiscal year.

(5) The employee shall sign the evaluation. Signing the evaluation only means that the employee has reviewed the evaluation. Refusal to sign the evaluation shall constitute insubordination, subject to discipline.

(6) The evaluation form shall include a space for the employee's comments. Each employee shall have the right to include written comment(s) to be placed in his/her file, to accompany the written performance evaluation as provided by the Executive Director. The employee may comment in writing, either in the space provided or on separately attached pages.

R131-5-7. Performance Review and Compensation.

(1) Classification, evaluation, and compensation of the Executive Director and staff shall be consistent with DHRM policies and procedures. The Executive Director shall consult with DHRM to develop recommendations for staff job-descriptions and standards.

(2) Upon receipt of the Executive Director's recommendations for changes in master plans, work plans, compensation, bonuses or adjustments, the Budget Development and Board Operations Subcommittee shall present its recommendations to the Board no later than it's regularly scheduled September meeting.

(3) Upon the Board's approval of the Budget Development and Board Operation Subcommittee's recommendations, the Executive Director will prepare a final "Budget/Planning Request" to be presented to the Governor and the Legislature.

R131-5-8. Incentive Awards for the CPB Staff.

(1) The Board's Executive Director shall follow the provisions of DHRM policy when granting Incentive and Bonus Awards, as contained in rule R477-6-5, Utah Administrative Code; and hereby adopts and incorporates it by reference within this rule.

(2) When the Executive Director has approved the issuance of an Incentive or Bonus Award, and such action has been approved by the Board, the award shall be issued within 30-days.

R131-5-9. Incentive Awards for the Executive Director of the Board.

(1) Based on particular or unusual circumstances, the Board may approve and grant to the Executive Director incentive or bonus awards. Incentive and bonus awards are discretionary, without entitlement, and are subject to the availability of funds. The Board shall issue award(s) that accord with the following parameters:

(a) Awarded amounts may be paid either directly, or if requested by the Director, into a 401(k) program approved by the Utah Retirement System.

(b) An individual award for a single effort, shall not exceed \$8,000 in a fiscal year.

(c) All cash incentive and bonus awards shall be subject to payroll taxes.

(2) Performance Based Incentive Award:

(a) Cash Incentive Award: The Board may grant a cash incentive award if:

(i) Exceptional effort or accomplishment is demonstrated, beyond normal job expectations over a sustained period of time.

(ii) A cash award approved by the Board shall be documented with a copy maintained in the Executive Directors employee file.

(b) Noncash Incentive Award: The Board may recognize its appreciation for the executive director's performance with noncash incentive awards.

(i) Individual noncash incentive awards shall not exceed a value of \$50 per occurrence and \$200 for each fiscal year.

(ii) Noncash incentive awards may not include cash equivalents such as gift certificates or tickets for admission.

(3) Cost-Savings Bonus: The Board may encourage increased productivity of the executive director when, through his action, cost savings are generated within a particular restoration or construction segment of the project.

(a) The Budget Development and Board Operations Subcommittee shall document the pertinent cost savings in their recommendation for the award.

(b) Amounts shall be for exceptional performance and circumstances, and may exceed limits stated in rule Sub-Section R477-6-5(1)(c), Utah Administrative Code, and R131-5-9-(b) when approved by the Board.

(4) Market Based Bonus:

The Board may extend a cash bonus to the executive director as an incentive for him to obtain or retain an employee who possesses unusual job skills that are critical to the state and difficult to recruit in the marketplace.

(a) Retention Bonus:

The Board may pay a bonus to a current employee, to recognize usual or unique qualifications that are essential for the agency to retain.

(b) Recruitment or Signing Bonus:

The Board may pay a bonus to a qualified job candidate to convince the candidate to accept the position being recruited for.

(c) Scarce Skills Bonus:

The Board may pay a bonus to a qualified job candidate that has unusual and scarce skills which are essential for the job.

(d) Relocation Bonus:

The Board may pay a bonus to a current employee, or a new employee, for relocation, including relocation to a different commuting area.

(e) Referral Bonus:

The Board may pay a bonus to an employee who refers a job applicant who is subsequently selected and completes successful employed for at least six months.

KEY: bonuses, reviews, compensation

2005

63C-9-401



**Capitol Preservation Board (State),
Administration
R131-6
Board Designation of Space**

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 27974
FILED: 06/01/2005, 18:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new proposed rule, by authority of Section 63C-9-301, directs the Board to make rules to exercise jurisdiction over such Capitol Hill facilities and grounds for which it has responsibility to administer.

SUMMARY OF THE RULE OR CHANGE: Rule R131-6 defines the types of space located within buildings on Capitol Hill. All Capitol facility spaces under the responsibility of the Board shall be assigned by the Board for function and use.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-9-301

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no anticipated cost or savings to state government, because the rule deals only with prohibiting storage in the area of base isolation.
- ❖ **LOCAL GOVERNMENTS:** The actions of the Capitol Preservation Board do not affect local government because the authority of the Capitol Preservation Board is restricted to the facilities, buildings, and spaces on Capitol Hill. Therefore, there is no anticipated cost or savings to local government.
- ❖ **OTHER PERSONS:** The actions of the Capitol Preservation Board do not affect other persons because the authority of the Capitol Preservation Board is restricted to the facilities, buildings, and spaces on Capitol Hill. Therefore, there is no anticipated cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The action of the Capitol Preservation Board does not affect compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The action of the Capitol Preservation Board does not affect businesses. David Hart, AIA, Executive Director

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

CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
Room E110 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2110, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sarah Whitney at the above address, by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: David H. Hart, AIA, Executive Director

**R131. Capitol Preservation Board (State), Administration.
R131-6. Board Designation of Space.**

R131-6-1. Purpose.

Pursuant to Section 63C-9-301, Utah Code, this rule defines the types of space located within buildings on Capitol Hill. All Capitol Facility space(s) under the responsibility of the Board, shall be assigned by the Board for function and use.

R131-6-2. Authority.

This rule is authorized by Subsection 63C-9-301, Utah Code, directing the Board to make rules to exercise jurisdiction over such Capitol Hill facilities and grounds for which it has responsibility to administer.

R131-6-3. Definitions.

(1) "Assignable Space" means square-footage area(s), place(s), or location(s), within a Capitol Hill building/facility, or within exterior grounds, specified for distinct functions; including offices, hallways, closets, meeting rooms, lounges, restrooms, stairways and storage rooms.

(2) "Board" or "CPB" means the Capitol Preservation Board.

(3) "Building Official" means an individual designated to manage or control a building or portion of a building, or exterior grounds adjacent to a building.

(4) "Non-Assignable Space" means square-footage area(s) within a Capitol Hill building/facility or within exterior grounds, not specified for distinct functions; including utility rooms, HVAC areas, tunnels, attics, cat-walks, isolator-spaces, foundation/support locations, roofs, and unoccupied or uninhabited space(s) not designated for storage or other functions.

(5) "Storage" means such space within a building designated for warehousing of supplies or equipment or items related to official Capitol Hill functions.

R131-6-4. Space Designation.

(1) Within each building or grounds area on Capitol Hill, various spaces may be identified and recommended by the building official as suitable for a designated function. Functions assigned to such areas shall thereafter be approved by the Board.

(2) A space may not be used for a function, unless it is so designated by the Board. For example, the Board has complete control and jurisdiction of over the assignment and use of space(s) for storage purposes, within all buildings over which it has jurisdiction.

(3) Spaces not designated by the Board, for a specific function are non-assignable, and are considered unoccupied or uninhabitable space. For example, non-assignable space(s) may not be used for other functions, including storage, or other Capitol Hill activities. Accordingly:

(a) Isolator space(s) beneath the Capitol Building shall not be used for other designated functions, or intruded upon in a way that inhibits or restricts the movement of the isolators. Persons shall not accumulate materials which may act as fuel in a fire within an Isolator area.

(b) Isolator space(s) shall not be accessed by persons other than those authorized to periodically check and maintain the capitol equipment and isolators.

(c) The utility tunnel circulation space (not including the ledge) which encircles the central parking lot is only intended for normal movement of people, goods, services and equipment for purposes associated with Capitol Hill functions, and is not to be used for other functions.

**KEY: storage, space, unassignable
2005
63C-9-301**



**Commerce, Occupational and
Professional Licensing
R156-55a
Utah Construction Trades Licensing Act
Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27942

FILED: 05/31/2005, 11:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division is proposing amendments to the rule to implement Subsection 58-55-501(21) of the Utah Construction Trades Licensing Act. The statute, which becomes effective on July 1, 2005, establishes a six hour (three core hours and three additional hours) continuing education requirement for licensed contractors in the construction trades every two years. The first two-year period for the required continuing education hours will run from July 1, 2005, until June 30, 2007. It should be noted that Subsection 58-55-501(21) presently indicates that the continuing education requirement will be repealed effective July 1, 2010. However, the repeal date may change in subsequent legislative sessions.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments add Sections R156-55a-303a and R156-55a-303b. Section R156-55a-303a adds information regarding renewal cycle and procedures. Section R156-55a-303b adds information regarding continuing education standards of what type of courses will meet the criteria for the three hours of core courses and the additional three hours.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101, and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-55-308(1), 58-55-102(35) and 58-55-501(21)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs, approximately \$100, to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The auditing and enforcement of the continuing education requirement will be done with existing Division personnel and that aspect should have no direct impact on the state budget. However, there may be a positive fiscal impact to the state budget through an undetermined amount of money collected through fines that may be assessed for failure to comply with continuing education requirements.

❖ LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments as local governments are not licensed as contractors. The Division does not anticipate local governments would pay for any costs associated with these proposed amendments as it is solely the responsibility of the licensed contractor to obtain the required continuing education.

❖ OTHER PERSONS: Presently there are approximately 19,000 contractors who are licensed in Utah. The Division estimates that in order to complete the six hours of required continuing education as required by the statute, it will cost each licensee approximately \$100 every 2 years for an aggregate cost to the licensed contractors of \$1,900,000 every 2 years. It should be noted that the cost indicated above to obtain the required six hours of continuing education is an estimate and the amount may be higher or lower depending on the type of courses attended. Based on the Division's experience with continuing education for other professions and occupations, some continuing education courses may be free and others may cost up to \$300 or more. In addition to the costs to obtain the required hours every two years, if a licensed contractor does not comply with the required continuing education hours, the statute provides that a fine may be imposed through the issuance of an administrative citation. As of yet, the Construction Services Commission has not determined the amount of the fine that could be imposed if a licensed contractor failed to comply with the continuing education requirement. Also, the Division and the Construction Services Commission is not able to determine how many licensed contractors would not comply with the continuing education requirement and would therefore be potential violators.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Presently there are approximately 19,000 contractors who are licensed in Utah. The Division estimates that in order to complete the six hours of required continuing education as required by the statute, it will cost each licensee approximately \$100 every two years. It should be noted that the cost indicated above to obtain the required six hours of continuing education is an estimate and the amount may be higher or lower depending on the type of courses attended. Based on the Division's experience with continuing education for other professions and occupations, some continuing education courses may be free and others may cost up to \$300 or more. In addition to

the costs to obtain the required hours every two years, if a licensed contractor does not comply with the required continuing education hours, the statute provides that a fine may be imposed through the issuance of an administrative citation. As of yet, the Construction Services Commission has not determined the amount of the fine that could be imposed if a licensed contractor failed to comply with the continuing education requirement. Also, the Division and the Construction Services Commission is not able to determine how many licensed contractors would not comply with the continuing education requirement and would therefore be potential violators.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment adopts standards for continuing education of contractors as required by statute. It is estimated that the continuing education courses will cost each licensee approximately \$50 per year and there are currently an estimated 19,000 licensed contractors. In addition, the Division is authorized by statute to issue citations/fines against contractors who fail to meet the continuing education requirement. However, the amount of the fiscal impact is difficult to determine and depends upon the number of contractors who fail to meet the requirement. No other fiscal impact to businesses is foreseen at this time. Russell C. Skousen, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dennis Meservy at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/29/2005 at 9:00 AM, 160 East 300 South - Conference Room 4A (4th floor) - Salt Lake City, Utah.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-55a. Utah Construction Trades Licensing Act Rules.
R156-55a-303a. Renewal Cycle - Procedures.

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

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

(3) In accordance with Subsections 58-55-501(21) and 58-1-308(3)(b)(i), there is established a continuing education requirement for license renewal. Each licensee, or the licensee's qualifier, or an officer, director or supervising individual, as designated by the licensee, shall comply with the following continuing education requirements:

- (a) complete three hours of core continuing education; and
- (b) an additional three hours of continuing education.

R156-55a-303b. Continuing Education - Standards.

(1) Continuing education courses are not required to be submitted for approval by the Commission, but must meet the following criteria:

- (a) content must be relevant to the practice of the construction trades and consistent with the laws and rules of this state;
- (b) learning objectives must be reasonably and clearly stated;
- (c) teaching methods must be clearly stated and appropriate;
- (d) faculty must be qualified, both in experience and in teaching expertise;
- (e) documentation of attendance must be provided; and
- (f) all core education and professional education hours shall be clock hours.

(2) The three hour core education requirement shall include one or more of the following course content areas:

- (a) construction codes;
- (b) construction laws and rules; and
- (c) construction practices.

(3) Credit for core education and professional education shall be recognized in accordance with the following. Hours shall be recognized for core education and professional education completed in blocks of time of not less than 50 minutes, in formally established classroom courses, seminars, lectures, conferences, training sessions or distance learning modules, which meet the criteria listed in Subsection (1) above and conducted by or under the sponsorship of:

- (a) a recognized university or college;
- (b) a state agency;
- (c) a professional association, including:
 - (i) the Associated Builders and Contractors Association;
 - (ii) the Associated General Contractors Association;
 - (iii) the Utah Home Builders Association;
 - (iv) the Utah Mechanical Contractors Association; or
- (d) other recognized education programs as approved by the Commission with the concurrence of the Director.

(4) Professional education shall not include courses in office and business skills, physical well-being and personal development, and meetings held in conjunction with the general business of the licensee.

(5) The continuing education requirement for electricians as established in Section R156-55b-304, which is completed by an electrical contractor, shall satisfy the continuing education requirement for contractors as established in Subsection 58-55-501(21) and implemented herein.

(6) A licensee shall be responsible for maintaining competent records of completed core and other continuing education for a period of two years after the two year period to which the records pertain.

KEY: contractors, occupational licensing, licensing
[June 3, 2003]2005
Notice of Continuation January 15, 2002
58-1-106(1)(a)
58-1-202(1)(a)
58-55-101
58-55-308(1)
58-55-102(35)
58-55-501(21)



Commerce, Real Estate

R162-2-1

Exam Application

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 27951
 FILED: 06/01/2005, 11:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: One purpose of the change is to require applicants for a license to meet a minimum educational level. Another purpose is to explicitly require that the preclicensing education must be completed prior to sitting for the licensing examination. A third purpose is to eliminate a provision that conflicts with a statutory change to Section 61-2-9 that was made by H.B. 357, 2004 General Session. (DAR NOTE: H.B. 357 is found at UT L 2004 Ch 129, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) all applicants for a real estate license will be required to have at least a high school diploma, a General Education Development (G.E.D) diploma, or other equivalent education; 2) all applicants will be required to have completed any required preclicensing education prior to applying to sit for the licensing examination; and 3) current Subsection R162-2-1(2.1.1)(b) concerning activation of an inactive license is being deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection Section 61-2-6(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--A minimum educational requirement for real estate agents has no impact on the State budget, nor does a requirement that the preclicensing education and examination be taken in a specified order.
- ❖ **LOCAL GOVERNMENTS:** None--The minimum educational requirement for real estate agents and the order in which they must complete their preclicensing education and preclicensing examination have no impact on local governments.
- ❖ **OTHER PERSONS:** The only persons impacted by this proposed rule change would be persons who would like to obtain a real estate license who have not earned a high school diploma, or a G.E.D. or other equivalent.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Those persons who would like to apply for real estate licenses who do not have a high school diploma or a G.E.D., and who cannot prove they have other equivalent education, would incur the cost of obtaining a G.E.D. or other equivalent education.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing establishes education requirements for licensees and requires the education to be completed prior to taking the examination. Other than the impact to license applicants who have no high school diploma, GED, or equivalent, no fiscal impact to businesses is anticipated as a result of this filing. Russell C. Skousen, Executive Director

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

COMMERCE
 REAL ESTATE
 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:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Dexter Bell, Director

R162. Commerce, Real Estate.

R162-2. Exam and License Application Requirements.

R162-2-1. Qualifications for Licensure and Exam Application.

2.1.1 Minimum Age. All applicants shall be at least 18 years of age.

2.1.2 Formal Education Minimum. All applicants shall have at least a high school diploma, G.E.D., or equivalent as determined by the Commission.

2.1.3 Preclicensing Education. All applicants shall have completed any required preclicensing education before applying to sit for a licensing examination.

2.1.4 Exam application. [2.1. Any person 18 years of age or older desiring to become a licensed broker or sales agent] All applicants who desire to sit for a licensing examination shall deliver an application to sit for the examination, together with the applicable examination fee, to the testing service designated by the Division. If the applicant fails to take the [scheduled] examination when scheduled, the fee will be forfeited.

2.1.4.1. Applicants previously licensed out-of-state,

~~(a)~~ If an applicant is now and has been actively licensed for the preceding two years in another state which has substantially equivalent licensing requirements and is either a new resident or a non-resident of this state, the Division shall waive the national portion of the exam. [

~~(b) If an applicant has been on an inactive status for any portion of the past two years he may be required to take both the national and Utah state portions of the exam.]~~

KEY: real estate business
~~[June 3, 1999]~~2005
Notice of Continuation June 12, 2002
61-2-5.5

might be incurred if the improperly filled-out documents are later invalidated. The agents and brokers will incur very minimal extra costs in obtaining powers of attorney and in using state-approved addenda for counteroffers, but the agents and brokers would also potentially save costs that they might incur if documents that they have filled out are later invalidated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Rules specifying how licensees are to sign or initial documents for their principals and how licensees are to make counter offers could cost licensees a very small amount of money to purchase state-approved addendum forms or to obtain written powers of attorney from their principals. However, that small extra cost should be outweighed by the potential savings to licensees who are saved by these rules from making what could be very costly mistakes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing establishes standards requiring a licensee to obtain a power of attorney when acting on behalf of a client, stating how such representative capacity is to be signified in official documents, and requiring the use of state-approved forms for counteroffers. Although these measures could result in some minor paperwork for licensees, it is expected that in the long run, licensees, the public and the industry will benefit from the adoption of these standards. No further fiscal impact to businesses is foreseen. Russell C. Skousen, Executive Director

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at the Division of Administrative Rules.

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THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Dexter Bell, Director

R162. Commerce, Real Estate.
R162-6. Licensee Conduct.
R162-6-1. Improper Practices.

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Commerce, Real Estate
R162-6-1
Improper Practices

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 27940
FILED: 05/26/2005, 09:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for the change is to: 1) enact into rule a common law contract law principle that real estate agents and brokers cannot sign for their clients without a duly executed power of attorney; and 2) explicitly require that real estate licensees use the state-approved form for counteroffers instead of altering the offer form.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) a real estate agent or broker who signs or initials a document for his client must have a duly executed power of attorney authorizing him to do so; and 2) a licensee may not make a counteroffer by making changes, whitening out, or otherwise altering an offer form, but instead must use the state-approved addendum form.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2-5.5(1)(a)(v)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--State government is not affected by the technical requirements placed on real estate agents and brokers when they are filling in legal documents.
- ❖ LOCAL GOVERNMENTS: None--Local governments are not affected by the technical requirements placed on real estate agents and brokers when they are filling in legal documents.
- ❖ OTHER PERSONS: None--The only other persons who could be affected by the technical requirements placed on real estate agents and brokers who fill in legal documents for their principals would be the agents and brokers themselves and their principals. These technical requirements will not cost the principals any money, and may actually save them costs that

6.1.11. Failure to have written agency agreement. To avoid representing more than one party without the informed consent of all parties, principal brokers and licensees acting on their behalf shall have written agency agreements with their principals. The failure to define an agency relationship in writing will be considered unprofessional conduct and grounds for disciplinary action by the Division.

6.1.11.1. A principal broker and licensees acting on his behalf who represent a seller shall have a written agency agreement with the seller defining the scope of the agency.

6.1.11.2. A principal broker and licensees acting on his behalf who represent a buyer shall have a written buyer agency agreement with the buyer defining the scope of the agency.

6.1.11.3. A principal broker and licensees acting on his behalf who represent both buyer and seller shall have written agency agreements with both buyer and seller which define the scope of the limited agency and which demonstrate that the principal broker has obtained the informed consent of both buyer and seller to the limited agency as set forth in Section R162-6.2.15.3.1.

6.1.11.3.1 A licensee may not act or attempt to act as a limited agent in any transaction in which: a) the licensee is a principal in the transaction; or b) any entity in which the licensee is an officer, director, partner, member, employee, or stockholder is a principal in the transaction.

6.1.11.4. A licensee affiliated with a brokerage other than the listing brokerage who wishes to act as a sub-agent for the seller, shall, prior to showing the seller's property:

(a) obtain permission from the principal broker with whom he is affiliated to act as a sub-agent;

(b) notify the listing brokerage that sub-agency is requested;

(c) enter into a written agreement with the listing brokerage consenting to the sub-agency and defining the scope of the agency; and

(d) obtain from the listing brokerage all information about the property which the listing brokerage has obtained.

6.1.11.5. A principal broker and licensees acting on his behalf who act as a property manager shall have a written property management agreement with the owner of the property defining the scope of the agency.

6.1.11.6. A principal broker and licensees acting on his behalf who represent a tenant shall have a written agreement with the tenant defining the scope of the agency.

6.1.12. Signing without legal authority. A licensee shall not sign or initial any document for a principal unless the licensee has prior written authorization in the form of a duly executed power of attorney from the principal authorizing the licensee to sign or initial documents for the principal. A copy of the power of attorney shall be attached to all documents signed or initialed for the principal by the licensee.

6.1.12.1. When signing a document for a principal, the licensee shall sign as follows: "(Principal's Name) by (Licensee's Name), Attorney-in-Fact."

6.1.12.2. When initialing a document for a principal, the licensee shall initial as follows: "(Principal's Initials) by (Licensee's Name), Attorney-in-Fact for (Principal's Name)."

6.1.13. Counteroffers. A licensee shall not make a counteroffer by making changes, whiting out, or otherwise altering the provisions of the Real Estate Purchase Contract or the language that has been filled in on the blanks of the Real Estate Purchase Contract. All counteroffers to a Real Estate Purchase Contract shall be made using the State-Approved Addendum form.

KEY: real estate business

[April 21, 2004]2005

Notice of Continuation June 7, 2002

61-2-5.5



Commerce, Real Estate **R162-103-5** Appraisal Education Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27950

FILED: 06/01/2005, 10:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Language that was to be added to Subsection R162-103-5(103.5.3) by DAR No. 27241 was erroneously deleted when the Division amended the rule again (DAR No. 27349) before the changes made by DAR No. 27241 were made effective. This change completes the sentence. (DAR NOTE: DAR No. 27241 was published in the July 15, 2004, Bulletin and was effective 10/07/2004; and DAR No. 27349 was published in the September 1, 2004, Bulletin and was 11/24/2004.)

SUMMARY OF THE RULE OR CHANGE: The incomplete sentence in Subsection R162-103-5(103.5.3) is completed by the additional language requiring that a Uniform Standards of Professional Appraisal Practice (USPAP) instructor shall have been certified by the Appraisal Qualification Board (AQB) of the Appraisal Foundation. The Appraisal Subcommittee requires the Division to include AQB certification in the qualifications for USPAP instructors.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2b-6(1)(l)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--A requirement imposed by the AQB that it must be the entity that certifies instructors who will teach the AQB's USPAP course neither costs nor saves the State of Utah any money.

❖ LOCAL GOVERNMENTS: None--It is not anticipated that a change in how USPAP instructors are certified will have any impact on local governments, since local governments are not USPAP instructors.

❖ OTHER PERSONS: None--The only persons who could be affected by this change are providers of appraisal education. It is not known whether the change to AQB certification of USPAP instructors would have any financial impact on course providers. The Division of Real Estate does not know what the cost is, if in fact there is a cost, for an instructor to be certified by the AQB.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is unknown whether the change to AQB certification of USPAP instructors would have any financial impact on course providers. The

Division of Real Estate does not know what the cost is, if in fact there is a cost, for an instructor to be certified by the AQB.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated as a result of this rule filing, which corrects an error in a prior rule filing that inadvertently deleted language regarding certification requirements for appraiser instructors. Russell C. Skousen, Executive Director

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

COMMERCE
REAL ESTATE
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160 E 300 S
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DIRECT QUESTIONS REGARDING THIS RULE TO:
Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Dexter Bell, Director

R162. Commerce, Real Estate.

R162-103. Appraisal Education Requirements.

R162-103-5. Instructor Application for Certification.

103.5.1 Each instructor requesting approval to be certified as an instructor to teach the education requirements of appraisal licensure or certification shall make application for approval on a form prescribed by the Division and shall submit the applicable fees. The application shall include, and the Board may consider, the following information in determining the instructor's eligibility for approval:

103.5.1.1 Attestation to upstanding moral character, including whether the individual:

(a) has had a license or certification to practice in the appraisal profession, or any other profession or occupation, denied, restricted, suspended, or revoked.

(b) has been permitted to resign or surrender an appraiser license or certification, or has ever allowed an appraiser license or certification to expire while the individual was under investigation, or while action was pending against the individual by an appraiser licensing or any other agency.

(c) has any action now pending by any appraiser licensing or other agency.

(d) is currently under investigation for, or charged with, or has ever pled guilty or no contest to, or been convicted of, a misdemeanor or felony, excluding minor traffic offenses.

(e) has ever been placed on probation in connection with any criminal offense or a licensing action.

103.5.2 The instructor will demonstrate evidence of knowledge of the subject matter by the following:

103.5.2.1 A minimum of five years active experience in appraising, or

103.5.2.2 Evidence of having completed college or other appropriate courses specific to the topic he proposes to teach, or

103.5.2.3 Evidence of other qualifications of experience, education, or credentials which are acceptable to the Board; and

103.5.2.4 Evidence of having passed an examination designed to test knowledge of the subject matter he proposes to teach.

103.5.3 An applicant to teach the course on USPAP shall conform to all of the above criteria and in addition shall have been certified by the Appraisal Qualifications Board (AQB) of the Appraisal Foundation as an AQB Certified USPAP instructor.

103.5.4 Upon approval by the Board, an applicant will be issued certification. Until January 1, 2005, all certifications expire January 1 of each even numbered year. Beginning January 1, 2005, instructor certifications will be issued for a term that expires twenty-four months from the date of issuance. Conditions of renewal of certification include providing proof of the following:

103.5.4.1 Must have taught at least 20 hours of in-class instruction in a certified course during the preceding two years; and

103.5.4.2 Must have attended a real estate instructor development workshop sponsored or approved by the Division during the preceding two years.

103.5.4.3 Instructor certifications may be renewed by submitting a properly completed application for renewal prior to the expiration date of the instructor's current certification, using the form required by the Division. Renewed instructor certifications will be issued for a term of twenty-four months. If the instructor does not submit a properly completed renewal form, renewal fee, and any required documentation prior to the expiration date of the current certification, the certification shall expire. When a certification expires, the certification may be reinstated for a period of thirty days after the expiration date upon payment of a late fee in addition to completing the requirements for a timely renewal. After this thirty day period, and until three months after the expiration date, an instructor certification may be reinstated upon payment of a non-refundable late fee and submission of proof of completion of six classroom hours of education related to real estate appraisal or teaching techniques in addition to completing the requirements for a timely renewal. Following the three month period, an instructor shall be required to apply as an original applicant in order to obtain a new certification.

103.5.5 Within 15 calendar days after the occurrence of any of the events listed in Section 103.5.1, an applicant or instructor shall give written notice to the Division of that event.

KEY: real estate appraisals, education

~~November 24, 2004~~ 2005

Notice of Continuation June 3, 2002

61-2b-8

▼ ————— ▼

Commerce, Real Estate
R162-109
Administrative Proceedings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27946

FILED: 06/01/2005, 08:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Division of Real Estate and the Utah Appraiser Licensing and Certification Board have decided to conduct disciplinary proceedings as informal adjudicative proceedings instead of formal adjudicative proceedings. The Division of Real Estate wishes to delete obsolete references to registered appraisers from the rule and to add procedures for informal adjudicative proceedings.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) disciplinary proceedings are changed from formal adjudicative proceedings (which have been conducted by an Administrative Law Judge) to informal adjudicative proceedings conducted before the Utah Appraiser Licensing and Certification Board with the Board having the option of delegating the hearing to an Administrative Law Judge or involving an Administrative Law Judge to assist the Board in conducting the hearings; 2) technical corrections are made to delete obsolete references to registered appraisers, while retaining references to registration of expert witnesses, and to specify procedures for the issuance of temporary permits; 3) a new subsection is added specifying the proceedings in which hearings will be required; and 4) a new subsection specifying the procedures for informal adjudicative procedures is added.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2b-30

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The only State agency that would be impacted would be the Division of Real Estate. The Division of Real Estate anticipates that there will be no significant cost or savings in its budget by conducting more informal adjudicative proceedings that are subject to de novo review instead of formal adjudicative proceedings that are subject to a review on the record.

❖ LOCAL GOVERNMENTS: None--The rules on administrative proceedings before the Utah Appraiser Licensing and Certification Board do not impact local government.

❖ OTHER PERSONS: It is anticipated that persons who are the subject of proceedings before the Utah Appraiser Licensing and Certification Board will save money because the proceedings will be informal proceedings as opposed to formal proceedings. It is unknown whether the appeal from an informal proceeding, which is a trial de novo in District Court, will cost these persons money or save them money as compared to the cost of an appeal from a formal proceeding, which is a review on the record of what occurred at the agency level. Therefore, the costs or savings to those persons cannot be determined or quantified.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As set forth above under "Other persons", it is unknown whether the change from formal proceedings to informal proceedings for disciplinary

actions will cost the persons involved in those proceedings any money, or whether the change will save them money.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated as a result of this rule filing; only the regulated industry will be affected by the procedures followed by the agency in its adjudicative proceedings. Russell C. Skousen, Executive Director

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

COMMERCE
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160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Dexter Bell, Director

R162. Commerce, Real Estate.**R162-109. Administrative Proceedings.****R162-109-1. Formal Adjudicative Proceedings.**

109.1. [~~Any adjudicative proceeding as to the following matters shall be conducted on a formal basis:~~

~~109.1.1. the revocation, suspension, or placing on probation of an appraiser registration, license, certification, or temporary permit;~~

~~109.1.2. the revocation, suspension, or placing on probation of certification of appraisal courses, schools, or instructors;~~

~~109.1.3. the imposition of a fine or a remedial education requirement against the holder of a registration, license, certificate or temporary permit;~~

~~109.1.4. the imposition of a fine or a remedial education requirement against a certified appraisal school or instructor;~~

~~109.1.5.]A[a]ny proceedings conducted subsequent to the issuance of a cease and desist order or other emergency order shall be conducted as formal adjudicative proceedings.~~

R162-109-2. Informal Adjudicative Proceedings.

109.2.1 Proceedings in which the Division seeks disciplinary action pursuant to U.C.A. Section 61-2b-29 against a licensed or certified appraiser shall be conducted as informal adjudicative proceedings.

109.2.2 Proceedings on original applications for licensure or certification, or renewal applications for licensure or certification, as an appraiser, or for certification of appraisal courses, schools, or instructors, and all proceedings on applications for a temporary permit

or registration as an expert witness, shall be conducted as informal adjudicative proceedings.

~~109.2.1.3.~~ All adjudicative proceedings as to any other matters not specifically designated as formal adjudicative proceedings shall be conducted as informal adjudicative proceedings.

109.2.2.4. A hearing will be held in an informal adjudicative proceeding only if required or permitted by the Appraiser Licensing and Certification Act or these rules.

~~109.2.3.~~ A party is not required to file a written answer to a notice of agency action from the Division in an informal adjudicative proceeding.

~~109.2.4.~~ All proceedings on original applications for licensure or certification or renewal applications for registration, licensure or certification as an appraiser, or for certification of appraisal courses, schools, or instructors, and all proceedings on applications for a temporary permit or registration as an expert witness will be conducted as informal adjudicative proceedings.

109.2.5. ~~All a~~ Application forms which shall be filled out and submitted to the Division for registration as an expert witness, licensure or certification as an appraiser, or for certification of courses, schools, or instructors, and all applications for a temporary permit shall be deemed a request for agency action pursuant to the Utah Administrative Procedures Act, Section 63-46b-1, et seq.

109.2.5.1. Upon receipt of an application, the Division shall:

(a) issue and mail a ~~registration,~~ license, certification, ~~or~~ temporary permit, or registration as an expert witness, which shall be deemed notification that the application is granted;

(b) notify the applicant that the application is incomplete and that further information is needed;

(c) notify the applicant that a hearing shall be scheduled before the Utah Appraiser Licensing and Certification Board for the purpose of determining the applicant's fitness for ~~registration,~~ appraiser licensure~~[-]~~ or certification, or issuance to the applicant of a temporary permit; or

(d) notify the applicant that the application is denied, and, if the proceeding is one in which a hearing is permitted, that he may request a hearing to challenge the denial.

109.2.6. Other Requests for Agency Action

109.2.6.1. ~~All e~~ Other requests for agency action shall be in writing and signed by the requestor, and shall contain the following:

(a) the names and addresses of all persons to whom a copy of the request for agency action is being sent;

(b) the agency's file number or other reference number, if known;

(c) the date of mailing of the request for agency action;

(d) a statement of the legal authority and jurisdiction under which the agency action is requested, if known;

(e) a statement of the relief or action sought from the Division; and

(f) a statement of the facts and reasons forming the basis for relief or agency action.

109.2.6.2. Upon receipt of a request for agency action other than an application for registration, licensure or certification, the Division shall:

(a) notify the requestor in writing that the request is granted;

(b) notify the requestor that the request is incomplete and that further information is needed before the Division is able to make a determination on the request;

(c) notify the requestor that the Division does not have the legal authority or jurisdiction to grant the relief requested or the action sought; or

(d) notify the requestor that the request is denied, and, if the proceeding is one in which a hearing is permitted, that he may request a hearing to challenge the denial.

109.2.6.3. A complaint against an appraiser~~[- a registered expert witness,]~~ or the holder of a temporary permit requesting that the Division commence an investigation or a disciplinary action is not a request for agency action.

R162-109-3. Hearings Not Required.

109.3. A hearing is not required and will not be held in the following informal adjudicative proceedings:

109.3.1. The issuance, renewal or reinstatement of an appraiser ~~registration,~~ license or certification;

109.3.2. The issuance or renewal of an appraisal course, school, or instructor certification;

109.3.3. The issuance of any interpretation of statute, rule or order, or the issuance of any written opinion or declaratory order determining the applicability of a statute, rule or order, when enforcement or implementation of the statute, rule or order lies within the jurisdiction of the Division; or

109.3.4. The denial of renewal or reinstatement of an appraiser ~~registration,~~ license or certification for failure to complete any continuing education required by Section 61-2b-40.

R162-109-4. Hearings Permitted.

109.4.1. In the following informal adjudicative proceedings, a hearing will be held only if requested in writing by a party within ~~30~~ 20 days from the date a notice of agency action or the Division's response to a request for agency action is mailed:

109.4.1.1. The denial of an application for certification as an instructor on the grounds that his attestation to upstanding moral character is false;

109.4.1.2. The denial of an application for an initial appraiser license or certification due to insufficient education or experience, as determined by the appropriate review committee appointed by the Appraiser Licensing and Certification Board; or

109.4.1.3 The denial of an application for a temporary permit.

109.4.2. A request by a party for a hearing shall include the grounds upon which relief is requested.

109.4.3. ~~All h~~ Hearings permitted by this rule will be before the Utah Appraiser Licensing and Certification Board.

R162-109-5. Hearings Required.

109.5.1 Hearings will be held in all proceedings in which the Division seeks to deny an application for original or renewed licensure or certification for failure of the applicant to meet the criteria of good moral character, honesty, integrity or truthfulness.

109.5.2 Hearings will be held in all proceedings conducted subsequent to the issuance of a cease and desist order or other emergency order.

109.5.3 Hearings will be held in all proceedings in which the Division seeks disciplinary action pursuant to U.C.A. Section 61-2b-29 against a licensed or certified appraiser.

~~R162-109-5.~~R162-109-6. Procedures for Hearings in Informal Adjudicative Proceedings.

109.6.1 The procedures to be followed in all informal adjudicative proceedings shall be as set forth in Title 63, Chapter 46b, Utah Administrative Procedures Act, the Department of Commerce Administrative Procedures Act Rules, Utah Administrative Code Section R151-46b, and in this Section R162-109-6.

109.6.2 Notice of Agency Action and Petition. The Division shall commence a proceeding for disciplinary action pursuant to U.C.A. Section 61-2b-29 by the filing and service of a Notice of Agency Action and a Petition setting forth the allegations made by the Division.

109.6.3 Answer. The presiding officer may, upon a determination of good cause, require a person against whom a disciplinary proceeding has been initiated pursuant to U.C.A. Section 61-2b-29 to file an Answer to the Petition by ordering in the Notice of Agency Action that the respondent shall file an Answer with the Division. All Answers are required to be filed with the Division within thirty days of the mailing date of the Notice of Agency Action and Petition.

109.6.4 Assistance of Administrative Law Judge. In any proceeding under this subsection, the Board may delegate the hearing to an Administrative Law Judge or may request that an Administrative Law Judge assist the Board in conducting the hearing.

109.6.5[109.5.1.] Notice of hearing. Upon the scheduling of a [license application] hearing by the Division or upon receipt of a timely request for a hearing where [other] hearings are permitted, the Division shall mail written notice of the date, time, and place scheduled for the hearing at least ten days prior to the hearing.

109.6.6[109.5.2.] Discovery is prohibited, but the Division may issue subpoenas or other orders to compel production of necessary evidence. All parties shall have access to the Division's files and to all materials and information gathered in any investigation to the extent permitted by law.

109.6.7[109.5.3.] Intervention is prohibited.

109.6.8[109.5.4.] Hearings shall be open to all parties, except that a hearing on an applicant's fitness for [registration,] licensure or certification [shall] may be conducted in a closed session which is not open to the public if the presiding officer closes the hearing pursuant to Title 63, Chapter 46b, the Utah Administrative Procedures Act or Title 52, Chapter 4, the Open and Public Meetings Act. The parties named in the Notice of Agency Action or the Request for Agency Action may be represented by counsel and shall have the opportunity to testify, present witnesses and other evidence, and comment on the issues.

109.6.9[109.5.5.] Within a reasonable time after the hearing, the presiding officer shall cause to be issued and mailed to the parties a signed order in writing based on the facts appearing in the agency's files and on the facts presented in evidence at the hearing. The order shall state the decision and the reasons [therefor] for the decision, and a notice of the right of administrative review and judicial review available to the parties including applicable time limits.

109.6.10[109.5.6.] The Division may, but shall not be required to, record the hearing. If a record has been made, any party, at his own expense, may have a reporter approved by the Division prepare a transcript from the Division's record of the proceedings.

KEY: real estate appraisal

[July 16, 1999]2005

**Notice of Continuation June 3, 2002
61-2b-30**



Commerce, Real Estate
R162-202
Initial Application

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27943

FILED: 06/01/2005, 08:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The existing rule is corrected to harmonize its provisions with the reciprocal licensing process mandated by statute.

SUMMARY OF THE RULE OR CHANGE: If an applicant for licensing by reciprocity has taken prelicensing education to become licensed in the home jurisdiction, the rule will not require duplication of that education in Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The requirements for obtaining a mortgage officer license by reciprocity do not impact the State budget.

❖ **LOCAL GOVERNMENTS:** None--Local governments do not employ mortgage officers, and therefore the requirements for obtaining a mortgage officer license by reciprocity do not impact local governments.

❖ **OTHER PERSONS:** There is no anticipated cost to other persons. Applicants for a Utah mortgage officer license by reciprocity will save the cost of taking Utah's prelicensing education if they have taken prelicensing education in their home states.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons affected by this rule change are applicants for a mortgage officer license by reciprocity. Those applicants would potentially save money, not incur compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment corrects the rule regarding reciprocal licenses by clarifying that prelicensing education is not required if a person or entity otherwise meets the reciprocal licensing requirements. There appears to be no fiscal impact to businesses as a result of this rule filing. Russell C. Skousen, Executive Director

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

COMMERCE
REAL ESTATE
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:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Dexter Bell, Director

R162. Commerce, Real Estate.

R162-202. Initial Application.

R162-202-1. Licensing Examination.

202.1 ~~Except as provided in Subsection 202-8, [E]~~effective January 1, 2004, an individual applying for an initial license is required to have passed the licensing examination approved by the commission before making application to the division for a license.

202.1.1 All examination results are valid for 90 days after the date of the examination. If the applicant does not submit an application for licensure within 90 days after successful completion of the examination, the examination results shall lapse and the applicant shall be required to retake and successfully pass the examination again in order to apply for a license.

R162-202-7. Registration of Assumed Business Name.

202.7.1 An individual or entity licensed to engage in the business of residential mortgage loans who intends to conduct business under an assumed business name instead of the individual's own name shall register the assumed business name with the Division.

202.7.2 To register an assumed business name, ~~[an individual]~~the applicant shall pay the applicable non-refundable fee and submit proof in the form required by the Division of a current filing of that assumed business name with the Division of Corporations and Commercial Code.

202.7.3 Misleading or deceptive business names. The Division shall not register an assumed business name if there is a substantial likelihood that the public will be misled by the name into thinking that they are not dealing with an individual or entity engaged in the residential mortgage loan business.

R162-202-8. Reciprocal Licenses.

202.8.1 An applicant who is a legal resident of a state with which the Division has entered into a written reciprocity agreement and who applies for a Utah license shall submit to the Division:

(a) An application for a reciprocal license on the form required by the Division;

(b) All applicable licensing fees and the Residential Mortgage Loan Education, Research, and Recovery Fund fee;

(c) An official license history from the licensing agency in the applicant's state of legal residence containing the dates of the applicant's licensure and any complaint or disciplinary history; and

(d) The information required by Subsections 202.2.1 through ~~[202.2.11]~~202.2.9.

202.8.2 An applicant who is a legal resident of a state with which the Division has not entered into a written reciprocity agreement and who applies for a Utah license shall submit to the Division:

(a) An application for a reciprocal license on the form required by the Division;

(b) All applicable licensing fees and the Residential Mortgage Loan Education, Research, and Recovery Fund fee;

(c) A signed, notarized affidavit attesting that the applicant has at least five years experience in the business of residential mortgage loans;

(d) An official license history from the licensing agency in the applicant's state of legal residence, and any other state(s) in which the experience referred to in Subsection 202.8.2(c) was obtained, that includes the dates of the applicant's licensure and any complaint or disciplinary history; and

(e) A copy of the licensing statute or rules from any jurisdiction in which residential mortgage experience is claimed that demonstrate that the jurisdiction's licensing requirements are substantially equivalent to those of Utah; and

(f) Those items required by Subsections 202.2.1 through ~~[202.2.11]~~202.2.9.

KEY: residential mortgage loan origination

~~[November 3, 2004]~~2005

61-2c-103(3)

Commerce, Real Estate **R162-208** Continuing Education

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27945

FILED: 06/01/2005, 08:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for the rule change is to plug a loophole that arguably allows a continuing education provider who does not precertify a course before offering it to students for credit to give the course anyway and force the students to apply to the Division individually for approval of their continuing education credits.

SUMMARY OF THE RULE OR CHANGE: The rule requiring course providers to obtain certification of continuing education courses from the Division before offering the courses to students for continuing education credit is tightened, while preserving the option for individual students to apply for credit on a case-by-case basis of worthwhile courses they have taken although the courses were not intended to be continuing education for mortgage licensees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(6)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The rules for certification of continuing education courses for mortgage officers do not impact the State budget.

❖ **LOCAL GOVERNMENTS:** None--Local governments do not employ mortgage loan officers and are not providers of education that targets mortgage loan officers, and so are not

affected by the rules governing certification of continuing education courses for mortgage officers.

❖ **OTHER PERSONS:** There are no anticipated costs to other persons. Course providers are already required to precertify their courses. The rule change may save students the fees they would have to pay to obtain continuing education credit for a course that the course provider did not certify in advance as the course provider should have done.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons affected are the providers of continuing education. Since they are already required to precertify courses before offering the courses to students, there are no additional compliance costs caused by clarifying the language of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule clarifies requirements for precertification of continuing education courses by course providers, establishes limited circumstances and standards for individual licensees to request credit for courses not certified by the Division, and establishes application procedures for providers of courses approved in other states. No fiscal impact to businesses is anticipated as a result of these amendments. Russell C. Skousen, Executive Director

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

COMMERCE
REAL ESTATE
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:
Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Dexter Bell, Director

**R162. Commerce, Real Estate.
R162-208. Continuing Education.
R162-208-4. Subject Matter.**

208.4 The following subject matter is acceptable for continuing education credit:

208.4.1 Each time the licensee renews, the required 14 credit hours must include a minimum of 2 credit hours of ethics and a minimum of 3 credit hours related to compliance with Federal and State laws governing mortgage lending.

208.4.2 The balance of the credit hours required for renewal may consist of any courses related to residential mortgage principles

and practices that, in the opinion of the [e]Commission, would enhance the competency and professionalism of licensees.

208.4.3 The Division will maintain and will make available to any person upon request a list of course topics that have been approved by the Division and the [e]Commission as acceptable for continuing education purposes. The Division shall also post the list of course topics on its website.

R162-208-6. Education Committee.

208.6 The [e]Commission will appoint an Education Committee, the purpose of which will be to assist the Division and the [e]Commission in approving continuing education course topics.

The Education Committee will make recommendations to the Division and the [e]Commission about whether any particular course topic is sufficiently related to residential mortgage principles and practices, and whether the topic would tend to enhance the competency and professionalism of licensees, to justify placing the topic on the list of course topics that are acceptable for continuing education purposes. The Division and the [e]Commission may accept or reject the Committee's recommendation on any course topic.

208.6.1 Any licensee or any course provider may request that the Education Committee recommend to the Division and the [e]Commission that a specific topic be approved as an acceptable topic for continuing education purposes. The request must be made in writing, addressed to the Education Committee in care of the Division, and must state specific reasons why the requester believes the topic qualifies for continuing education purposes.

208.6.2 If the Education Committee turns down a request to approve a certain topic for continuing education purposes, the party who requested that the topic be approved may petition the Division and the [e]Commission on an individual basis for evaluation and approval of the topic as being acceptable for continuing education purposes. The Petition must be made in writing, addressed to the Division and the [e]Commission in care of the Division, and must state specific reasons why the requester believes that the topic qualifies for continuing education purposes. If the Division and the [e]Commission find that the topic is acceptable for continuing education purposes, the Division shall add the topic to the list maintained by the Division of approved continuing education topics.

R162-208-8. Online Courses.

208.8 Online courses may be accepted by the Division for continuing education purposes if they comply with all of the other provisions of this rule and if: a) the student who successfully completes a course is able to print from the course provider's web site a continuing education certificate to submit to the Division that meets the requirements of Section 208.7 above; and b) the course provider has methods in place to determine whether a student has successfully completed a course and to insure that only those students who have successfully completed a course are able to print a course completion certificate.

R162-208-10. Continuing Education Course Certification.

208.10 Continuing education course providers who provide education courses specifically tailored for, or marketed to, Utah real estate, appraiser, or mortgage licensees are required to apply to the Division for certification of any course for which continuing education credit is promised at least 60 days prior to the anticipated date of the first class. Except as may be provided in Subsection 208.10.5, the Division will not grant continuing education credit to

students who have taken courses that have not been certified by the Division in advance of the courses being taught to students.

208.10.1 Approved continuing education providers may include accredited colleges and universities, public or private vocational schools, national and state mortgage related professional societies and organizations, and proprietary schools and instructors.

208.10.2 Application Procedure. Except as provided in Subsection 208.10.3, education providers shall make application to the Division following the procedures set forth in Subsection 208.10.4.

208.10.3. [These]A continuing education provider[s] who provides proof to the Division that a course offering has[have] been certified for continuing education [courses]credit in a minimum of three other states and that the provider has[have] specific standards in place for development of [their] courses and approval of [their] instructors[, and who will provide those criteria to the Division for a one time approval,] may be granted certification of [their]a course[s with no further application.] by filling out the form required by the Division and including the following with the application:

(a) a copy of the provider's standards used for developing curricula and for approving instructors;

(b) evidence that the course is certified in at least three states;

(c) a sample of the course completion certificate bearing all information required by Subsection 208.10.4(l) and

(d) all required fees, which shall be non-refundable.

208.10.[3]4 Submission of Course for Certification. The application shall include the non-refundable instructor certification fee of \$50.00 and the non-refundable \$70.00 course certification fee per course per instructor. The application shall be made on the form approved by the Division which shall include the following information:

(a) Name, phone number and address of the sponsor of the course, including the owners and the coordinator or director responsible for the offering;

(b) The title of the course offering including a description of the type of training; for example, seminar, conference, correspondence course, or similar offering;

(c) A copy of the course curriculum including a course outline of the comprehensive subject matter. Except for courses approved for specific distance education delivery, the course outline shall include the length of time to be spent on each subject area broken into segments of no more than 30 minutes each, the instructor for each segment, and the teaching technique used in each segment;

(d) A complete description of all materials to be distributed to the participants;

(e) The date, time and locations of each course;

(f) The procedure for pre-registration, the tuition or registration fee and a copy of the cancellation and refund policy;

(g) Except for courses approved for specific distance education delivery, the procedure for taking and maintaining control of attendance during class time, which procedure shall be more extensive than having the student sign a class roll;

(h) An instructor application on a form approved by the Division including the information as defined in R162-9.4;

(i) A signed statement agreeing to allow the course to be randomly audited on an unannounced basis by the Division or its representative;

(j) A statement defining how the course will meet the objectives of continuing education by providing education of a current nature and how it will improve a licensee's ability to provide greater protection of, and service to, the public;

(k) A signed statement agreeing not to perform marketing for a specific company or professional service, or to market personal sales products;

(l) A sample of the completion certificate, or the completion certificate required by the Division, if any, that will be issued which shall bear the following information:

(i) Space for the licensee's name, type of license and license number, date of course;

(ii) The name of the course provider, course title, hours of credit, certification number, and certification expiration date;

(iii) Space for the signature of the course sponsor and a space for the licensee's signature; and

(m) Signature of the course coordinator or director.

206.10.5 Individual licensees may apply to the Division for continuing education credit for a non-certified mortgage course that was not required by these rules to be certified in advance by filling out the form required by the Division and providing all information concerning the course required by the Division. If the licensee is able to demonstrate to the satisfaction of the Division that the course will likely improve the licensee's ability to better protect or serve the public and improve the licensee's professional licensing status, the Division may grant the individual licensee continuing education for the course.

206.10.5.1 Provided the subject matter of the course is applicable to residential mortgage loan business in Utah, a course approved for continuing education purposes in another state or jurisdiction may be granted Utah continuing education credit on a case by case basis.

208.10.[4]6 Distance Education. Continuing education courses in which the instruction does not take place in a traditional classroom setting, but rather through other media where teacher and student are separated by distance and sometimes by time, may be certified by the Division if the particular distance education method has been approved by the Commission and the Division. Application must be made to the Division on the form required by the Division for certification of courses that do not take place in a traditional classroom setting.

KEY: residential mortgage loan origination

~~November 3, 2004~~2005

61-2c-103(3)

61-2c-104(7)(d)(ii)



Education, Administration

R277-444

Distribution of Funds to Arts and
Sciences Organizations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27932

FILED: 05/19/2005, 07:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to clarify the expectations required for Professional Outreach Programs (POPS) organizations to reestablish

themselves and their funding level every four years, as required by law.

SUMMARY OF THE RULE OR CHANGE: The changes include adding definitions, changing and clarifying the criteria for eligibility, applications, and funding for POPS and RFP organizations (arts and science organizations that receive one-time funding from the the Utah State Office of Education (USOE)), adding a new section for continued funding of arts and science subsidy program organizations, and changing and clarifying criteria for evaluation and accountability of funding and variations or waivers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated cost or savings to the state budget. The Legislature appropriated the money for continued POPS funding in the 2005 Session.

❖ **LOCAL GOVERNMENTS:** There are no anticipated cost or savings to local government agencies including school districts. POPS organizations will continue to provide services to school districts due to legislative funding. School districts are responsible for any transportation costs for students to activities or performances.

❖ **OTHER PERSONS:** The amended rule more clearly explains the application and the funding process for POPS organizations. There are no anticipated costs or savings to organizations applying for or eligible for POPS funding; the Legislature continues to appropriate funding for this program consistent with previous years. Under the amended rule the USOE may require additional audit or evaluation procedures from POPS organizations but the organizations may use appropriated funds for this purpose.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. POPS organizations may use appropriated funds for audit or evaluation procedures, if required by the USOE.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-444. Distribution of Funds to Arts and Science[s] Organizations.

R277-444-1. Definitions.

A. "Arts organization (organization)" means a non-profit professional artistic organization that provides artistic (dance, music, drama, art) services, performances or instruction to the Utah community.

B. "Arts and science subsidy program" means groups that have participated in the RFP program and have been determined by the Board to be providing valuable services in the schools. They do not qualify as professional outreach programs.

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

D. "Cost effectiveness" means maximization of the educational potential of the resources available through the professional organization, not using POPS funding for costs that would be expended necessarily for the maintenance and operation of the organization.

E. "Educational soundness" means that learning activities or programs:

(1) are designed for the community and grade level being served, including suggested preparatory activities and Core-relevant follow-up activities;

(2) feature literal interaction of students and teachers with professional artists and scientists;

(3) focus on those specific Life Skills and Arts or Science Core Curricula concepts and skills; and

(4) show continuous improvement of services guided by analysis of evaluative tools.

~~F.~~ "Hands-on activities" means activities that include active involvement of students with presenters, ideally with materials provided by the organization.

~~G.~~ "Non-profit organization" means an organization no part of the income of which is distributable to its members, directors or officers; a corporation organized for other than profit-making purposes.

H. "Professional excellence" means the organization:

(1) has been juried or reviewed, based on criteria for artistic or scientific excellence, by a panel of recognized and qualified critics in the appropriate discipline;

(2) has received recognitions of excellence through an award, a prize, a grant, a commission, an invitation to participate in a recognized series of presentations in a well-known venue; and

(3) includes a recognized and qualified professional in the appropriate field who has created an artistic or scientific project or composition specifically for the organization to present; or

(4) any combination of criteria.

~~I.~~ "Professional outreach programs (POPS) in the schools" means those established arts and science[s] organizations which [~~previously~~]received line item funding directly from the Utah State

Legislature prior to 2004. These organizations have demonstrated the capacity to mobilize programmatic resources and focus them systematically in improving teaching and learning in schools statewide.

G. "Request for proposal (RFP)" means a competitive application process used to identify programs that best meet requirements established by the Board.

H. "RFP program" means arts and science organizations that receive one-time funding through application to the USOE.

I. "School visits" means performances, lecture demonstrations/presentations, in-depth instructional workshops, residencies, side-by-side mentoring, and exhibit tours by professional arts and science groups in the community.

J. "Science organization (organization)" means a non-profit professional science organization that provides science-related services, performances or instruction to the Utah community.

K. "State Core Curriculum" means those standards of learning that are essential for all Utah students, as well as the ideas, concepts, and skills that provide a foundation on which subsequent learning may be built, as established by the Board.

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

R277-444-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of the arts and science program is to provide opportunities for students to develop and use the knowledge, skills, and appreciation ~~contained~~ defined in the arts and science[s] Core curricula through in-depth school instructional services, performances or presentations in school and theatres, or arts or science museum tours.

C. This rule also provides criteria for the distribution of funds appropriated by the Utah Legislature for this program.

R277-444-3. Criteria for Eligibility~~[-of]~~, Applications, and Funding for POPS Organizations.

A. Established professional outreach program in the schools (POPS) organizations shall be eligible for funding under the POPS program applications and funding criteria and not eligible to apply for the RFP or arts and science subsidy programs.

B. Documentation of an organization's non-profit status, shall be provided in the annual evaluation report described in R277-444-6.

C. Every four years, beginning in July 1998, all POPS organizations shall reapply to the USOE to reestablish their continuation and amount of funding. Re-application materials shall be provided by the USOE.

D. When there are changes in the program funding from the Utah State Legislature, allocations shall be at the discretion of the Board.

E. Funds shall be distributed annually beginning in August.

R277-444-4. Criteria for Eligibility, Applications, and Funding for RFP Organizations.

~~[B]A.~~ Non-profit professional arts and science organizations that have existed for at least three years prior to application with a track record of proven fiscal responsibility, of demonstrated excellence in their discipline, and with the ability to share their

discipline creatively and effectively in educational settings shall be eligible to apply for RFP funding.

~~[C]B.~~ Documentation of an organization's non-profit status, professional excellence or educational ~~[effectiveness]~~ soundness may be required by the USOE prior to receipt of application from these organizations.

~~[D]C.~~ RFP organizations that can demonstrate successful participation in the RFP Program for three years, have an education staff, and the capacity to reach out statewide may apply to the Board to become a POPS organization.

~~[E.~~ The completed application shall be submitted prior to June 1 of the year in which the application is to be considered.

~~— F. The Board shall request new money for a new POPS organization from the Utah State Legislature if the application is approved, prior to providing funds to the organization.~~

~~— G. Arts and science organizations meeting the subsidy criteria may apply for the arts and science subsidy program, but may not also apply for RFP funding.~~

~~— H. Arts and science organizations qualifying for POPS or RFP funding may not charge schools for services funded under those programs.~~

~~— I. Scientists, artists, or entities hired/sponsored for services in the schools, directly or indirectly through coordinating organizations, shall be subject to the same review and approval process.~~

R277-444-4. Applications and Funding.

~~— A. Applications shall be provided by the USOE.~~

~~— B. Every four years, beginning in July 1998, all POPS organizations shall reapply to the USOE to reestablish their continuation and amount of funding. Applications shall include a plan for participating with all similar arts or science groups to reach all designated schools.~~

~~— C]D.~~ Organizations funded through an RFP process shall submit annual applications to the USOE. Applications shall be provided by the USOE.

~~[D]E.~~ The designated USOE specialist(s) shall make final funding recommendations following a review of applications by designated community representatives to the ~~[USOE Finance Committee]~~ Board by August 31 of the school year in which the money is available.

~~[E.~~ Every four years, beginning in 2006, all arts and science subsidy program organizations shall reapply to the USOE to reestablish the continuation and amount of funding.

~~— F. The USOE may require additional evaluation or audit procedures from organizations to demonstrate use of funds consistent with the law and this rule.]F.~~ Application for eligible organizations to become a POPS organization is possible every year through the following process:

(1) Organizations submit a letter of intent and a master plan for servicing the schools to the designated USOE specialist(s) by the first day of October to determine eligibility and accordingly respond with an invitation to meet and complete the application and evaluation process required of all established POPS and arts and science subsidy organizations in their re-application procedure every four years.

(2) The completed application, original letter of intent, and recommendations based on the evaluation are submitted to the Board through the designated USOE specialist(s) by June 1.

(3) The Board or designee meets with the designated USOE specialist(s) to determine whether or not to approve the applicant as a candidate to become a POPS organization.

(4) The Board shall request new money for a new POPS organization from the Utah State Legislature if the application is approved, prior to providing funds to the newly approved organization.

(5) The same procedure would be followed for organizations desiring to apply to be arts and science subsidy organizations, and to re-apply to establish their funding level and standing as an arts and science subsidy group.

(6) Arts and science organizations meeting the arts and science subsidy criteria may apply for the arts and science subsidy program, but may not apply for RFP funding.

G. When there are changes in the program funding from the Utah State Legislature, allocations shall be at the discretion of the Board.

H. Funds shall be distributed annually beginning in August.

R277-444-5. Process for Continued Funding of Arts and Science Subsidy Program Organizations.

A. Scientists, artists, or entities hired or sponsored for services in the schools, directly or indirectly through coordinating organizations, shall be subject to the same review and approval for funding process.

B. Every four years, beginning in 2010, all arts and science subsidy program organizations shall reapply to the USOE to reestablish the continuation and amount of funding. Re-application materials shall be provided by the USOE.

C. When there are changes in the program funding from the Utah State Legislature, annual allocations shall be at the discretion of the Board.

D. Funds shall be distributed annually beginning in August.

R277-444-[5]6. Criteria for Evaluation and Accountability of Funding.

A. Arts and science organizations qualifying for POPS or RFP funding may not charge schools for services funded under those programs.

[A]B. Organizations may be visited by USOE staff prior to funding or at school presentations during the funding cycle to evaluate the effectiveness and preparation of the organization.

[B]C. Organizations that receive arts[4] and science funding shall submit [an] annual evaluation reports to the USOE by July 1.

[C]D. The year-end report shall include:

(1) a budget expenditure report and income source report using a form provided by the USOE, including a report and accounting of fees charged, if any, to recipient schools, districts, or organizations; and

(2) record of the dates and places of all services rendered, the number of instruction and performance hours per district, school, and classroom service, as applicable, with the number of students and teachers served, including:

(a) documentation that all school districts and schools have been offered opportunities for participation with all organizations over a three year period consistent with the arts and science organizations' plans and to the extent possible; and

(b) documentation of collaboration with the USOE and school communities in planning visit preparation/follow up and content that [is related to] focuses on the state Core curriculum; and

(c) arts or science and their contribution(s) to students' development of life skills; and

(3) a brief description of services provided by the organizations through the fine arts and science[s] POPS, RFP, or arts and science subsidy programs, and if requested, copies of any and all materials developed; and

(4) a summary of organization's evaluation of:

(a) cost-effectiveness;

(b) procedural efficiency;

(c) collaborative practices;

(d) [program quality, including impact of services on students, teachers, school science or art programs or curricula] educational soundness; [and]

(e) professional excellence; and

([e]f) the resultant goals, plans, or both, for continued evaluation and improvement.

E. The USOE may require additional evaluation or audit procedures from organizations to demonstrate use of funds consistent with the law and this rule.

F. Funding and levels of funding to POPS, RFP, and arts and science subsidy programs are continued at the discretion of the Board based on review of information collected in year-end reports.

R277-444-[6]7. Variations or Waivers.

A. No deviations from the approved and funded arts or science proposals shall be permitted without prior approval from the [appropriate] designated USOE specialist(s) or [his-] designee.

B. The USOE may require requests for variations to be submitted in writing.

C. The nature and justification for any deviation or variation from the approved proposal shall be reported in the year-end report.

D. Any variation shall be consistent with law and the purposes of this rule.

KEY: arts, science, curricula

[August 17, 2004]2005

Notice of Continuation October 13, 2000

Art X Sec 3

53A-1-401(3)

▼ ————— ▼

Education, Administration
R277-480
Advanced Readers at Risk

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 27933

FILED: 05/19/2005, 07:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because funding was discontinued for the program making the rule unnecessary.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. There is no appropriation for the program so the program no longer exists.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. There is no appropriation for the program so the program no longer exists.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. There is no appropriation for the program so the program no longer exists.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. There is no appropriation for the program so the program no longer exists.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-480. Advanced Readers at Risk.~~

~~R277-480-1. Definitions.~~

~~— A. "Advanced readers at risk" are students in public school classrooms who read above grade level but who require differentiated reading strategies and activities to meet their needs in the regular classroom.~~

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

~~— C. "Reading Advisory Committee" means membership selected from statewide school district reading and gifted and talented specialists and others as determined by the USOE Reading and Gifted and Talented Specialists.~~

~~— D. "USOE" means the Utah State Office of Education.~~

~~R277-480-2. Authority and Purpose.~~

~~— A. This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board, H.B. 216, 2001 Laws of Utah, Chapter 358 which appropriates funds to establish an advanced readers at risk program in the state's public schools, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~— B. The purpose of this rule is to establish local programs for advanced readers at risk in Utah's public schools. The rule provides procedures for school districts or schools or consortia of districts or schools to receive funds to develop local programs that encourage advanced readers to develop and apply advanced reading skills, to train and involve parents in reading activities, and to promote student service projects that develop from the students' reading skills and activities.~~

~~R277-480-3. Distribution of Funds.~~

~~— A. Districts or consortia shall submit applications for funding for this program to the USOE on applications provided by the USOE.~~

~~— B. Projects shall be selected on a competitive basis to the extent of funds available. Criteria for funding include:~~

~~— (1) submission of a completed application;~~

~~— (2) commitment of model classrooms within the district(s);~~

~~— (3) a plan for professional development for staff participating in the program;~~

~~— (4) an explanation within the application of reading activities to promote advanced reading skills;~~

~~— (5) a plan for parent involvement and training in reading strategies and activities to encourage students to read and to use their acquired reading skills;~~

~~— (6) a plan/description of service projects to be implemented by students for their schools and communities; and~~

~~— (7) an interim evaluation plan (available in December) and a final internal or external evaluation plan for the district/school program. The evaluation plans shall:~~

~~— (a) detail how the funds were expended to date during the program period;~~

~~— (b) identify any funds not expended to date;~~

~~— (c) request to carry forward any program funds not expended or obligated to date during the approved program period with a plan for expenditure of remaining funds with USOE approval; and~~

~~— (d) include results of the program to date and an outline of changes planned in response to evaluation information.~~

~~— C. Consortia of districts or schools may submit applications for funding.~~

~~— D. The Reading Advisory Committee and the USOE Reading and Gifted and Talented Specialists shall make recommendations for funding to the Associate Superintendent for Instructional Services.~~

~~— E. Final decisions about project funding shall be made by the Associate Superintendent for Instructional Services.~~

~~R277-480-4. Funding Timeline.~~

~~— A. The USOE shall provide introductory information to interested applicants by May 30.~~

~~— B. Applications shall be available from the USOE by June 30 for the following school year.~~

~~— C. Districts or schools shall be identified for funding by August 30.~~

~~— D. Other deadlines for adequate staff training, parent education and student service projects shall be established in school or district applications.~~

~~— E. Applications shall provide for periodic review by USOE staff or the Reading Advisory Committee; and~~

~~— F. Applications shall identify an appropriate due date for project interim and final evaluations.~~

KEY: education, reading, students
September 20, 2001
Art X Sec 3
53A-1-401(3)]



Environmental Quality, Drinking Water

R309-100

Administration: Drinking Water Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27964

FILED: 06/01/2005, 16:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change updates and clarifies the definition of a public drinking water system and changes the frequency for conducting sanitary surveys of public water systems to correspond with federal requirements.

SUMMARY OF THE RULE OR CHANGE: This rule change updates and clarifies the definition of a public drinking water system and changes the frequency for conducting sanitary surveys of public water systems from every five years to every three years to correspond with federal requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; and Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The state will increase the number of expected sanitary surveys from 200 per year to 334 per year. On average a survey takes approximately 6 hours, therefore, the net increase in man-hours per year would be 804 man-hours. The cost per hour for Department staff including benefits is \$70, therefore, the estimated annual cost is \$56,280.

❖ **LOCAL GOVERNMENTS:** There will be a minimal impact to local governments that operate a public water system. The cost incurred would be the personnel cost of an operator's presence during a sanitary survey. On average the increase would be 2 man-hours per year instead of 1.2 man-hours per year (6 man-hours per survey). The net increase would be 0.8 man-hours per year. A firm dollar figure or estimate cannot be made due to the variation in operator salaries and the unknown number of volunteer operators at the very small public water systems.

❖ **OTHER PERSONS:** Other persons that own and operate a public water system shall have a minimal impact. The cost incurred would be the personnel cost of an operator's presence during a sanitary survey. On average the increase would be 2 man-hours per year instead of 1.2 man-hours per year (6 man-hours per survey). The net increase would be 0.8 man-hours per year. A firm dollar figure or estimate cannot be made due to the variation in operator salaries and the unknown number of volunteer operators at the very small public water systems.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule adoption will change a federal requirement into a state requirement, thereby allowing Utah to maintain primacy. The compliance cost of affected persons on average will be the increased man-hours per year (0.8 man-hours/year). A firm dollar figure or estimate cannot be made due to the variation in operator salaries and the unknown number of volunteer operators at the very small public water systems.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments in the cost and compliance summaries above. Dianne R. Nielson, Executive Director

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:
 Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-100. Administration: Drinking Water Program.
R309-100-4. General.

These rules shall apply to all public drinking water systems within the State of Utah.

(1) A public drinking water system is a system, either publicly or privately owned, providing water for human consumption and other domestic uses, which:

(a) Has at least 15 service connections, or

(b) Serves an average of at least 25 individuals daily at least 60 days out of the year.

(c) A ratio of 3.13 persons per connection shall be used to calculate the population served unless more accurate information is available. The ratio is based on the statewide average persons per residence in the 2000 census. Therefore, notwithstanding the above stated threshold for the number of service connections, a drinking water system consisting of at least 8 service connections shall be deemed to serve 25 people and consequently be classified as a public drinking water system. This ratio shall only be used to determine whether any particular water system is considered a public water system. Any person or entity may challenge this provision by submitting documentation to the Executive Secretary showing that the drinking water system, upon complete build out, falls below both thresholds listed in (a) and (b) above. All decisions made by the Executive Secretary may be appealed to the Drinking Water Board.

(d) Submetered Properties.

(i) Submetered Properties means a billing process by which a property owner (or association of property owners, in the case of co-ops or condominiums) bills tenants based on metered total water use; the property owner is then responsible for payment of a water bill from a public water system.

(ii) A property owner who installs submeters to track usage of water by tenants on his or her property shall not be subject to these rules solely as a result of taking the administrative act of submetering and billing.

(iii) Owners of submetered properties shall receive all their water from a regulated public water system to qualify under the terms of R309-105-5 for exemption from monitoring requirements, except as to the selling of water.

(iv) This is not intended to exempt systems where the property in question has a large distribution system (piping in excess of 500 feet in length and sized larger than the normal service lateral based on a fixture unit analysis) serves a large population or serves a mixed (commercial/residential) population (e.g. many military installations/facilities or large mobile home parks or P.U.D's) from regulation as a public drinking water system as pertains to notifying the Division of the persons indicated below in (3) or plan review of modifications or changes to their systems (refer to R309-500).

(e)(~~e~~) The [~~Such~~] term public drinking water system includes collection, treatment, storage or distribution facilities under control of the operator and used primarily in connection with the system. Additionally, the term includes collection, pretreatment or storage facilities used primarily in connection with the system but not under such control (see 19-4-102 of the Utah Code Annotated). All public water systems are further categorized into three different types, community water (CWS), non-transient non-community water (NTNCWS), and transient non-community water (TNCWS).

(2) Categories of Public Drinking Water Systems

Public drinking water systems are divided into three categories, as follows:

(a) "Community water system" means a public drinking water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(b) "Non-transient, non-community water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same nonresident persons over six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

(c) "Transient non-community water system" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year.

Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

(d) The distinctions between "Community", "Non-transient, non-community", and Transient Non-community water systems are important with respect to monitoring and water quality requirements.

(3)(~~2~~) Responsibility

(a) All public drinking water systems must have a person or organization designated as the owner of the system. The name, address and phone number of this person or organization shall be supplied, in writing, to the Board.

(b) The name of the person to be contacted on issues concerning the operation and maintenance of the system shall also be provided, in writing, to the Board.

R309-100-7. Sanitary Survey and Evaluation of Existing Facilities.

(1) The Executive Secretary, after considering information gathered during sanitary surveys and facility evaluations, may make determinations of regulatory significance including: monitoring reductions or increases, treatment, variances and exemptions.

(2) CONDUCTING SANITARY SURVEYS

(a) The Executive Secretary shall ensure a sanitary survey is conducted at least every three[~~five~~] years on all public water systems except transient non-community water systems that use only protected and disinfected ground water. The Executive Secretary may reduce this frequency to once every five years based on outstanding performance on prior sanitary surveys. The Executive Secretary shall ensure a sanitary survey is conducted at least every ten years on all transient non-community water systems that use only disinfected ground water from protected ground water zones as designated under R309-600. The Executive Secretary shall conduct an initial sanitary survey by June 29, 1994, on community water systems that do not collect five or more routine bacteriologic samples per month and by June 29, 1999, on non-transient non-community and transient non-community water systems.

(b) Sanitary surveys conducted by the following individuals under the circumstances as listed, may be used by the Executive Secretary for the above determinations:

(i) Division of Drinking Water personnel;

(ii) Utah Department of Environmental Quality District Engineers;

(iii) local health officials;

(iv) Forest Service engineers;

(v) Utah Rural Water Association staff;

(vi) consulting engineers; and

(vii) other qualified individuals authorized in writing by the Executive Secretary.

(3) CONDITIONS ON CONDUCT OF SANITARY SURVEYS

In order for the groups of individuals listed in R309-100-7(2)(b) to conduct sanitary surveys acceptable for consideration by the Executive Secretary, the following criteria must be met:

(a) Surveys of all systems involving complete treatment plants must be performed by Division of Drinking Water staff or others authorized in writing by the Executive Secretary;

(b) Local Health officials may conduct surveys of systems within their respective jurisdictions;

(c) U.S. Forest Service (USFS) engineers may conduct surveys of water systems if the system is owned and operated by the USFS or USFS concessionaires;

(d) Utah Rural Water Association staff may conduct surveys of water systems if the system's population is less than 10,000;

(e) Consulting Engineers under the direction of a Registered Professional Engineer;

(f) Other qualified individuals who are authorized in writing by the Executive Secretary may conduct surveys.

(4) SANITARY SURVEY REPORT CONTENT

The Executive Secretary will prescribe the form and content of sanitary survey reports and be empowered to reject all or part of unacceptable reports.

(5) ACCESS TO WATER FACILITIES

Department of Environmental Quality employees after reasonable notice and presentation of credentials, may enter any part of a public water system at reasonable times to inspect the facilities and water quality records, conduct sanitary surveys, take samples and otherwise evaluate compliance with Utah's drinking water rules. All others who have been authorized by the Executive Secretary to conduct sanitary surveys must have the permission of the water system owner or designated representative before a sanitary survey may be conducted.

(6) Refer to R309-100-8 and R309-105-6 for further requirements.

KEY: drinking water, environmental protection, administrative procedures

~~December 9, 2002~~ 2005

Notice of Continuation April 16, 2001

19-4-104

63-46b-4



Environmental Quality, Drinking Water R309-105-16 Reporting Test Results

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27959

FILED: 06/01/2005, 16:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to address the changes required by the federal Arsenic and Filter Backwash Recycling regulations. There are a total of eight rule filings that address these two regulations (R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535). This rule adoption is necessary to maintain primacy. (DAR NOTE: The proposed amendments to: R309-105 is under DAR No. 27959, R309-110 is under DAR No. 27960, R309-200 is under DAR No. 27961, R309-205 is under DAR No. 27967, R309-215 is under DAR No. 27969, R309-220 is under DAR No. 27962, R309-505 is under DAR No. 27963, and R309-535 is under DAR No. 27965 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This rule change updates the reporting requirements for public water systems that install arsenic treatment. It also establishes the reporting level for arsenic sample results.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; and Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs for the state budget, local governments, and other persons will be based as an aggregate for the changes in Rules R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535. The Environmental Protection Agency (EPA) estimates state costs for the arsenic rule to be \$1,000,000 annually. Using the percentage of Utah systems potentially affected, Utah's annual impact is approximately \$45,000 to \$50,000.

❖ LOCAL GOVERNMENTS: For this aggregate rule change, costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at \$180,000,000 for 2,387 community water systems. Utah has approximately 108 public water system potentially affected by this rule. The approximate annual cost of treatment to comply with this rule for Utah public water systems is \$8,144,000. Individual system cost will range from \$6,500 to \$1,340,000 annually.

❖ OTHER PERSONS: Other persons that own and operate a public water system may have the same cost impact as listed under "local government" above. Costs to consumers will vary depending upon water system size, EPA estimates the cost to vary from \$1 to \$327 per household per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from \$1 to \$327 per household per year. The highest costs are associated with the very small public water systems where there are very few connections to spread the cost of treatment across. In these cases, these rule changes will also allow for point-of-use treatment technology and will reduce the cost significantly in some cases.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments in the cost and compliance summaries above. Dianne R. Nielson, Executive Director

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 kbousfield@utah.gov or pfauver@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.

R309-105. Administration: General Responsibilities of Public Water Systems.

R309-105-16. Reporting Test Results.

(1) If analyses are made by certified laboratories other than the state laboratory, these results shall be forwarded to the Division as follows:

(a) The supplier shall report to the Division the analysis of water samples which fail to comply with the Primary Drinking Water Standards of R309-200. Except where a different reporting period is specified in R309-205, R309-210 or R309-215, this report shall be submitted within 48 hours after the supplier receives the report from his lab. The Division may be reached at (801)536-4200.

(b) Monthly summaries of bacteriologic results shall be submitted within ten days following the end of each month.

(c) All results of TTHM samples shall be reported to the Division within 10 days of receipt of analysis for systems monitoring pursuant to R309-210-9.

(d) For all samples other than samples showing unacceptable results, bacteriologic samples or TTHM samples, the time between the receipt of the analysis and the reporting of the results to the Division shall not exceed 40 days.

(e) Arsenic sampling results shall be reported to the nearest 0.001 mg/L.

(2) Disinfection byproducts, maximum residual disinfectant levels and disinfection byproduct precursors and enhanced coagulation or enhanced softening.

(a) Systems required to sample quarterly or more frequently shall report to the State within 10 days after the end of each quarter in which samples were collected, except for systems monitoring TTHMs in accordance with R309-210-9. Systems required to sample less frequently than quarterly shall report to the State within 10 days after the end of each monitoring period in which samples were collected. The Executive Secretary may chose to perform calculations and determine whether the MCL was exceeded, in lieu of having the system report that information.

(b) Disinfection byproducts. Systems shall report the information specified.

(i) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) on a quarterly or more frequent basis shall report:

(A) The number of samples taken during the last quarter.

(B) The location, date, and result of each sample taken during the last quarter.

(C) The arithmetic average of all samples taken in the last quarter.

(D) The annual arithmetic average of the quarterly arithmetic averages of this section for the last four quarters.

(E) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(ii) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) less frequently than quarterly (but at least annually) shall report:

(A) The number of samples taken during the last year.

(B) The location, date, and result of each sample taken during the last monitoring period.

(C) The arithmetic average of all samples taken over the last year.

(D) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(iii) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) less frequently than annually shall report:

(A) The location, date, and result of the last sample taken.

(B) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(iv) Systems monitoring for chlorite under the requirements of R309-210-8(2) shall report:

(A) The number of entry point samples taken each month for the last 3 months.

(B) The location, date, and result of each sample (both entry point and distribution system) taken during the last quarter.

(C) For each month in the reporting period, the arithmetic average of all samples taken in each three sample set taken in the distribution system.

(D) Whether, based on R309-210-8(6)(b)(ii), the MCL was violated.

(v) System monitoring for bromate under the requirements of R309-210-8(2) shall report:

(A) The number of samples taken during the last quarter.

(B) The location, date, and result of each sample taken during the last quarter.

(C) The arithmetic average of the monthly arithmetic averages of all samples taken in the last year.

(D) Whether, based on R309-210-8(6)(b)(iii), the MCL was violated.

(c) Disinfectants. Systems shall report the information specified to the Executive Secretary within ten days after the end of each month the system serves water to the public, except as otherwise noted:

(i) Systems monitoring for chlorine or chloramines under the requirements of R309-210-8(3)(a) shall report and certify, by signing the report form provided by the Executive Secretary, that all the information provided is accurate and correct and that any chemical introduced into the drinking water complies with ANSI/NSF Standard 60:

(A) The number of samples taken during each month of the last quarter.

(B) The monthly arithmetic average of all samples taken in each month for the last 12 months.

(C) The arithmetic average of all monthly averages for the last 12 months.

(D) The additional data required in R309-210-8(3)(a)(ii).

(E) Whether, based on R309-210-8(6)(c)(i), the MRDL was violated.

(ii) Systems monitoring for chlorine dioxide under the requirements of R309-210-8(3) shall report:

(A) The dates, results, and locations of samples taken during the last quarter.

(B) Whether, based on R309-210-8(6)(c)(ii), the MRDL was violated.

(C) Whether the MRDL was exceeded in any two consecutive daily samples and whether the resulting violation was acute or nonacute.

(d) Disinfection byproduct precursors and enhanced coagulation or enhanced softening. Systems shall report the information specified.

(i) Systems monitoring monthly or quarterly for TOC under the requirements of R309-215-12 and required to meet the enhanced coagulation or enhanced softening requirements in R309-215-13(2)(b) or (c) shall report:

(A) The number of paired (source water and treated water) samples taken during the last quarter.

(B) The location, date, and results of each paired sample and associated alkalinity taken during the last quarter.

(C) For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal.

(D) Calculations for determining compliance with the TOC percent removal requirements, as provided in R309-215-13(3)(a).

(E) Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in R309-215-13(2) for the last four quarters.

(ii) Systems monitoring monthly or quarterly for TOC under the requirements of R309-215-12 and meeting one or more of the alternative compliance criteria in R309-215-13(1)(b) or (c) shall report:

(A) The alternative compliance criterion that the system is using.

(B) The number of paired samples taken during the last quarter.

(C) The location, date, and result of each paired sample and associated alkalinity taken during the last quarter.

(D) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water TOC for systems meeting a criterion in R309-215-13(1)(b)(i) or (iii) or of treated water TOC for systems meeting the criterion in R309-215-13(1)(b)(ii).

(E) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water SUVA for systems meeting the criterion in R309-215-13(1)(b)(v) or of treated water SUVA for systems meeting the criterion in R309-215-13(1)(b)(vi).

(F) The running annual average of source water alkalinity for systems meeting the criterion in R309-215-13(1)(b)(iii) and of treated water alkalinity for systems meeting the criterion in R309-215-13(1)(c)(i).

(G) The running annual average for both TTHM and HAA5 for systems meeting the criterion in R309-215-13(1)(b)(iii) or (iv).

(H) The running annual average of the amount of magnesium hardness removal (as CaCO₃, in mg/L) for systems meeting the criterion in R309-215-13(1)(c)(ii).

(I) Whether the system is in compliance with the particular alternative compliance criterion in R309-215-13(1)(b) or (c).

(3) The public water system, within 10 days of completing the public notification requirements under R309-220 for the initial public notice and any repeat notices, shall submit to the Division a certification that it has fully complied with the public notification regulations. The public water system shall include with this certification a representative copy of each type of notice distributed,

published, posted, and made available to the persons served by the system and to the media.

(3) All samples taken in accordance with R309-215-6 shall be submitted within 10 days following the end of the operational period specified for that particular treatment. Finished water samples results for the contaminant of concern that exceed the Primary Drinking Water Standards of R309-200, shall be reported to the Division within 48 hours after the supplier receives the report. The Division may be reached at (801) 536-4000.

(4) Documentation of operation and maintenance contracts for point-of-use or point-of-entry treatment units shall be provided to the Division annually. The Division shall receive the documentation by January 31 annually.

KEY: drinking water, watershed management

~~December 9, 2002~~ 2005

Notice of Continuation April 16, 2001

19-4-104

63-46b-4



Environmental Quality, Drinking Water

R309-110-3

Acronyms

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27960

FILED: 06/01/2005, 16:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to address the changes required by the federal Arsenic and Filter Backwash Recycling regulations. There are a total of eight rule filings that address these two regulations (R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535). This rule adoption is necessary to maintain primacy. (DAR NOTE: The proposed amendments to: R309-105 is under DAR No. 27959, R309-110 is under DAR No. 27960, R309-200 is under DAR No. 27961, R309-205 is under DAR No. 27967, R309-215 is under DAR No. 27969, R309-220 is under DAR No. 27962, R309-505 is under DAR No. 27963, and R309-535 is under DAR No. 27965 in this issue.)

SUMMARY OF THE RULE OR CHANGE: These changes update the acronym list and definitions to include those used in the federal Arsenic and Filter Backwash Recycling rules.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; and Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs for the state budget, local governments, and other persons will be based as an aggregate for the changes in Rules R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and

R309-535. The Environmental Protection Agency (EPA) estimates state costs for the arsenic rule to be \$1,000,000 annually. Using the percentage of Utah systems potentially affected, Utah's annual impact is approximately \$45,000 to \$50,000.

❖ LOCAL GOVERNMENTS: For this aggregate rule change, costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at \$180,000,000 for 2,387 community water systems. Utah has approximately 108 public water system potentially affected by this rule. The approximate annual cost of treatment to comply with this rule for Utah public water systems is \$8,144,000. Individual system cost will range from \$6,500 to \$1,340,000 annually.

❖ OTHER PERSONS: Other persons that own and operate a public water system may have the same cost impact as listed under "local government" above. Costs to consumers will vary depending upon water system size, EPA estimates the cost to vary from \$1 to \$327 per household per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from \$1 to \$327 per household per year. The highest costs are associated with the very small public water systems where there are very few connections to spread the cost of treatment across. In these cases, these rule changes will also allow for point-of-use treatment technology and will reduce the cost significantly in some cases.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments in the cost and compliance summaries above. Dianne R. Nielson, Executive Director

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 kbousfield@utah.gov or pfauver@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.

R309-110. Administration: Definitions.

R309-110-3. Acronyms.

As used in R309:

"AF" means Acre Foot.

"AWOP" means Area Wide Optimization Program.

"AWWA" means American Water Works Association.

"BAT" means Best Available Technology.

"C" means Residual Disinfectant Concentration.

"CCP" means Composite Correction Program.

"CCR" means Consumer Confidence Report.

"CEU" means Continuing Education Unit.

"CFE" means Combined Filter Effluent.

"CFR" means Code of Federal Regulations.

"cfs" means Cubic Feet Per Second.

"CPE" means Comprehensive Performance Evaluation.

"CT" means Residual Concentration multiplied by Contact

Time.

"CTA" means Comprehensive Technical Assistance.

"CWS" means Community Water System.

"DBPs" means Disinfection Byproducts.

"DE" means Diatomaceous Earth.

"DTF" means Data Transfer Format.

"DWSP" means Drinking Water Source Protection.

"EP" means Entry Point.

"EPA" means Environmental Protection Agency.

"ERC" means Equivalent Residential Connection.

"FBR" means Filter Backwash Recycling Rule.

"fps" means Feet Per Second

"FR" means Federal Register.

"gpd" means Gallons Per Day.

"gpm" means Gallons Per Minute.

"gpm/sf" means Gallons Per Minute Per Square Foot.

"GWR" means Ground Water Rule.

"GWUDI" means Ground Water Under Direct Influence of Surface Water.

"HAA5s" means Haloacetic Acids (Five).

"HPC" means Heterotrophic Plate Count.

"ICR" means Information Collection Rule of 40 CRF 141 subpart M.

"IESWTR" means Interim Enhanced Surface Water Treatment Rule.

"IFE" means Individual Filter Effluent.

"LT1ESWTR" means Long Term 1 Enhanced Surface Water Treatment Rule.

"LT2ESWTR" means Long Term 2 Enhanced Surface Water Treatment Rule.

"MCL" means Maximum Contaminant Level.

"MCLG" means Maximum Contaminant Level Goal.

"M&R" means Monitoring and Reporting.

"MDBP" means Microbial-Disinfection Byproducts.

"M/DBP Cluster" means Microbial-Disinfectants/Disinfection Byproducts Cluster.

"MG" means Million Gallons.

"MGD" means Million Gallons Per Day.

"mg/L" means Milligrams Per Liter

"MRDL" means Maximum Residual Disinfectant Level.

"MRDLG" means Maximum Residual Disinfectant Level Goal.

"NCWS" means Non-Community Water System.

"NTNC" means Non-Transient Non-Community.

"NTU" means Nephelometric Turbidity Unit.

"PN" means Public Notification.

"POE" means Point-of-Entry.

"POU" means Point-of-Use.

"PWS" means Public Water System.

"PWS-ID" means Public Water System Identification Number.

"RTC" means Return to Compliance.

"SDWA" means Safe Drinking Water Act.

"SDWIS/FED" means Safe Drinking Water Information System/Federal Version.

"SDWIS/STATE" means Safe Drinking Water Information System/State Version.

"SNC" means Significant Non-Compliance.

"Stage 1 DBPR" means Stage 1 Disinfectants and Disinfection Byproducts Rule.

"Stage 2 DBPR" means Stage 2 Disinfectants and Disinfection Byproducts Rule.

"Subpart H" means A PWS using SW or GWUDI.

"Subpart P" means A PWS using SW or GWUDI and serving at least 10,000 people.

"Subpart S" means Provisions of 40 CRF 141 subpart S commonly referred to as the Information Collection Rule.

"Subpart T" means A PWS using SW or GWUDI and serving less than 10,000 people.

"SUVA" means Specific Ultraviolet Absorption.

"SW" means Surface Water.

"SWAP" means Source Water Assessment Program.

"SWTR" means Surface Water Treatment Rule.

"T" means Contact Time.

"TA" means Technical Assistance.

"TCR" means Total Coliform Rule.

"TNCWS" means Transient Non-Community Water System.

"TNTC" means Too Numerous To Count.

"TOC" means Total Organic Carbon.

"TT" means Treatment Technique.

"TTHM" means Total Trihalomethanes.

"UAC" means Utah Administrative Code.

"UPDWR" means Utah Public Drinking Water Rules (R309 of the UAC).

"WCP" means Watershed Control Program.

"WHP" means Wellhead Protection.

KEY: drinking water, definitions

[April 21, 2004]2005

Notice of Continuation September 16, 2002

19-4-104

63-46b-4

Environmental Quality, Drinking Water **R309-200**

Monitoring and Water Quality: Drinking Water Standards

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 27961

FILED: 06/01/2005, 16:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to address the changes required by the federal Arsenic and Filter Backwash Recycling regulations. There are a total of eight rule filings that address these two regulations (R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535). This rule adoption is necessary to maintain primacy. (DAR NOTE: The proposed amendments to: R309-105 is under DAR No. 27959, R309-110 is under DAR No. 27960, R309-200 is under DAR No. 27961, R309-205 is under DAR No. 27967, R309-215 is under DAR No. 27969, R309-220 is under DAR No. 27962, R309-505 is under DAR No. 27963, and R309-535 is under DAR No. 27965 in this issue.)

SUMMARY OF THE RULE OR CHANGE: The changes lowers the maximum contaminant level for arsenic effective January 23, 2006, in accordance with the federal Arsenic rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; and Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs for the state budget, local governments, and other persons will be based as an aggregate for the changes in Rules R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535. The Environmental Protection Agency (EPA) estimates state costs for the arsenic rule to be \$1,000,000 annually. Using the percentage of Utah systems potentially affected, Utah's annual impact is approximately \$45,000 to \$50,000.

❖ LOCAL GOVERNMENTS: For this aggregate rule change, costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at \$180,000,000 for 2,387 community water systems. Utah has approximately 108 public water system potentially affected by this rule. The approximate annual cost of treatment to comply with this rule for Utah public water systems is \$8,144,000. Individual system cost will range from \$6,500 to \$1,340,000 annually.

❖ OTHER PERSONS: Other persons that own and operate a public water system may have the same cost impact as listed under "local government" above. Costs to consumers will vary depending upon water system size, EPA estimates the cost to vary from \$1 to \$327 per household per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from \$1 to \$327 per household per year. The highest costs are associated with the very small public water systems where there are very few connections to spread the cost of treatment across. In these cases, these rule changes will also allow for point-of-use treatment technology and will reduce the cost significantly in some cases.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments in the cost

and compliance summaries above. Dianne R. Nielson, Executive Director

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:
 Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-200. Monitoring and Water Quality: Drinking Water Standards.
R309-200-4. General.

(1) Maximum contaminant levels (MCLs) and treatment techniques are herein established for those routinely measurable substances which may be found in water supplies. "Primary" standards and treatment techniques are established for the protection of human health. "Secondary" regulations are established to provide guidance in evaluating the aesthetic qualities of drinking water.

(2) The applicable "Primary" standards and treatment techniques shall be met by all public drinking water systems. The "Secondary" standards are recommended levels which should be met in order to avoid consumer complaint.

(3) The methods used to determine compliance with these maximum contaminant levels and treatment techniques are given in R309-205 through R309-215. Analytical techniques which shall be followed in making the required determinations shall be as given in 40 CFR 141 as published on July 1, 2004[2001] by the Office of the Federal Register.

(4) Unless otherwise required by the Board, the effective dates on which new analytical methods shall be initiated are identical to the dates published in 40 CFR 141 on July 1, 2004[2001] by the Office of the Federal Register.

(5) If the water fails to meet these minimum standards, then certain public notification procedures shall be carried out, as outlined in R309-220. Water suppliers shall also keep analytical records in their possession, for a required length of time, as outlined in R309-105-17.

R309-200-5. Primary Drinking Water Standards.

(1) Inorganic Contaminants.

(a) The maximum contaminant levels (MCLs) for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide,

fluoride, mercury, nickel, selenium, sodium, thallium and total dissolved solids are applicable to community and non-transient non-community water systems.

(b) The MCLs for nitrate, nitrite, and total nitrate, nitrite and sulfate are applicable to community, non-transient non-community, and transient non-community water systems.

(c) The maximum contaminant levels for inorganic chemicals are listed in Table 200-1.

TABLE 200-1
 PRIMARY INORGANIC CONTAMINANTS

Contaminant	Maximum Contaminant Level
1. Antimony	0.006 mg/L
2. Arsenic	0.010 0.010 mg/L (see Note 5 below)
3. Asbestos	7 Million Fibers/liter (longer than 10 um)
4. Barium	2 mg/L
5. Beryllium	0.004 mg/L
6. Cadmium	0.005 mg/L
7. Chromium	0.1 mg/L
8. Cyanide (as free Cyanide)	0.2 mg/L
9. Fluoride	4.0 mg/L
10. Mercury	0.002 mg/L
11. Nickel	--- (see Note 1 below)
12. Nitrate	10 mg/l (as Nitrogen) (see Note 4 below)
13. Nitrite	1 mg/L (as Nitrogen)
14. Total Nitrate and Nitrite	10 mg/L (as Nitrogen)
15. Selenium	0.05 mg/L
16. Sodium	--- (see Note 1 below)
17. Sulfate	1000 mg/L (see Note 2 below)
18. Thallium	0.002 mg/L
19. Total Dissolved Solids	2000 mg/L (see Note 3 below)

NOTE:

(1) No maximum contaminant level has been established for nickel and sodium. However, these contaminants shall be monitored and reported in accordance with the requirements of R309-205-5(3).

(2) If the sulfate level of a public (community, NTNC and non-community) water system is greater than 500 mg/L, the supplier shall satisfactorily demonstrate that:

- (a) No better quality water is available, and
- (b) The water shall not be available for human consumption from commercial establishments.

In no case shall the Board allow the use of water having a sulfate level greater than 1000 mg/L.

(3) If TDS is greater than 1000 mg/L, the supplier shall satisfactorily demonstrate to the Board that no better water is available. The Board shall not allow the use of an inferior source of water if a better source of water (i.e. lower in TDS) is available.

(4) In the case of a non-community water systems which exceed the MCL for nitrate, the Executive Secretary may allow, on a case-by-case basis, a nitrate level not to exceed 20 mg/L if the supplier can adequately demonstrate that:

- (a) such water will not be available to children under 6 months of age as may be the case in hospitals, schools and day care centers; and
- (b) there will be continuous posting of the fact that nitrate levels exceed 10 mg/L and the potential health effect of exposure in accordance with R309-220-12; and
- (c) the water is analyzed in conformance with R309-205-5(4); and
- (d) that no adverse health effects will result.

(5) The maximum contaminant level for arsenic is 0.05 mg/L until January 23, 2006. The MCL of 0.010 mg/L is effective for the purposes of compliance on January 23, 2006.

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KEY: drinking water, quality standards, regulated contaminants

[December 9, 2002]2005

Notice of Continuation April 16, 2001

19-4-104

63-46b-4

▼ ————— ▼

Environmental Quality, Drinking Water **R309-205** Monitoring and Water Quality: Source Monitoring Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27967

FILED: 06/01/2005, 16:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to address the changes required by the federal Arsenic and Filter Backwash Recycling regulations. There are a total of eight rule filings that address these two regulations (R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535). This rule adoption is necessary to maintain primacy. (DAR NOTE: The proposed amendments to: R309-105 is under DAR No. 27959, R309-110 is under DAR No. 27960, R309-200 is under DAR No. 27961, R309-205 is under DAR No. 27967, R309-215 is under DAR No. 27969, R309-220 is under DAR No. 27962, R309-505 is under DAR No. 27963, and R309-535 is under DAR No. 27965 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This change updates the monitoring requirements and compliance determinations to correspond with the federal Arsenic rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; and Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Costs for the state budget, local governments, and other persons will be based as an aggregate for the changes in Rules R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535. The Environmental Protection Agency (EPA) estimates state costs for the arsenic rule to be \$1,000,000 annually. Using the percentage of Utah systems potentially affected, Utah's annual impact is approximately \$45,000 to \$50,000.

❖ **LOCAL GOVERNMENTS:** For this aggregate rule change, costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at \$180,000,000 for 2,387 community water systems. Utah has approximately 108 public water system potentially affected by this rule. The approximate annual cost of treatment to comply

with this rule for Utah public water systems is \$8,144,000. Individual system cost will range from \$6,500 to \$1,340,000 annually.

❖ **OTHER PERSONS:** Other persons that own and operate a public water system may have the same cost impact as listed under "local government" above. Costs to consumers will vary depending upon water system size, EPA estimates the cost to vary from \$1 to \$327 per household per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from \$1 to \$327 per household per year. The highest costs are associated with the very small public water systems where there are very few connections to spread the cost of treatment across. In these cases, these rule changes will also allow for point-of-use treatment technology and will reduce the cost significantly in some cases.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments in the cost and compliance summaries above. Dianne R. Nielson, Executive Director

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:

Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water. R309-205. Monitoring and Water Quality: Source Monitoring Requirements.

R309-205-4. General.

(1) All public water systems are required to monitor their water to determine if they comply with the requirements for water quality stated in R309-200. In exceptional circumstances the Executive Secretary may modify the monitoring requirements given herein as is deemed appropriate.

(2) The Executive Secretary may determine compliance or initiate compliance actions based upon analytical results and other information compiled by authorized representatives.

(3) If the water fails to meet minimum standards, then certain public notification procedures shall be carried out, as outlined in R309-220. Water suppliers shall also keep analytical records in their possession, for a required length of time, as outlined in R309-105-17.

(4) All samples shall be taken at each source or point of entry to the distribution system as specified herein for each contaminant or group of contaminants.

(5) For the purpose of determining compliance, samples may only be considered if they have been analyzed by the State of Utah primacy laboratory or a laboratory certified by the Utah State Health Laboratory.

(6) Measurements for pH, temperature, turbidity and disinfectant residual may, under the direction of the direct responsible operator, be performed by any water supplier or their representative.

(7) All samples shall be marked either: routine, repeat, check or investigative before submission of such samples to a certified laboratory. Routine, repeat, and check samples shall be considered compliance purpose samples.

(8) All sample results can be sent to the Division of Drinking Water either electronically or in hard copy form.

(9) Unless otherwise required by the Board, the effective dates on which required monitoring shall be initiated are identical to the dates published in 40 CFR 141 on July 1, ~~2004~~[2004] by the Office of the Federal Register.

(10) Exemptions from monitoring requirements shall only be granted in accordance with R309-105-5.

R309-205-5. Inorganic Contaminants.

Community, non-transient non-community, and transient non-community water systems shall conduct monitoring as specified to determine compliance with the maximum contaminant levels specified in R309-200-5 in accordance with this section.

(1) Monitoring shall be conducted as follows:

(a) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point) beginning in the compliance period starting January 1, 1993. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(b) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source after treatment (hereafter called a sampling point) beginning in the compliance period beginning January 1, 1993. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. (Note: For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.)

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

(d) The frequency of monitoring for asbestos shall be in accordance with R309-205-5(2); the frequency of monitoring for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sodium, sulfate, thallium, and total dissolved solids shall be in accordance with R309-205-5(3); the frequency of monitoring for nitrate shall be in accordance with R309-205-5(4); the frequency of monitoring for nitrite shall be in accordance with R309-205-5(5).

(e) Confirmation samples:

(i) Where the results of sampling for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sulfate, thallium or total dissolved solids indicate an exceedance of the maximum contaminant level, the Executive Secretary may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point.

(ii) Where nitrate or nitrite sampling results indicate an exceedance of the maximum contaminant level, the system shall take a confirmation sample within 24 hours of the system's receipt of notification of the analytical results of the first sample. Systems unable to comply with the 24-hour sampling requirement shall immediately notify the consumers in the area served by the public water system source in accordance with R309-220-5. Systems exercising this option shall take and analyze a confirmation sample within two weeks of notification of the analytical results of the first sample.

(iii) Procedures if the Secondary Standard for Fluoride is Exceeded Notification of State and/or Public.

If the result of an analysis indicates that the level of fluoride exceeds the Secondary Drinking Water Standard, the supplier of water shall give notice as required in R309-220-11.

(iv) The results of the initial and confirmation sample(s) taken for any contaminant, shall be averaged. The resulting average shall be used to determine the system's compliance in accordance with paragraph (1)(g) of this section. The Executive Secretary has the discretion to delete results of obvious sampling errors.

(f) The Executive Secretary may require more frequent monitoring than specified in paragraphs (2), (3), (4) and (5) of this section or may require confirmation samples for positive and negative results. The Executive Secretary may also require an appropriate treatment process.

(g) Compliance with R309-200-5(1) shall be determined based on the analytical result(s) obtained at each sampling point.

(i) For systems which are conducting monitoring at a frequency greater than annual, compliance with the maximum contaminant levels for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sulfate, thallium and total dissolved solids is determined by a running annual average at each sampling point. If the average at any sampling point is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample below the method detection limit shall be calculated at zero for the purpose of determining the annual average. If a system fails to collect the required number of samples, compliance (average concentration) shall be based on the total number of samples collected.

(ii) For systems which are monitoring annually, or less frequently, the system is out of compliance with the maximum contaminant levels for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sulfate, thallium and total dissolved solids if the level of a contaminant at any sampling point is greater than the MCL. If ~~[a]~~ confirmation ~~samples are~~~~[sample is]~~ required by the Executive Secretary, the determination of compliance will be based on the annual average of the initial MCL exceedance and any Executive Secretary required confirmation~~[two]~~ samples. If a system fails to collect the required number of samples, compliance (average concentration) shall be based on the total number of samples collected. If the average of the samples exceed the maximum contaminant levels then the water system shall provide public notice as required under R309-220.

(iii) Compliance with the maximum contaminant levels for nitrate and nitrite is determined based on one sample. If the levels of nitrate and/or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with paragraph (1)(g)(ii) of this section, and compliance shall be determined based on the average of the initial and confirmation samples.

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

(h) Each public water system shall monitor at the time designated by the Executive Secretary during each compliance period.

(2) The frequency of monitoring conducted to determine compliance with the maximum contaminant level for asbestos specified in R309-200-5(1) shall be conducted as follows:

(a) Each community and non-transient non-community water system is required to monitor for asbestos during the first three-year compliance period of each nine-year compliance cycle beginning in the compliance period starting January 1, 1993.

(b) If the system believes it is not vulnerable to asbestos contamination in its source water, it may apply to the Executive Secretary for a waiver of the monitoring requirement in paragraph (a) of this section. If the Executive Secretary grants the waiver, the system is not required to monitor for asbestos.

(c) The Executive Secretary may grant a waiver based on a consideration of the potential asbestos contamination of the water source.

(d) A waiver remains in effect until the completion of the three-year compliance period. Systems not receiving a waiver shall monitor in accordance with the provisions of paragraph (a) of this section.

(e) A system vulnerable to asbestos contamination due solely to source water shall monitor in accordance with the provision of R309-205-5(1).

(f) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe as specified in R309-210-7 shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(g) A system which exceeds the maximum contaminant levels as determined in R309-205-5(1)(g) shall monitor quarterly beginning in the next quarter after the violation occurred.

(h) The Executive Secretary may decrease the quarterly monitoring requirement to the frequency specified in paragraph (a)

of this section provided the Executive Secretary has determined that the system is reliably and consistently below the maximum contaminant level. In no case can the Executive Secretary make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface (or combined surface/ground) water system takes a minimum of four quarterly samples.

(i) If monitoring data collected after January 1, 1990 are generally consistent with the requirements of R309-205-5(2), then the Executive Secretary may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period beginning January 1, 1993.

(3) The frequency of monitoring conducted to determine compliance with the maximum contaminant levels in R309-200-5(1) for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sodium, sulfate, thallium and total dissolved solids shall be as follows:

(a) Each community and non-transient non-community groundwater system shall take one sample at each sampling point once every three years. Each community and non-transient non-community surface water system (or combined surface/ground) shall take one sample annually at each sampling point. Each transient non-community system shall take one sample for sulfate only at each sampling point once every three years for both groundwater and surface water systems.

(b) The system may apply to the Executive Secretary for a waiver from the monitoring frequencies specified in paragraph (3)(a) of this section.~~[-A waiver from the monitoring requirements for arsenic shall not be available.]~~

(c) A condition of the waiver shall require that a system shall take a minimum of one sample while the waiver is effective. The term during which the waiver is effective shall not exceed one compliance cycle (i.e., nine years).

(d) The Executive Secretary may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring. (At least one sample shall have been taken since January 1, 1990.) Both surface and groundwater systems shall demonstrate that all previous analytical results were less than the maximum contaminant level. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed.

(e) In determining the appropriate reduced monitoring frequency, the Executive Secretary shall consider:

- (i) Reported concentrations from all previous monitoring;
- (ii) The degree of variation in reported concentrations; and
- (iii) Other factors which may affect contaminant concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, or changes in stream flows or characteristics.

(f) A decision by the Executive Secretary to grant a waiver shall be made in writing and shall set forth the basis for the determination. The determination may be initiated by the Executive Secretary or upon an application by the public water system. The public water system shall specify the basis for its request. The Executive Secretary shall review and, where appropriate, revise its determination of the appropriate monitoring frequency when the system submits new monitoring data or when other data relevant to the system's appropriate monitoring frequency become available.

(g) Systems which exceed the maximum contaminant levels as calculated in R309-205-5(1)(g) of this section shall monitor quarterly beginning in the next quarter after the violation occurred.

(h) The Executive Secretary may decrease the quarterly monitoring requirement to the frequencies specified in paragraphs (3)(a) and (b) of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case can the Executive Secretary make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(4) All public water systems (community; non-transient non-community; and transient non-community systems) shall monitor to determine compliance with the maximum contaminant level for nitrate in R309-200-5(1).

(a) Community and non-transient non-community water systems served by groundwater systems shall monitor annually beginning January 1, 1993; systems served by surface water shall monitor quarterly beginning January 1, 1993.

(b) For community and non-transient non-community water systems, the repeat monitoring frequency for ground water systems shall be quarterly for at least one year following any one sample in which the concentration is greater than or equal to 50 percent of the MCL. The Executive Secretary may allow a groundwater system to reduce the sampling frequency to annually after four consecutive quarterly samples are reliably and consistently less than the MCL.

(c) For community and non-transient non-community water systems, the Executive Secretary may allow a surface water system to reduce the sampling frequency to annually if all analytical results from four consecutive quarters are less than 50 percent of the MCL. A surface water system shall return to quarterly monitoring if any one sample is greater than or equal to 50 percent of the MCL.

(d) Each transient non-community water system shall monitor annually beginning January 1, 1993.

(e) After the initial round of quarterly sampling is completed, each community and non-transient non-community system which is monitoring annually shall take subsequent samples during the quarter(s) which previously resulted in the highest analytical result.

(5) All public water systems (community; non-transient non-community; and transient non-community systems) shall monitor to determine compliance with the maximum contaminant level for nitrite in R309-200-5(1).

(a) All public water systems shall take one sample at each sampling point in the compliance period beginning January 1, 1993 and ending December 31, 1995.

(b) After the initial sample, systems where an analytical result for nitrite is less than 50 percent of the MCL shall monitor at the frequency specified by the Executive Secretary.

(c) For community, non-transient non-community, and transient non-community water systems, the repeat monitoring frequency for any water system shall be quarterly for at least one year following any one sample in which the concentration is greater than or equal to 50 percent of the MCL. The Executive Secretary may allow a system to reduce the sampling frequency to annually after determining the system is reliably and consistently less than the MCL.

(d) Systems which are monitoring annually shall take each subsequent sample during the quarter(s) which previously resulted in the highest analytical result.

R309-205-6. Organic Contaminants.

For the purposes of R309-100 through R309-605, organic chemicals are divided into three categories: Pesticides/PCBs/SOCs, volatile organic contaminants (VOCs) and total trihalomethanes.

(1) Pesticides/PCBs/SOCs monitoring requirements.

Analysis of the contaminants listed in R309-200-5(2)(a) for the purposes of determining compliance with the maximum contaminant level shall be conducted as follows:

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

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

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

(d) Monitoring frequency:

(i) Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in R309-200-5(2)(a) during each compliance period beginning with the compliance period starting January 1, 1993. For systems serving less than 3,300, this requirement may be reduced to one sample if the sample is taken prior to October 1, 1993.

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

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

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

(f) The Executive Secretary may grant: a use waiver, a susceptibility waiver or a reliably and consistently waiver. The use and susceptibility waivers shall be granted in accordance with R309-600-16. The reliably and consistently waiver shall be based on a minimum of three rounds of monitoring where the results of analysis for all constituents show that no contaminant is detected, or that the detected amount of a contaminant is less than half the MCL.

(i) If a use waiver is granted no monitoring for pesticides/PCBs/SOCs will be required, provided documentation consistent with R309-600-16 and justifying the ~~continuance~~ ~~continence~~ of a use waiver is submitted to the Executive Secretary at least every six years.

(ii) If a susceptibility waiver or a reliably and consistently waiver is granted, monitoring for pesticides/PCBs/SOCs shall be preformed as listed below, provided documentation consistent with R309-600-16 and justifying the continuance of a susceptibility waiver is submitted to the Executive Secretary at least every six years or in the case of a reliably and consistently waiver that the

analytical results justify the continuance of the reliably and consistently waiver.

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

(B) For community and non-transient non community systems serving populations less than 3,301 people, samples for pesticides/PCBs/SOCs shall be taken every three years.

(g) If an organic contaminant listed in R309-200-5(2)(a) is detected in any sample, then:

(i) Each system shall monitor quarterly at each sampling point which resulted in a detection.

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

(iii) After the Executive Secretary determines the system is reliably and consistently below the maximum contaminant level the Executive Secretary may allow the system to monitor annually. Systems which monitor annually shall monitor during the quarter that previously yielded the highest analytical result.

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

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

(h) Systems which violate the maximum contaminant levels of R309-200-5(2)(a) as determined by paragraph (j) of this section shall monitor quarterly. After a minimum of four quarterly samples show the system is in compliance and the Executive Secretary determines the system is reliably and consistently below the MCL, as specified in paragraph (j) of this section, the system shall monitor at the frequency specified in paragraph (g)(iii) of this section.

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

(j) Compliance with the maximum contaminant levels in R309-200-5(2)(a) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of the MCL, the system is in violation of the MCL.

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

(ii) Systems monitoring annually or less frequently whose sample result exceeds the method detection level as defined in R309-200-4(3) must begin quarterly sampling. The system shall not be considered in violation of the MCL until it has completed one year of quarterly sampling.

(iii) If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately.

(iv) If a system fails to collect the required number of samples, compliance shall be based on the total number of samples collected.

(v) If a sample result is less than the method detection limit, zero shall be used to calculate the annual average. [monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the Executive Secretary, the determination of compliance will be based on the average of two samples.]

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

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

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

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

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

(2) Volatile organic contaminants monitoring requirements.

Analysis of the contaminants listed in R309-200-5(2)(b) for the purpose of determining compliance with the maximum contaminant level shall be conducted as follows:

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

(b) Surface water systems (or combined surface/ground) shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each sample shall be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant, or within the distribution system.

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

(d) Each community and non-transient non-community water system shall initially take four consecutive quarterly samples for each contaminant listed in R309-200-5(2)(b), Table 200-3, numbers 2 through 21 during each compliance period beginning in the initial compliance period. For systems serving a population of less than 3,300, this requirement may be reduced to one sample if the sample is taken prior to October 1, 1993.

(e) If the initial monitoring for contaminants listed in R309-200-5(2)(b), Table 200-3, numbers 2 through 21 as allowed in paragraph (n) has been completed by December 31, 1992, and the system did not detect any contaminant listed in R309-200-5(2)(b), then each ground and surface water system shall take one sample annually beginning with the initial compliance period.

(f) After a minimum of three years of annual sampling, the Executive Secretary may allow groundwater systems with no previous detection of any contaminant listed in R309-200-5(2)(b) to take one sample during each compliance period.

(g) Each community and non-transient non-community water system which does not detect a contaminant listed in R309-200-5(2)(b) may apply to the Executive Secretary for a waiver from the requirements of paragraph (d) and (e) of this section after completing the initial monitoring. (For the purposes of this section, detection is defined as greater than or equal to 0.0005 mg/L.) A waiver shall be effective for no more than six years (two compliance periods). The Executive Secretary may also issue waivers for the initial round of monitoring for 1,2,4-trichlorobenzene.

(h) The Executive Secretary may grant a use waiver, a susceptibility waiver or a reliably and consistently waiver. The use and susceptibility waivers shall be granted in accordance with R309-600-16. The reliably and consistently waiver shall be based on a minimum of three rounds of monitoring where the results of analysis for all constituents show that no contaminant is detected, or that the detected amount of a contaminant is less than half the MCL. To maintain a use waiver or a susceptibility waiver a system shall submit documentation consistent with R309-600-16 which justifies the continuance of a use or a susceptibility waiver at least every six years. For a reliably and consistently waiver, the analytical results for all constituents of all samples shall justify its continuance. If a waiver is granted, monitoring for VOCs will be required at least every six years.

(i) As a condition of the waiver a groundwater system shall take one sample at each sampling point during the time the waiver is effective (i.e., one sample during two compliance periods or six years) and update its source protection plan in accordance with R309-600.

(j) If a contaminant listed in R309-200-5(2)(b), Table 200-3, numbers 2 through 21 is detected at a level exceeding 0.0005 mg/L in any sample, then:

(i) The system shall monitor quarterly at each sampling point which resulted in a detection.

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

(iii) If the Executive Secretary determines that the system is reliably and consistently below the MCL, the Executive Secretary may allow the system to monitor annually. Systems which monitor

annually shall monitor during the quarter(s) which previously yielded the highest analytical result.

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

(v) Groundwater systems which have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one or more of the two-carbon organic compounds were detected. If the results of the first analysis do not detect vinyl chloride, the Executive Secretary may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride as specified by the Executive Secretary.

(k) Systems which violate the maximum contaminant levels as required in R309-200-5(2)(b) as determined by paragraph (m) of this section shall monitor quarterly. After a minimum of four consecutive quarterly samples shows the system is in compliance as specified in paragraph (m) of this section, and the Executive Secretary determines that the system is reliably and consistently below the maximum contaminant level, the system may monitor at the frequency and time specified in paragraph (j)(iii) of this section.

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

(m) Compliance with R309-200-5(2)(b) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of a MCL, the system is in violation of the MCL.

~~(i) For systems [which are conducting] monitoring more than once per year, compliance with the MCL is [at a frequency greater than annual, compliance is] determined by a running annual average [of all samples taken] at each sampling point.~~

~~(ii) Systems monitoring annually or less frequently whose sample result exceeds the MCL must begin quarterly sampling. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling.~~

~~(iii) If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately.~~

~~(iv) If a system fails to collect the required number of samples, compliance shall be based on the total number of samples collected.~~

~~(v) If a sample result is less than the method detection limit, zero shall be used to calculate the annual average. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.~~

~~(ii) If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is~~

~~required by the Executive Secretary, the determination of compliance will be based on the average of two samples.]~~

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

(n) The Executive Secretary may allow the use of monitoring data collected after January 1, 1988 for purposes of monitoring compliance providing that the data is generally consistent with the other requirements in this section, the Executive Secretary may use that data (i.e., a single sample rather than four quarterly samples) to satisfy the initial monitoring requirement of paragraph (d) of this section. Systems which use grandfathered samples and did not detect any contaminant listed in R309-200-5(2)(b) shall begin monitoring annually in accordance with (e) of this section.

(o) The Executive Secretary may increase required monitoring where necessary to detect variations within the system.

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

KEY: drinking water, source monitoring, compliance determinations

~~December 9, 2002~~ 2005

Notice of Continuation April 16, 2001

19-4-104

63-46b-4



Environmental Quality, Drinking Water

R309-215

Monitoring and Water Quality: Treatment Plant Monitoring Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27969

FILED: 06/01/2005, 16:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to address the changes required by the federal Arsenic and Filter Backwash Recycling regulations. There are a total of eight rule filings that address these two regulations (R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535). This rule adoption is necessary to maintain primacy. (DAR NOTE: The proposed amendments to: R309-105 is under DAR No. 27959, R309-110 is under DAR No. 27960, R309-200 is under DAR No. 27961, R309-205 is under DAR No. 27967, R309-215 is under DAR No. 27969, R309-220 is under DAR No. 27962, R309-505 is under DAR No. 27963, and R309-535 is under DAR No. 27965 in this issue.)

SUMMARY OF THE RULE OR CHANGE: The changes address the monitoring and reporting requirements if arsenic treatment is installed or if filter backwash water is recycled.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; amd Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs for the state budget, local governments, and other persons will be based as an aggregate for the changes in Rules R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535. The Environmental Protection Agency (EPA) estimates state costs for the arsenic rule to be \$1,000,000 annually. Using the percentage of Utah systems potentially affected, Utah's annual impact is approximately \$45,000 to \$50,000.

❖ LOCAL GOVERNMENTS: For this aggregate rule change, costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at \$180,000,000 for 2,387 community water systems. Utah has approximately 108 public water system potentially affected by this rule. The approximate annual cost of treatment to comply with this rule for Utah public water systems is \$8,144,000. Individual system cost will range from \$6,500 to \$1,340,000 annually.

❖ OTHER PERSONS: Other persons that own and operate a public water system may have the same cost impact as listed under "local government" above. Costs to consumers will vary depending upon water system size, EPA estimates the cost to vary from \$1 to \$327 per household per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from \$1 to \$327 per household per year. The highest costs are associated with the very small public water systems where there are very few connections to spread the cost of treatment across. In these cases, these rule changes will also allow for point-of-use treatment technology and will reduce the cost significantly in some cases.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments in the cost and compliance summaries above. Dianne R. Nielson, Executive Director

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:

Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.

R309-215. Monitoring and Water Quality: Treatment Plant Monitoring Requirements.

R309-215-6. Monitoring Requirements for Miscellaneous Treatment Plants.

(1) Treatment of the drinking water may be required for other than inactivation of microbial contaminants or removal/inactivation of pathogens and viruses. Miscellaneous treatment methods are outlined in R309-535. [General: Treatment of drinking water may be required for other than inactivation of microbial contaminants indicated above or removal/inactivation of pathogens and viruses as indicated below. For miscellaneous treatment methods indicated in R309-535, the Executive Secretary may require monitoring and reporting. If required, report forms will be provided by the Division.]

(2) The Executive Secretary may require additional monitoring as necessary to evaluate the treatment process and to ensure the quality of the water. The specific analytes, frequency of monitoring, the reporting frequency and the sampling location for which monitoring may be required shall be determined by the following:

(a) the contaminant of concern for which the treatment process has been installed;

(b) the process control samples required to operate treatment process being used; and

(c) alternative surrogate sampling when it is either quicker or less expensive and still provides the necessary information;

(3) For point-of-use or point-of-entry technology the location of sampling may be at each treatment unit spread out over time.

(4) If monitoring is required, the Executive Secretary shall provide the report forms and the water system shall report the data as required by R309-105-16(3). Alternate forms may be used as long as prior approval from the Executive Secretary is obtained.

R309-215-7. Surface Water Treatment Evaluations.

(1) General: Surface water sources or groundwater sources under direct influence of surface water shall be disinfected during the course of required surface water treatment. Disinfection shall not be considered a substitute for inadequate collection facilities. All public water systems which use a treatment technique to treat water obtained in whole or in part from surface water sources or ground water sources under the direct influence of surface water shall monitor the plant's operation and report the results to the Division as indicated in R309-215-7 through R309-215-14.

Individual plants will be evaluated in accordance with the criteria outlined in paragraph (2) below. Based on information submitted and/or plant inspections, the plant will receive credit for treatment techniques other than disinfection that remove pathogens, specifically Giardia lamblia and viruses. This credit (log removal) will reduce the required disinfectant "CT" value which the plant shall maintain to assure compliance with R309-200-5(7)(a)(i).

(2) Criteria for Individual Treatment Plant Evaluation: New and existing water treatment plants shall meet specified monitoring and performance criteria in order to ensure that filtration and disinfection are satisfactorily practiced. The monitoring requirements and performance criteria for turbidity and disinfection listed above provide the minimum for the Division to evaluate the plant's efficiency in removing and/or inactivating 99.9 percent (3-log) of Giardia lamblia cysts and 99.99 percent (4-log) of viruses as required by R309-505-6(2)(a) and (b).

(3) The Division, upon evaluation of individual raw water sources, surface water or ground water under the direct influence of surface water, may require greater than the 3-log, 4-log removal/inactivation of Giardia and viruses respectfully. If a raw water source exhibits an estimated concentration of 1 to 10 Giardia cysts per 100 liters, 4 and 5-log removal/inactivation may be required. If the raw water exhibits a concentration of 10 to 100 cysts per 100 liters, 5 and 6-log removal/inactivation may be required.

If a plant decides to recycle any spent filter backwash water, thickener supernatant, or liquids from dewatering processes the Division shall be notified in writing by December 8, 2003 or prior to recycling such waters. Such notification shall include, at a minimum:

(a) A plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and any liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are reintroduced back into the treatment plant.

(b) Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and Division approved operating capacity for the plant where the Division has made such determinations.

(c) Treatment technique (TT) requirement. Any system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes shall return these flows through the processes of a system's existing conventional or direct filtration system as defined in R309-525 or R309-530 or at an alternate location approved by the Division by or after June 8, 2004. If capital improvements are required to modify the recycle location to meet this requirement, all capital improvements must be completed no later than June 8, 2006.

(4) The Division, upon individual plant evaluation, may assign the treatment techniques (coagulation, flocculation, sedimentation and filtration) credit toward removal of Giardia cysts and viruses. The greater the number of barriers in the treatment process, the greater the reduction of pathogens, therefore lessor credit will be given to processes such as direct filtration which eliminate one or more conventional barriers. Plants may monitor turbidity at multiple points in the treatment process as evidence of the performance of an individual treatment technique.

(5) The nominal credit that will be assigned certain conventional processes are outlined in Table 215-1:

TABLE 215-1
CONVENTIONAL PROCESS CREDIT

Process	Log Reduction Credit	
	Giardia	Viruses
Conventional Complete Treatment	2.5	2.0
Direct Filtration	2.0	1.0
Slow Sand Filtration	2.0	2.0
Diatomaceous Earth Filters	2.0	1.0

(6) Upon evaluation of information provided by individual plants or obtained during inspections by Division staff, the Division may increase or decrease the nominal credit assigned individual plants based on that evaluation.

(a) Items which would augment the treatment process and thereby warrant increased credit are:

- (i) facilities or means to moderate extreme fluctuations in raw water characteristics;
- (ii) sufficient on-site laboratory facilities regularly used to alert operators to changes in raw water quality;
- (iii) use of pilot stream facilities which duplicate treatment conditions but allow operators to know results of adjustments much sooner than if only monitoring plant effluent;
- (iv) use of additional monitoring methods such as particle size and distribution analysis to achieve greater efficiency in particulate removal;

- (v) regular program for preventive maintenance, records of such, and general good housekeeping; or
- (vi) adequate staff of well trained and certified plant operators.

(b) Items which would be considered a detriment to the treatment process and thereby warrant decreased credit are:

- (i) inadequate staff of trained and certified operators;
- (ii) lack of regular maintenance and poor housekeeping; or
- (iii) insufficient on-site laboratory facilities.

R309-215-8. Surface Water Treatment Plant Monitoring and Reporting.

Treatment plant management shall report the following to the Division within ten days after the end of each month that the system serves water to the public, except as otherwise noted:

- (1) For each day;
 - (a) if the plant treats water from multiple sources, the sources being utilized (including recycled backwash water) and the ratio for each if blending occurs.
 - (b) the total volume of water treated by the plant,
 - (c) the turbidity of the raw water entering the plant,
 - (d) the pH of the effluent water, measured at or near the monitoring point for disinfectant residual,
 - (e) the temperature of the effluent water, measured at or near the monitoring point for disinfectant residual,
 - (f) the type and amount of chemicals used in the treatment process (clearly indicating the weight and active percent of chemical if dry feeders are used, or the percent solution and volume fed if liquid feeders are used),
 - (g) the high and low temperature and weather conditions (local forecast information may be used, but any precipitation in the watershed should be further described as light, moderate, heavy, or extremely heavy), and
 - (h) the results of any "jar tests" conducted that day
- (2) For each filter, each day;
 - (a) the rate of water applied to each (gpm/sq.ft.),

- (b) the head loss across each (feet of water or psi),
 - (c) length of backwash (if conducted; in minutes), and
 - (d) hours of operation since last backwashed.
- (3) Annually; certify in writing as required by R309-105-14(1) that when a product containing acrylamide and/or epichlorohydrin is used, the combination of the amount of residual monomer in the polymer and the dosage rate does not exceed the levels specified as follows:
- (a) Acrylamide: 0.05%, when dosed at 1 part per million, and
 - (b) Epichlorohydrin: 0.01%, when dosed at 20 parts per million.

- Certification may rely on manufacturers data.
- (4) Additional record-keeping for plants that recycle.
The system must collect and retain on file recycle flow information for review and evaluation by the Division beginning June 8, 2004 or upon approval for recycling. As a minimum the following shall be maintained:
- (a) Copy of the recycle notification and information submitted to the Division under R309-215-7(3).
 - (b) List of all recycle flows and the frequency with which they are returned.
 - (c) Average and maximum backwash flow rates through the filters and the average and maximum duration of the filter backwash process in minutes.
 - (d) Typical filter run length and a written summary of how filter run length is determined.
 - (e) The type of treatment provided for the recycle flow.
 - (f) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used, average dose, frequency of use and frequency at which solids are removed, if applicable.

KEY: drinking water, surface water treatment plant monitoring, disinfection monitoring, compliance determinations [December 9, 2002]2005 19-4-104 63-46b-4



Environmental Quality, Drinking Water
R309-220
 Monitoring and Water Quality: Public Notification Requirements

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 27962
 FILED: 06/01/2005, 16:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to address the changes required by the federal Arsenic and Filter Backwash Recycling regulations. There are a total of eight rule filings that address these two regulations (R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535). This rule adoption is necessary to maintain primacy. (DAR NOTE: The proposed amendments to: R309-105 is under DAR No. 27959, R309-

110 is under DAR No. 27960, R309-200 is under DAR No. 27961, R309-205 is under DAR No. 27967, R309-215 is under DAR No. 27969, R309-220 is under DAR No. 27962, R309-505 is under DAR No. 27963, and R309-535 is under DAR No. 27965 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This change adds public notification language consistent with the federal Filter Backwash Recycling rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; and Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Costs for the state budget, local governments, and other persons will be based as an aggregate for the changes in Rules R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535. The Environmental Protection Agency (EPA) estimates state costs for the arsenic rule to be \$1,000,000 annually. Using the percentage of Utah systems potentially affected, Utah's annual impact is approximately \$45,000 to \$50,000.

❖ **LOCAL GOVERNMENTS:** For this aggregate rule change, costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at \$180,000,000 for 2,387 community water systems. Utah has approximately 108 public water system potentially affected by this rule. The approximate annual cost of treatment to comply with this rule for Utah public water systems is \$8,144,000. Individual system cost will range from \$6,500 to \$1,340,000 annually.

❖ **OTHER PERSONS:** Other persons that own and operate a public water system may have the same cost impact as listed under "local government" above. Costs to consumers will vary depending upon water system size, EPA estimates the cost to vary from \$1 to \$327 per household per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from \$1 to \$327 per household per year. The highest costs are associated with the very small public water systems where there are very few connections to spread the cost of treatment across. In these cases, these rule changes will also allow for point-of-use treatment technology and will reduce the cost significantly in some cases.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments in the cost and compliance summaries above. Dianne R. Nielson, Executive Director

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:

Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.

R309-220. Monitoring and Water Quality: Public Notification Requirements.

R309-220-6. Tier 2 Public Notice -- Form, Manner and Frequency of Notice.

(1) Violation Categories And Other Situations Requiring a Tier 2 Public Notice:

(a) All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required under R309-220-5(1) or where the Executive Secretary determines that a Tier 1 notice is required;

(b) Violations of the monitoring and testing procedure requirements, where the Executive Secretary determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation; and

(c) Failure to comply with the terms and conditions of any variance or exemption in place.

(2) Frequency of the Tier 2 Public Notice:

(a) Public water systems must provide the public notice as soon as practical, but no later than 30 days after the system learns of the violation. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but in no case for less than seven days, even if the violation or situation is resolved. The Executive Secretary may, in appropriate circumstances, allow additional time for the initial notice of up to three months from the date the system learns of the violation. It is not appropriate for the Executive Secretary to grant an extension to the 30-day deadline for any unresolved violation or to allow across-the-board extensions by rule or policy for other violations or situations requiring a Tier 2 public notice. Extensions granted by the Executive Secretary must be in writing.

(b) The public water system must repeat the notice every three months as long as the violation or situation persists, unless the Executive Secretary determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year. It is not appropriate for the Executive Secretary to allow less frequent repeat notice for an MCL violation under the Total Coliform Rule or a treatment technique violation under the Surface Water Treatment Rule, ~~or~~ Interim Enhanced Surface Water Treatment Rule or Filter Backwash Recycling Rule. It is also not appropriate for the Executive Secretary to allow through its rules or policies across-the-board reductions in the repeat notice frequency for other ongoing

violations requiring a Tier 2 repeat notice. Executive Secretary determinations allowing repeat notices to be given less frequently than once every three months must be in writing.

(c) For the turbidity violations specified in this paragraph, public water systems must consult with the Executive Secretary as soon as practical but no later than 24 hours after the public water system learns of the violation, to determine whether a Tier 1 public notice under R309-220-5(1) is required to protect public health. When consultation does not take place within the 24-hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours (i.e., no later than 48 hours after the system learns of the violation), following the requirements under R309-220-5(2) and (3). Consultation with the Executive Secretary is required for:

- (i) Violation of the turbidity MCL under R309-200-5(5)(a); or
- (ii) Violation of the SWTR or IESWTR treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit.

(3) Form and Manner of the Public Notice:

Public water systems must provide the initial public notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(a) Unless directed otherwise by the Executive Secretary in writing, community water systems must provide notice by:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(ii) Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in paragraph (3)(a)(i) of this section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places served by the system or on the Internet; or delivery to community organizations.

(b) Unless directed otherwise by the Executive Secretary in writing, non-community water systems must provide notice by:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

(ii) Any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by the notice required in paragraph (3)(b)(i) of this section. Such persons may include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. Other methods may include: publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).

R309-220-14. Standard Health Effects Language.

Microbiological Contaminants:

(1) Total Coliform. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other,

potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.

(2) Fecal coliform/E.Coli. Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

(3) Total organic carbon. Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acids (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.

(4) Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

Surface Water Treatment Rule (SWTR), ~~and~~ Interim Enhanced Surface Water Treatment Rule (IESWTR) and Filter Backwash Recycling Rule (FBRR) violations.

(5) Giardia lamblia. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(6) Viruses. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

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KEY: drinking water, public notification, health effects
~~August 12, 2002~~ **2005**
19-4-104
63-46b-4



Environmental Quality, Drinking Water
R309-505
Facility Design and Operation: Minimum Treatment Requirements

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 27963
 FILED: 06/01/2005, 16:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to address the changes required by the federal Arsenic and Filter Backwash Recycling regulations. There are a total of eight rule filings that address these two regulations

(R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535). This rule adoption is necessary to maintain primacy. (DAR NOTE: The proposed amendments to: R309-105 is under DAR No. 27959, R309-110 is under DAR No. 27960, R309-200 is under DAR No. 27961, R309-205 is under DAR No. 27967, R309-215 is under DAR No. 27969, R309-220 is under DAR No. 27962, R309-505 is under DAR No. 27963, and R309-535 is under DAR No. 27965 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This change deletes the point-of-use and point-of-entry treatment options as temporary only in order for these options to be added in Rule R309-535 as permanent treatment options under certain conditions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; and Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Costs for the state budget, local governments, and other persons will be based as an aggregate for the changes in Rules R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535. The Environmental Protection Agency (EPA) estimates state costs for the arsenic rule to be \$1,000,000 annually. Using the percentage of Utah systems potentially affected, Utah's annual impact is approximately \$45,000 to \$50,000.

❖ **LOCAL GOVERNMENTS:** For this aggregate rule change, costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at \$180,000,000 for 2,387 community water systems. Utah has approximately 108 public water system potentially affected by this rule. The approximate annual cost of treatment to comply with this rule for Utah public water systems is \$8,144,000. Individual system cost will range from \$6,500 to \$1,340,000 annually.

❖ **OTHER PERSONS:** Other persons that own and operate a public water system may have the same cost impact as listed under "local government" above. Costs to consumers will vary depending upon water system size, EPA estimates the cost to vary from \$1 to \$327 per household per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from \$1 to \$327 per household per year. The highest costs are associated with the very small public water systems where there are very few connections to spread the cost of treatment across. In these cases, these rule changes will also allow for point-of-use treatment technology and will reduce the cost significantly in some cases.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments in the cost and compliance summaries above. Dianne R. Nielson, Executive Director

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:

Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kevin Brown, Director

**R309. Environmental Quality, Drinking Water.
R309-505. Facility Design and Operation: Minimum Treatment Requirements.**

R309-505-10. ~~Point of Entry Treatment Devices.~~

~~Where drinking water does not meet the quality standards of R309-103 and the available water system treatment methods are determined to be unreasonably costly or otherwise undesirable, the Executive Secretary may permit the public water supplier to install and maintain point of entry treatment devices which have been proven to be appropriate, safe and effective as determined through testing and compliance with protocols established by EPA's Environmental Technology Verification Program (ETV) or the applicable ANSI/NSF Standard(s). The installation and maintenance of such devices shall be the sole responsibility of the public water supplier and service contracts shall make this clear.~~

~~R309-505-11.] Temporary Use of Bottled Water[or Point-of-Use Treatment Devices].~~

~~Initially the use of bottled water[, or point of use treatment devices,] may be allowed on a temporary basis by the Executive Secretary. ~~The[Their]~~ continued use of bottled water shall be reviewed at least annually and only allowed after the Executive Secretary is satisfied that the PWS has made reasonable attempts since the last review to provide acceptable treatment of a more permanent nature without success. ~~Point of use treatment devices used shall only be those proven to be appropriate, safe and effective as determined through testing and compliance with protocols established by EPA's Environmental Technology Verification Program (ETV) or the applicable ANSI/NSF Standard(s). Their installation and maintenance shall be under the control of a public water system and this made clear in service contracts between the consumer and the PWS.]~~~~

KEY: drinking water, surface water treatment, low quality ground water, high quality ground water
~~August 15, 2004~~ **2005**
 Notice of Continuation September 16, 2002
 19-4-104



Environmental Quality, Drinking Water **R309-535** Facility Design and Operation: Miscellaneous Treatment Methods

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27965

FILED: 06/01/2005, 16:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to address the changes required by the federal Arsenic and Filter Backwash Recycling regulations. There are a total of eight rule filings that address these two regulations (R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535). This rule adoption is necessary to maintain primacy. (DAR NOTE: The proposed amendments to: R309-105 is under DAR No. 27959, R309-110 is under DAR No. 27960, R309-200 is under DAR No. 27961, R309-205 is under DAR No. 27967, R309-215 is under DAR No. 27969, R309-220 is under DAR No. 27962, R309-505 is under DAR No. 27963, and R309-535 is under DAR No. 27965 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This rule change allows the use of point-of-use and point-of-entry treatment technologies in certain circumstances. It also outlines the treatment approval process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; and Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs for the state budget, local governments, and other persons will be based as an aggregate for the changes in Rules R309-105, R309-110, R309-200, R309-205, R309-215, R309-220, R309-505, and R309-535. The Environmental Protection Agency (EPA) estimates state costs for the arsenic rule to be \$1,000,000 annually. Using the percentage of Utah systems potentially affected, Utah's annual impact is approximately \$45,000 to \$50,000.

❖ LOCAL GOVERNMENTS: For this aggregate rule change, costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at \$180,000,000 for 2,387 community water systems. Utah has approximately 108 public water system potentially affected by this rule. The approximate annual cost of treatment to comply with this rule for Utah public water systems is \$8,144,000.

Individual system cost will range from \$6,500 to \$1,340,000 annually.

❖ OTHER PERSONS: Other persons that own and operate a public water system may have the same cost impact as listed under "local government" above. Costs to consumers will vary depending upon water system size, EPA estimates the cost to vary from \$1 to \$327 per household per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from \$1 to \$327 per household per year. The highest costs are associated with the very small public water systems where there are very few connections to spread the cost of treatment across. In these cases, these rule changes will also allow for point-of-use treatment technology and will reduce the cost significantly in some cases.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments in the cost and compliance summaries above. Dianne R. Nielson, Executive Director

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:

Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Kevin Brown, Director

**R309. Environmental Quality, Drinking Water.
 R309-535. Facility Design and Operation: Miscellaneous Treatment Methods.
 R309-535-12. Point-of-Use and Point-of-Entry Treatment Devices.**

Where drinking water does not meet the quality standards of R309-200 and the available water system treatment methods are determined to be unreasonably costly or otherwise undesirable, the Executive Secretary may permit the public water supplier to install and maintain point-of-use or point-of-entry treatment devices. This approval shall only be given after receipt and satisfactory review of the following items.

(1) The Executive Secretary shall only consider approving point-of-use or point-of-entry treatment upon receipt of an analysis that clearly demonstrates that central treatment is not feasible for the public water system. Unless waived by the Executive Secretary, this analysis shall be in the form of an engineering report prepared by a professional engineer registered in the State of Utah. Systems serving fewer than 75 connections are excused from performing an analysis by a Registered Professional Engineer.

(2) The water system shall have a signed access agreement with each customer that allows water system personnel to enter their property on a scheduled basis to install and maintain the treatment devices. The agreement shall include educational information with regard to the health risks of consuming or cooking with water from non-treated taps. Systems with an initial 75% of their connections under a signed access agreement shall be allowed to proceed with the understanding that 100% of their connections are due within a 5 year period.

(3) Documentation that legal authority, which includes a termination of service clause, has been adopted to ensure water system access to the property for installation, maintenance, servicing and sampling of each treatment unit.

(4) Point-of-use or point-of-entry treatment devices used shall only be those proven to be appropriate, safe and effective as determined through testing and compliance with protocols established by EPA's Environmental Technology Verification Program (ETV) or the applicable ANSI/NSF Standard(s). A pilot study may be required to determine the suitability of the point-of-use or point-of-entry device in treating a particular source water. The scope and duration of the pilot study shall be determined by such factors as the characteristics of the raw water, manufacturer's ratings of the treatment device, and good engineering practices. The pilot study will generate data on service intervals, aid in specifying and calibrating alarm systems, and reveal any site specific problems with component fouling or microbial colonization.

(5) The water system shall provide an operation and maintenance plan demonstrating that the treatment units shall be installed and serviced in accordance with the manufacturer's instructions and that compliance sampling as required in R309-215-6 shall take place. The system shall provide documentation of an operation and maintenance contract or schedule annually as required in R309-105-16(4).

(6) The performance indicating device for the point-of-use/point-of-entry treatment device that will be used shall be specified in the submittal for plan approval.

(7) The water system shall submit a customer education and out-reach plan that includes at a minimum annual frequency of contact.

(8) Point-of-use or point-of-entry treatment devices for compliance with the nitrate MCL shall only be considered if treatment is provided at all taps that are accessible to the public.

[R309-535-12.]R309-535-13. New Treatment Processes or Equipment.

The policy of the Board is to encourage, rather than to obstruct, the development of new methods and equipment for the treatment of water. Nevertheless, any new processes or equipment must have been thoroughly tested in full-scale, comparable installations, before approval of plans can be issued. The U.S. Environmental Protection Agency (EPA) has created the Environmental Technology Verification (ETV) Program to facilitate the deployment of innovative or improved environmental technologies through

performance verification and dissemination of information. NSF International (NSF) in cooperation with the EPA operates the Package Drinking Water Treatment Systems (PDWTS) pilot, one of 12 technology areas under ETV. Engineers and Manufacturers are referred to Bruce Bartley, Manager, ETV project, NSF International, P.O. Box 130140, Ann Arbor, Michigan 48113-0140.

No new treatment process will be approved for use in Utah unless the designer or supplier can present evidence satisfactory to the Executive Secretary that the process will insure the delivery of water of safe, sanitary quality, without imposing undue problems of supervision, operation and/or control.

KEY: drinking water, miscellaneous treatment, stabilization, iron and manganese control

~~November 1, 2003~~2005

**Notice of Continuation September 16, 2002
19-4-104**



Environmental Quality, Water Quality **R317-4** Onsite Wastewater Systems

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27944

FILED: 06/01/2005, 08:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendments are being made to allow the installation of alternative onsite wastewater treatment systems in areas which may have been unsuitable for traditional wastewater disposal systems because of conditions such as slow percolating or shallow soils.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes the existing Section R317-4-11 (Alternate Onsite Wastewater Systems) in its entirety and adds a new Section R317-4-11 (Alternative Systems) in its place. The new section outlines technical requirements for alternative systems and adds the use of packed bed media systems for producing a secondary quality effluent from septic tanks. Language was added to Section R317-4-2 which clarifies the scope of the rule and specifies the administrative process used by local health departments under the rule. Two definitions are added to Section R317-4-1.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** No impact to state budget is anticipated. The rule applies to systems under the jurisdiction of local health departments.

❖ **LOCAL GOVERNMENTS:** Local health departments may incur additional costs of review and inspection for the new systems. Actual costs cannot be determined because the number of potential alternative systems which may be proposed are

unknown. Unit costs are difficult to estimate because of the wide range of approaches and personnel used by the local health departments. Local Health Departments are aware of potential increased costs. Any increased costs will likely be recouped through fees and operating permits.

❖ OTHER PERSONS: Individuals who choose to install the alternative systems allowed under the proposed amendments could incur an additional cost of \$8,000 to \$10,000 per system over the cost of a standard onsite system. However, installation of an alternative wastewater system may allow the use of a lot which would otherwise be unbuildable using standard septic tank drainfield technology.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individuals who choose to install the alternative systems allowed under the proposed amendments could incur an additional cost of \$8,000 to \$10,000 per system over the cost of a standard onsite system. Local health departments may incur additional costs of review and inspection for the new systems. Any increased costs to local health departments will likely be recouped through fees and operating permits.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments have been requested by local health departments and individuals to provide additional flexibility and allow the use of alternative technologies for individual wastewater treatment systems. Any increased costs will be offset by businesses being able to utilize previously unbuildable lots. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
WATER QUALITY
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:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/07/2005 at 2:00 PM, Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/01/2005

AUTHORIZED BY: Dianne R. Nielson, Executive Director

R317. Environmental Quality, Water Quality.

R317-4. Onsite Wastewater Systems.

R317-4-1. Definitions.

1.1. "Absorption bed" means an absorption system consisting of a covered, gravel-filled bed into which septic tank effluent is discharged through specially designed distribution pipes for seepage into the soil.

1.2. "Absorption system" means a device constructed to receive and to distribute effluent in such a manner that the effluent is effectively filtered and retained below ground surface.

1.3. "Absorption trench" means standard trenches, shallow trenches with capping fill, and chambered trenches constructed to receive and to distribute effluent in such a manner that the effluent is effectively filtered and retained below ground surface.

1.4. "Alternative onsite wastewater system" means a system for treatment and disposal of domestic wastewater or wastes which consists of a building sewer, a septic tank or other sewage treatment or storage unit, and a disposal facility or method which is not a conventional system; but not including a surface discharge to the waters of the state.

1.5. "At-Grade" System means an alternative type of onsite wastewater system where the bottom of the absorption system is placed at or below the elevation of the existing site grade, and the top of the distribution pipe is above the elevation of existing site grade, and the absorption system is contained within a fill body that extends above that grade.

1.6. "Bedrock" means the solid rock beneath the soil which is produced by the gradual weathering of bedrock, through physical and chemical processes leading to increasingly smaller and finer particles, loose sediments, or other unconsolidated material, and superficial rock.

[4-6]1.7. "Bedroom" means any portion of a dwelling which is so designed as to furnish the minimum isolation necessary for use as a sleeping area. It may include, but is not limited to, a den, study, sewing room, sleeping loft, or enclosed porch. Unfinished basements shall be counted as a minimum of one additional bedroom.

[4-7]1.8. "Building sewer" means the pipe which carries wastewater from the building drain to a public sewer, an onsite wastewater system or other point of disposal. It is synonymous with "house sewer".

[4-8]1.9. "Chambered trench" means a type of absorption system where the media consists of an open bottom, chamber structure of an approved material and design, which may be used as a substitute for the gravel media with a perforated distribution pipe.

[4-9]1.10. "Condominium" means the ownership of a single unit in a multi-unit project together with an undivided interest in common, in the common areas and facilities of the property.

[4-10]1.11. "Conventional system" means an onsite wastewater system which consists of a building sewer, a septic tank, and an absorption system consisting of a standard trench, a shallow trench with capping fill, a chambered trench, a deep wall trench, a seepage pit, or an absorption bed.

[4-11]1.12. "Curtain drain" means any ground water interceptor or drainage system that is gravel backfilled and is intended to interrupt or divert the course of shallow ground water or surface water away from the onsite wastewater system.

[4-12]1.13. "Deep wall trench" means an absorption system consisting of deep trenches filled with clean, coarse filter material, with a minimum sidewall absorption depth of 24 inches of suitable soil formation below the distribution pipe, into which septic tank effluent is discharged for seepage into the soil.

[1-13]1.14. "Division" means the Utah Division of Water Quality.

[1-14]1.15. "Disposal area" means the entire area used for the subsurface treatment and dispersion of septic tank effluent by an absorption system.

[1-15]1.16. "Distribution box" means a watertight structure which receives septic tank effluent and distributes it concurrently, in essentially equal portions, into two or more distribution pipes leading to an absorption system.

[1-16]1.17. "Distribution pipe" means approved perforated pipe used in the dispersion of septic tank effluent into an absorption system.

[1-17]1.18. "Domestic wastewater" means a combination of the liquid or water-carried wastes from residences, business buildings, institutions, and other establishments with installed plumbing facilities, together with those from industrial establishments, excluding non-domestic wastewater. It is synonymous with the term "sewage".

[1-18]1.19. "Domestic septage" means the semi-liquid material that is pumped out of septic tanks receiving domestic wastewater. It consists of the sludge, the liquid, and the scum layer of the septic tank.

[1-19]1.20. "Drainage system" means all the piping within public or private premises, which conveys sewage or other liquid wastes to a legal point of treatment and disposal, but does not include the mains of a public sewer system or a public sewage treatment or disposal plant.

[1-20]1.21. "Drop box" means a watertight structure which receives septic tank effluent and distributes it into one or more distribution pipes, and into an overflow leading to another drop box and absorption system located at a lower elevation.

[1-21]1.22. "Dwelling" means any structure, building, or any portion thereof which is used, intended, or designed to be occupied for human living purposes including, but not limited to, houses, mobile homes, hotels, motels, apartments, business, and industrial establishments.

[1-22]1.23. "Earth fill" means an excavated or otherwise disturbed suitable soil which is imported and placed over the native soil. It is characterized by having no distinct horizons or color patterns, as found in naturally developed undisturbed soils.

[1-23]1.24. "Effluent lift pump" means a pump used to lift septic tank effluent to a disposal area at a higher elevation than the septic tank.

[1-24]1.25. "Ejector pump" means a device to elevate or pump untreated sewage to a septic tank, public sewer, or other means of disposal.

[1-25]1.26. "Experimental onsite wastewater system" means an onsite wastewater treatment and disposal system which is still in experimental use and requires further testing in order to provide sufficient information to determine its acceptance.

[1-26]1.27. "Final local health department approval" means, for the purposes of the grandfather provisions in R317-4-2 (Table 1, footnote a) and R317-4-3, the approval given by a local health department which would allow construction and installation of subdivision improvements. Note: Even though final local health department approval may have been given for a subdivision, individual lot approval would still be required for issuance of a building permit on each lot.

[1-27]1.28. "Ground water" means that portion of subsurface water that is in the zone of soil saturation.

[1-28]1.29. "Ground water table" means the surface of a body of unconfined ground water in which the pressure is equal to that of the atmosphere.

[1-29]1.30. "Ground water table, perched" means unconfined ground water separated from an underlying body of ground water by an unsaturated zone. Its water table is a perched water table. It is underlain by a restrictive strata or impervious layer. Perched ground

water may be either permanent, where recharge is frequent enough to maintain a saturated zone above the perching bed, or temporary, where intermittent recharge is not great or frequent enough to prevent the perched water from disappearing from time to time as a result of drainage over the edge of or through the perching bed.

[1-30]1.31. "Impervious strata" means a layer which prevents water or root penetration. In addition, it shall be defined as having a percolation rate greater than 60 minutes per inch.

[1-31]1.32. "Invert" is the lowest portion of the internal cross section of a pipe or fitting.

[1-32]1.33. "Liquid waste operation" means any business activity or solicitation by which liquid wastes are collected, transported, stored, or disposed of by a collection vehicle. This shall include, but not be limited to, the cleaning out of septic tanks, sewage holding tanks, chemical toilets, and vault privies.

[1-33]1.34. "Liquid waste pumper" means any person who conducts a liquid waste operation business.

[1-34]1.35. "Local health department" means a city-county or multi-county local health department established under Title 26A.

[1-35]1.36. "Lot" means a portion of a subdivision, or any other parcel of land intended as a unit for transfer of ownership or for development or both and shall not include any part of the right-of-way of a street or road.

[1-36]1.37. "Malfunctioning or failing system" means an onsite wastewater system which is not functioning in compliance with the requirements of this regulation and includes, but is not limited to, the following:

A. Absorption systems which seep or flow to the surface of the ground or into waters of the state.

B. Systems which have overflow from any of their components.

C. Systems which, due to failure to operate in accordance with their designed operation, cause backflow into any portion of a building plumbing system.

D. Systems discharging effluent which does not comply with applicable effluent discharge standards.

E. Leaking septic tanks.

[1-37]1.38. "Maximum ground water table" means the highest elevation that the top of the "ground water table" or "ground water table, perched" is expected to reach for any reason over the full operating life of the onsite wastewater system at that site.

[1-38]1.39. "Mound System" means an alternative onsite wastewater system where the bottom of the absorption system is placed above the elevation of the existing site grade, and the absorption system is contained in a mounded fill body above that grade.

[1-39]1.40. "Non-domestic wastewater" means process wastewater originating from the manufacture of specific products. Such wastewater is usually more concentrated, more variable in content and rate, and requires more extensive or different treatment than domestic wastewater.

[1-40]1.41. "Non-public water source" means a culinary water source that is not defined as a public water source.

[1-41]1.42. "Onsite Wastewater System" means an underground wastewater disposal system for domestic wastewater which is designed for a capacity of 5,000 gallons per day or less, and is not designed to serve multiple dwelling units which are owned by separate owners except condominiums. It usually consists of a building sewer, a septic tank and an absorption system.

[1-42]1.43. "Percolation rate" means the time expressed in minutes per inch required for water to seep into saturated soil at a constant rate during a percolation test.

~~[1-43]~~1.44. "Percolation test" means the method used to measure the percolation rate of water into soil as described in these rules.

~~[1-44]~~1.45. "Permeability" means the rate at which a soil transmits water when saturated.

~~[1-45]~~1.46. "Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state (Section 19-1-103).

~~[1-46]~~1.47. "Pollution" means any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the state, unless the alteration is necessary for public health and safety (Section 19-5-102).

~~[1-47]~~1.48. "Public health hazard" means, for the purpose of this rule, a condition whereby there are sufficient types and amounts of biological, chemical, or physical agents relating to water or sewage which are likely to cause human illness, disorders or disability. These include, but are not limited to, pathogenic viruses and bacteria, parasites, toxic chemicals and radioactive isotopes. A malfunctioning onsite wastewater system constitutes a public health hazard.

~~[1-48]~~1.49. "Public water source" means a culinary water source, either publicly or privately owned, providing water for human consumption and other domestic uses, as defined in R309.

~~[1-49]~~1.50. "Regulatory Authority" means either the Utah Division of Water Quality or the local health department having jurisdiction.

~~[1-50]~~1.51. "Replacement area" means sufficient land with suitable soil, excluding streets, roads, and permanent structures, which complies with the setback requirements of these rules, and is intended for the 100 percent replacement of absorption systems.

~~[1-51]~~1.52. "Restrictive layer" means a layer in the soil that because of its structure or low permeability does not allow water entering from above to pass through as rapidly as it accumulates. During some part of every year, a restrictive layer is likely to have temporarily perched ground water table accumulated above it.

1.53. Scarification - loosening and breaking up of soil.

~~[1-52]~~1.54. "Scum" means a mass of sewage solids floating on the surface of wastes in a septic tank which is buoyed up by entrained gas, grease, or other substances.

~~[1-53]~~1.55. "Seepage pit" means an absorption system consisting of a covered pit into which septic tank effluent is discharged.

~~[1-54]~~1.56. "Septic tank" means a watertight receptacle which receives the discharge of a drainage system or part thereof, designed and constructed so as to retain solids, digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through an absorption system meeting the requirements of these rules.

~~[1-55]~~1.57. "Septic tank effluent" means partially treated sewage which is discharged from a septic tank.

~~[1-56]~~1.58. "Sewage holding tank" means a watertight receptacle which receives water-carried wastes from the discharge of a drainage system and retains such wastes until removal and subsequent disposal at an approved site or treatment facility.

~~[1-57]~~1.59. "Shall" means a mandatory requirement except when modified by action of the Department on the basis of justifying facts submitted as part of plans and specifications for a specific installation.

~~[1-58]~~1.60. "Shallow trenches with capping fill" means an absorption trench which meets all of the requirements of standard trenches except for the elevation of the installed trench. The minimum depth of installation is 10 inches from the natural existing grade to the trench bottom. The gravel and soil fill required above the pipe are

placed as a "cap" to the trenches, installed above the natural existing grade.

~~[1-59]~~1.61. "Should" means recommended or preferred and is intended to mean a desirable standard.

~~[1-60]~~1.62. "Single-family dwelling" means a building designed to be used as a home by the owner or lessee of such building, and shall be the only dwelling located on a lot with the usual accessory buildings.

~~[1-61]~~1.63. "Sludge" means the accumulation of solids which have settled in a septic tank or a sewage holding tank.

~~[1-62]~~1.64. "Soil exploration pit" means an open pit dug to permit examination of the soil to evaluate its suitability for absorption systems.

~~[1-63]~~1.65. "Standard Trench" means an absorption system consisting of a series of covered, gravel-filled trenches into which septic tank effluent is discharged through specially designed distribution pipes for seepage into the soil.

~~[1-64]~~1.66. "Waste" or "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water (Section 19-5-102).

~~[1-65]~~1.67. "Wastewater" means sewage, industrial waste or other liquid substances which might cause pollution of waters of the state. Intercepted ground water which is uncontaminated by wastes is not included.

~~[1-66]~~1.68. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, except that bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife, are not "waters of the state" (Section 19-5-102).

R317-4.2. Onsite Wastewater Systems--Administrative Requirements.

2.1. Scope. This rule shall apply to onsite wastewater systems.

2.2. Nothing contained in this rule shall be construed to prevent the permitting local health department from:

A. adopting stricter requirements than those contained herein;

B. issuing a renewable operating permit at a frequency not exceeding five years with an inspection showing a satisfactory performance of the permitted system by the department's staff before renewal;

C. taking necessary steps for ground water quality protection through adoption of a ground water quality protection management policy based on a ground water management study, or a onsite systems management planning policy and land use planning through the county's agency;

D. prohibiting any alternative system within the department's jurisdiction;

E. assessing fees for administration of alternative systems

F. requiring the conventional and alternative system in its jurisdiction, be placed under an umbrella of:

1. a responsible management entity overseen by the local health department; or,

2. a contract service provider overseen by the local health department; or

3. a management district, body politic, created by the county for the purpose of operation, maintenance, repairs and monitoring of alternative or all onsite systems;

G. The local health department having jurisdiction must obtain approval from the Utah Water Quality Board to administer alternative systems program, as outlined in this section, before permitting alternative systems.

H. The local health department request for approval must include:

1. A description of its plan to properly manage these systems to protect public health. This plan must include:

a. A description of review, inspection and monitoring procedures of these systems;

b. Resolutions of the Local Board of Health and the County Commission supporting this request

c. A description of the technical capability and training plans of the staff, and availability of resources to adequately manage the increased work load; and,

d. A statement from the county attorney of the county's legal authority to implement and enforce correction of malfunctioning systems and its commitment to exercise this authority.

I. An agreement to:

1. advise the owner of the system of the type of system, and information concerning risk of failure, level of maintenance required, financial liability for repair, modification or replacement of a failed system and periodic monitoring requirements;

2. ensure the existence of the alternative system is recorded on the deed of ownership for that property;

3. provide oversight of installed systems;

4. inspect all installed systems at frequency specified in this rule, through:

a. the department's staff, or,

b. a contracted service provider, or,

c. a responsible management entity, or,

d. a management district body politic created by the county for the purpose of managing onsite systems;

e. maintain records of all installed systems, failures, modifications, repairs and all inspections recording the condition of the system at the time of inspection such as, but not limited to, overflow, surfacing, ponding and nuisance;

5. Submit an annual report on or before September 1 of the calendar year, to the Utah Water Quality Board showing:

a. A summary of a ground water quality protection management policy based on a ground water management study, or a onsite systems management planning policy and land use planning through the county's agency, including steps taken or planned to be taken for implementation of the policy.

b. type and number of systems approved, installed, modified, repaired, failed, inspected;

c. a summary of enforcement actions taken, pending and resolved;

d. a summary of performance of effluent quality showing concentrations of five-day total or carbonaceous biochemical oxygen demand, total suspended solids, nephelometric turbidity units, total nitrogen and Escherichia Coli of all installed systems except for at-grade, earth fill and mound systems;

e. a summary of the performance of contractors, responsible management entities, or management districts operating, maintaining and monitoring alternative systems; and,

f. management options followed in the reporting year and planned to be followed in the period after the reporting period.

J. Description of Management options to be followed:

1. Using the health department staff for all inspections and monitoring of permitted alternative systems; or,

2. Contracting with a responsible management entity employing qualified service providers for operating, maintaining and monitoring alternative systems, certified in accordance with R317-11; or,

3. Using a management district, body politic created by the county for the purpose of managing onsite systems with an annual performance review; or,

4. An appropriate combination of contract providers or a District, body politic.

K. All alternative systems will be inspected as follows:

1. All at-grade, earth fill and mound systems annually by

a. the local health department staff, or,

b. a contract service provider overseen by the local health department, or,

c. a responsible management entity overseen by the local health department, or,

d. a management district, body politic created by the county for the purpose of managing onsite systems.

2. All packed bed media systems at least twice a year by:

a. the local health department staff, or,

b. a contract service provider overseen by the local health department, or,

c. a responsible management entity overseen by the local health department, or,

d. a management district, body politic created by the county for the purpose of managing onsite systems.

~~[2-2]~~2.3. Failure to Comply With Rules. Any person failing to comply with This rule will be subject to action as specified in Section 19-5-115 and 26A-1-123.

~~[2-3]~~2.4. Onsite Wastewater System Required. The drainage system of each dwelling, building or premises covered herein shall receive all wastewater (including but not limited to bathroom, kitchen, and laundry wastes) and shall have a connection to a public sewer except when such sewer is not available or practicable for use, in which case connection shall be made as follows:

A. To an onsite wastewater system found to be adequate and constructed in accordance with requirements stated herein.

B. To any other type of wastewater system acceptable under R317-1, R317-3, R317-5, or R317-560.

~~[2-4]~~2.5. Flows Prohibited From Entering Onsite Wastewater Systems. No ground water drainage, drainage from roofs, roads, yards, or other similar sources shall discharge into any portion of an onsite wastewater system, but shall be disposed of so they will in no way affect the system. Non domestic wastes such as chemicals, paints, or other substances which are detrimental to the proper functioning of an onsite wastewater system shall not be disposed of in such systems.

~~[2-5]~~2.6. No Discharge to Surface Waters or Ground Surface. Effluent from any onsite wastewater system shall not be discharged to surface waters or upon the surface of the ground. Sewage shall not be discharged into any abandoned or unused well, or into any crevice, sinkhole, or similar opening, either natural or artificial.

~~[2-6]~~2.7. Repair of a Failing or Unapproved System. Whenever an onsite wastewater system is found by the regulatory authority to create or contribute to any dangerous or insanitary condition which may involve a public health hazard, a malfunctioning system, or deviates from the plans and specifications approved by such health authorities, the regulatory authority may order the owner to take the

necessary action to cause the condition to be corrected, eliminated or otherwise come into compliance.

[2-7]2.8. Procedure for Wastewater System Abandonment.

A. When a dwelling served by an onsite wastewater system is connected to a public sewer, the septic tank shall be abandoned and shall be disconnected from and bypassed with the building sewer unless otherwise approved by the regulatory authority.

B. Whenever the use of an onsite wastewater system has been abandoned or discontinued, the owner of the real property on which such wastewater system is located shall render it safe by having the septic tank wastes pumped out or otherwise disposed of in an approved manner, and the septic tank filled completely with earth, sand, or gravel within 30 days. The septic tank may also be removed within 30 days, at the owners discretion. The contents of a septic tank or other treatment device shall be disposed of only in a manner approved by the regulatory authority.

R317-4-11. Alternative ~~Onsite Wastewater~~ Systems.

11.1. General Requirements.

A. The health department will review and approve sufficient design, installation and operating information to produce a successful, properly operating installation from a designer certified at Level 3 in accordance with the requirements of R317-11.

B. The designer must submit operation and maintenance instructions for the system to the health department and to the owner. The instructions must describe the activities necessary to properly operate and maintain the system. Trouble shooting information must also be included.

C. All requirements stated elsewhere in this rule for design, construction and installation details, performance, failures, repairs and abandonment shall apply unless stated differently for a given alternative system.

11.2. At-Grade Systems.

A. Design Requirements.

1. Absorption trenches and absorption bed type absorption systems may be placed in the at-grade position provided:

a. Invert of effluent distribution pipe or the bottom of the absorption trench is placed at the native ground surface.

b. the elevation of the anticipated maximum ground water table shall be:

i. at least 24 inches below the bottom of the absorption system excavation; and

ii. at least 48 inches below finished grade.

c. at least 48 inches of suitable soil percolating between:

i. 1 and 60 minutes per inch for absorption trench, or

ii. 1 to 30 minutes per inch for absorption beds is available between bedrock or impervious strata and the bottom of the absorption system excavation.

d. The native ground surface does not slope more than four percent for installation of an at-grade system.

e. all other requirements of this rule for:

i. minimum horizontal distances from the stated feature to the toe of the finished at-grade system in Table 2,

ii. area requirements and construction details for absorption trenches in Tables 7, 8 and 9,

iii. area requirements and construction details for absorption beds in Tables 13 and 14, are met.

2. Minimum of two observation ports shall be provided within absorption area.

B. Construction Details.

1. The site shall be cleared of vegetation.

2. The soil at the surface shall be loosened and broken up to an approximate depth of six inches.

3. No tilling shall be permitted.

4. Any furrows resulting from the scarification shall be perpendicular to any slope on the site.

5. When fill is placed where finished contours are above the natural ground surface, it shall extend from the center of the wastewater system at the same general top elevation for a minimum of ten feet in all directions beyond the limits of the disposal area perimeter below, before the beginning of the side slope.

6. The site shall be graded such that surface water drains away from the onsite wastewater system and adjoining area.

7. The maximum side slope for above ground fill shall be four (horizontal) to one (vertical).

11.3 Earth fill systems.

A. Design Requirements.

1. Earth fill may be added to a site or naturally existing soil with a percolation rate less than one minute per inch or more than 60 minutes per inch may be removed and replaced with earth fill with an acceptable, in-place percolation rate, if:

2. the removal of the original soil does not cause other unacceptable site conditions, and, wastewater ponding will not occur below the bottom of the absorption system;

3. the elevation of the anticipated maximum ground water table shall be at least 12 inches below the natural ground surface.

4. Minimum depth of suitable soil percolating between 1 and 60 minutes per inch available between bedrock or impervious strata and:

a. the native ground surface must not be less than 36 inches, or,

b. the bottom of the absorption system trench must not be less than 48 inches, which ever is greater.

5. all other requirements of this rule for:

a. minimum horizontal distances in Table 2,

b. area requirements and construction details for absorption trenches in Tables 7, 8 and 9, are met.

6. The fill area shall be sufficient to:

a. accommodate an absorption system for a home with a minimum of three bedrooms, and shall include all required clearances within, and outside of the fill and absorption system area.

b. install a system sized for greater of three bedrooms or the planned number of bedrooms in the home, using the percolation rate of 60 minutes per inch.

c. include the area required for a 100 percent replacement of the absorption system, with all required clearances.

7. The area between trenches shall not be used for replacement area.

8. The earth fill shall be considered to be acceptably stabilized if it is allowed to naturally settle for a minimum period of one year, sized to result in its minimum required dimensions after the settling period. Mechanical compaction shall not be allowed.

9. After the fill has settled for a minimum of one year, a minimum of two (2) percolation tests/soil exploration tests shall be conducted in the fill. One shall be conducted in the proposed absorption system area and one in the proposed replacement area of the fill. The suitably stabilized fill shall have an in-place percolation rate of between 15 and 45 minutes per inch.

10. Maximum acceptable slope of original site surface for placement of an earth fill system is four percent.

11. The fill depth below the bottom of the absorption system to the native ground surface shall not exceed six feet.

12. Minimum of two observation ports shall be provided within absorption area.

- B. Construction Details.
 - 1. The site shall be cleared of vegetation.
 - 2. The surface soil shall be loosened and broken up to an approximate depth of six inches.
 - 3. No tilling shall be permitted.
 - 4. Any furrows resulting from the scarification shall be perpendicular to any slope on the site.
 - 5. The site shall be graded such that surface water drains away from the onsite wastewater system and adjoining area.
 - 6. The maximum exposed side slope for fill surfaces shall be four horizontal to one vertical.
 - 7. When fill is placed where finished contours are above the natural ground surface, it shall extend from the center of the wastewater system at the same general top elevation for a minimum of ten feet in all directions beyond the limits of the disposal area perimeter below, before the beginning of the side slope.
 - 8. A suitable soil cap, which will support a vegetative cover, shall cover the entire fill body. The cap shall be provided with a vegetative cover. Access to the fill site shall be restricted to minimize erosion and other physical damage.

- 11.4 Mound systems.
 - A. Design Requirements.
 - 1. Mound system may be built over naturally existing soils with a percolation rates between one to 60 minutes per inch provided:
 - a. the elevation of the anticipated maximum ground water table shall be at least 12 inches below the natural ground surface.
 - b. a minimum of one foot of approved sand and one foot of natural soil percolating between one to 60 minutes per inch is available to form the minimum two feet of unsaturated soil below the bottom of the absorption system.
 - c. at least 36 inches of suitable soil percolating between one and 60 minutes per inch is available between bedrock or impervious strata and the native ground surface.
 - 2. all other requirements of this rule for:
 - a. minimum horizontal distances in Table 2, and
 - b. installation in sloping ground are met.
 - 3. The design shall be based on:
 - a. a minimum of 300 gallons per day for two bedrooms with 150 gallons per day for each additional bedroom.
 - b. Linear hydraulic loading rate of:
 - i. three to four gallons per day per foot when the flow is shallow and primarily lateral, or,
 - ii. eight to ten gallons per day per foot when the flow is away from the system and primarily downward.
 - c. Sand fill hydraulic loading rate shall not be greater than 0.8 gallons per day per square foot of absorption system bottom area.
 - d. Soil (basal) hydraulic loading or application rate at sand fill to native soil interface using a relationship: q (gallons per day per square foot) = $1.2995 X$ percolation rate (minutes per inch)^{-0.4421}, or as shown in Table 15:

Table 15
Effluent loading rates
from sand fill to native soil interface
(Based on Percolation Test Rates)

Percolation Rate (time in minutes required for water to fall one inch)	gallons per day per square foot
1-10	0.45
11-15	0.40
16-20	0.35
21-30	0.30

- | | |
|-------|------|
| 31-45 | 0.25 |
| 46-60 | 0.20 |
- e. Distribution Cell (Refer to the graphic available for nomenclature from the Division):
 - i. Area (A X B) shall be the ratio of design flow and sand fill hydraulic loading rate, where the maximum width (A) shall be ten feet.
 - ii. Length (B) shall be the ratio of:
 - (1). linear hydraulic loading rate and the design flow when soil application rate is less than 0.3 gallons per day per square foot, or,
 - (2). linear hydraulic loading rate and the design flow when soil application rate is less than 0.3 gallons per day per square foot, or,
 - f. Mound fill depth (D) shall be the difference of a minimum of four feet of suitable soil percolating between one and 60 minutes per inch under the absorption system (aggregate and sand fill interface), and, a minimum of two feet.
 - g. Mound fill depth at down slope edge (E) shall be the sum of Mound fill depth (D) and Absorption area width (A), times the slope of the native ground surface expressed as a decimal.
 - h. Mound Depth (F) shall be the sum of depth of aggregate (not less than six inches) and depth of aggregate cover over the distribution pipe (not less than two inches), and, nominal diameter of distribution pipe.
 - i. The minimum depth of cover shall be 12 inches at distribution cell edges (G), and 18 inches at the center of distribution cell (H).
 - j. Down slope width (I) shall be greater of:
 - i. Fill depth at the down slope edge of distribution cell (Mound fill depth at down slope edge (E) + Mound Depth (F) + depth of cover at distribution cell edges (G)) X horizontal gradient of side slope (3 if 3:1) X slope correction factor which is $(100 / (100 - (3 X \text{ per cent of slope}) \text{ if } 3:1))$, or,
 - ii. difference of ratio of linear loading and soil application rates and liner loading and sand fill loading rates.
 - k. Up slope width (J) shall be: Fill depth at the up slope edge of distribution cell (Mound fill depth (D) + Mound Depth (F) + depth of cover at distribution cell edges (G)) X horizontal gradient of side slope (3 if 3:1) X slope correction factor which is $(100 / (100 + (3 X \text{ per cent of slope}) \text{ if } 3:1))$.
 - l. End slope width (K) shall be: Total fill at the center of distribution cell (Mound fill depth (D) + Mound fill depth at down slope edge (E))/2 + Mound Depth (F) + depth of cover at the center of distribution cell (H)) X horizontal gradient of side slope (3 if 3:1).
 - m. Fill length (L) shall be: Distribution cell length (B) + 2 X end slope width (K).
 - n. Depth, width and length of distribution cell, sand fill and aggregate shall be as required in Mound Component Manual Version 2, Wisconsin Department of Commerce, January 2001, available from the Division.
 - o. Effluent distribution shall be pressurized.
 - p. Minimum of two observation ports shall be provided within absorption area.

- B. Construction Details.
 - 1. The site shall be cleared of vegetation and scarified to an approximate depth of six inches. Any furrows resulting from the scarification shall be perpendicular to any slope on the site.
 - 2. The surface soil shall be loosened and broken up to an approximate depth of six inches.
 - 3. The site shall be graded such that surface water drains away from the onsite wastewater system and adjoining area.

4. The minimum thickness of aggregate media around the distribution pipes of the absorption system shall be the sum of six inches below the distribution pipe, the diameter of the distribution pipe and two inches above the distribution pipe or ten inches, whichever is larger.

5. The material for soil cap shall not be less than six inches in thickness and provide protection against erosion, frost, storm water infiltration and support vegetative growth and aeration of distribution cell.

6. Sand fill must meet ASTM Specification C-33 for fine aggregate.

7. A minimum of two observation pipes shall be located at opposite end of each distribution cell and 1/5 to 1/10 the length of distribution cell measured from the end of the cell.

8. Distribution laterals must be:

a. of 3/4 inch to 3 inch in diameter;
b. placed within four feet of each other within distribution cell;
c. provided with a stand pipe for access from the surface for cleaning;

d. provided with orifices:

i. 1/4 or 3/16 inches in diameter;
ii. spaced between 30 to 36 inches, and
iii. between six inches to two feet from the edge of distribution cell.

9. Distal head in a lateral must be no less than 2.5 feet for 1/4-inch diameter orifice and 3.5 ft for 3/16-inch diameter orifice.

10. An automatic visual or audible alarm indicating the failure of the pump shall be provided, and shall remain on until turned off manually.

11.5. Packed Bed Media systems.

A. Design Requirements.

1. Packed bed media systems may be used provided:

a. the elevation of the anticipated maximum ground water table shall be at least 12 inches below the natural ground surface.

b. acceptable percolation rate for packed bed media system effluent dispersal is up to 120 minutes per inch;

c. at least 36 inches of suitable soil below the bottom of the absorption trench, percolating between one and 120 minutes per inch is available for packed bed media system effluent dispersal, between bedrock or impervious strata and the native ground surface.

d. At least 18 inches of suitable soil percolating between one and 120 minutes per inch is available for packed bed media system effluent dispersal, between bedrock or impervious strata and the native ground surface with an evaluation of infiltration rate and hydrogeology from a professional geologist or geotechnical engineer licensed to practice in Utah based on:

i. type, extent of fractures, presence of bedding planes, angle of dip.

ii. hydrogeology of surrounding area, and,

iii. cumulative effect of all existing and future systems within the area for any localized mounding or surfacing which may create a public health hazard or nuisance, description of methods used to determine infiltration rate and evaluation of surfacing or mounding conditions.

e. all other requirements of this rule for:

i. installation of absorption trenches in sloping ground, and,
ii. minimum horizontal distances in Table 2, except for water course, lake, pond, reservoir, non-culinary spring, foundation drain, curtain drain or grouted well which require a minimum of 50 feet of separation from absorption trench are met.

2. The design shall be based on:

a. a minimum of 300 gallons per day for two bedrooms and 150 gallons per day for each additional bedroom.

b. Intermittent Sand Filter System:

i. Media

(1) Depth -- Minimum 24 inches of washed sand

(2) Effective size -- 0.35 to 0.5 millimeter

(3) Uniformity Coefficient -- less than 4.0

(4) Maximum Passing through No. 200 Sieve -- one percent

(5) Voids -- 30 percent

(6) Surface area -- 800 - 1000 square feet per cubic foot

ii. Maximum Application rate -- 1.2 gallons per day per square foot of media

iii. Doses per day -- 18 to 24

iv. Recirculation ratio -- none

c. Re-circulating Sand Filter System:

i. Media

(1) Depth -- Minimum 24 inches of washed sand

(2) Effective size -- 1.5 to 2.5 millimeter

(3) Uniformity Coefficient -- less than 3.0

(4) Maximum Passing through No. 50 Sieve -- one percent

(5) Voids -- 30 percent

(6) Surface area -- 500 - 700 square feet per cubic foot

ii. Maximum Application rate -- 5.0 gallons per day per square foot of media

iii. Doses per day -- 48 - 96

iv. Recirculation ratio -- 4:1 at peak flow.

d. Re-circulating Gravel Filter System:

i. Media

(1) Depth - Minimum 36 inches of washed gravel

(2) Effective size -- 1.5 to 5.0 millimeter

(3) Uniformity Coefficient -- less than 2.0

(4) Maximum Passing through No. 16 Sieve -- one percent

(5) Voids -- 30 percent

(6) Surface area -- 500 - 700 square feet per cubic foot

ii. Maximum Application rate -- 5.0 gallons per day per square foot of media

iii. Doses per day -- 48 - 96

iv. Recirculation ratio -- 4:1 at peak flow.

d. Re-circulating Gravel Filter System:

i. Media

(1) Depth - Minimum 36 inches of washed gravel

(2) Effective size -- 1.5 to 5.0 millimeter

(3) Uniformity Coefficient -- less than 2.0

(4) Maximum Passing through No. 16 Sieve -- one percent

(5) Voids -- 30 percent

(6) Surface area -- 500 - 700 square feet per cubic foot

ii. Application rate -- 5.0 gallons per day per square foot of media

iii. Doses per day -- 48 - 96

iv. Recirculation ratio -- 5:1 at peak flow.

e. Textile Filter System:

i. Media

(1) Geotextile, AdvanTex or approved equal

(2) Voids -- more than 80 percent

(3) Surface area -- 2400 - 4800 square feet per cubic foot

ii. Maximum Application rate -- 30.0 gallons per day per square foot of media

iii. Doses per day -- 72 - 144

iv. Recirculation ratio -- 3:1 at peak flow.

f. Peat Filter:

i. Media

- (1) Depth -- Minimum 24 inches of peat media
- (2) Effective size -- 0.25 to 2.0 millimeter
- (3) Voids -- 90 percent
- (4) Surface area -- 500,000 square feet per cubic foot
- ii. Maximum Application rate -- 5 gallons per day per square foot of media
- iii. Doses per day -- up to 300
- iv. Recirculation ratio -- none
3. The filter bed must be pressure dosed. Orifices or nozzles shall be of such size that the difference in discharge between the first orifice or nozzle and the last orifice or nozzle in each lateral is less than ten percent. The lateral ends must be equipped with fittings and or enclosures to allow cleaning and servicing from the surface.
4. Recirculation Tank:
- a. capacity shall be equal to:
- i. at least design flow for one day, or,
- ii. other volume supported by the basis of design and operation.
- b. design shall include dosing rate, operating, surge and reserve capacities.
- c. The recirculation ratio should be adjusted, as necessary during operation and maintenance inspections; ranging from 3:1 to 7:1.
- d. Access to the tanks shall be watertight to the finished grade. Any joint in the riser must be tested during the tank watertight test.
5. Outlet of septic tanks upstream of packed bed media shall be fitted with effluent filter.
6. Pumping Equipment and Controls:
- a. The system shall be equipped with a programmable control panel. The controls shall be capable of controlling all functions incorporated or required in the design of the system. All system control panels must be equipped with an automatic visual or audible alarm indicating the failure of the pump shall be provided, and shall remain on until turned off manually.
- b. The control panel must include a pump run-time hour meter and a pump event counter or other acceptable flow measurement method.
- c. The control panel must be installed within sight of the access risers.
- d. The control panel must be rated for exterior use. The enclosure must be rated for NEMA 4X or better.
- e. The pumps shall be capable of delivering the design flow at the calculated total dynamic head for the proposed system. Supporting hydraulic calculations and pump curve analysis must be submitted to the health department with the design.
- f. The pump selected must be rated for the number of cycles anticipated at peak flow conditions.
7. Packed bed system media effluent shall be distributed by gravity or under pressure in an absorption trench designed:
- a. in accordance with Table 7 of this rule for soils percolating between one to 60 minutes per inch.
- b. Using the equation:
- i. $q = 2.1687 \times t^{(-0.3806)}$ where t is the percolation rate in minutes per inch, and q is in gallons per day per square foot, or,
- ii. Area in square feet per bed room = $69.16 \times t^{(0.3806)}$ where t is the percolation rate in minutes per inch.
- c. Dispersal area may be reduced by multiplying the area reduction factor shown in Table 16:

Table 16
Area Reduction Factors

System	Factor
Intermittent Sand Filter	0.85
Re-circulating Sand Filter	0.80
Re-circulating Gravel Filter	0.80
Textile Filters	0.75
Peat Filters	0.80

- d. Effluent distribution may be by gravity or under pressure.
- e. Drip irrigation system may be used for packed bed media system effluent disposal based on type of soil and drip irrigation manufacturer's recommendations.
- f. Minimum of two observation ports shall be provided within absorption area.
8. Performance of Packed Bed Media Systems
- a. Packed bed media system performance shall be monitored at an interval not exceeding six calendar months for surfacing in absorption trench area, odors around filter systems, equipment malfunction, and effluent quality of a grab sample showing no more than 20 nephelometric turbidity units (NTU), or five-day total or carbonaceous biochemical oxygen demand and total suspended solids concentration of no more than 25 milligrams per liter.
- b. Effluent turbidity exceeding 20 NTU shall be followed up with two successive week testing within a 30-day period from the first exceedance. When two successive effluent testing shows results in excess of 20 NTU, the system shall be deemed to be non-compliant requiring further evaluation with five-day total or carbonaceous biochemical oxygen demand and total suspended solids concentrations, and a corrective action plan.
- c. Corrective action is required where the effluent quality does not meet the minimum standard for more than 30 days.
- d. For non-complying systems, the health department shall require and order:
- i. all necessary steps such as maintenance servicing, repairs, and/or replacement of system components to correct malfunctioning or non-compliant system;
- ii. effluent quality testing for turbidity, five-day total or carbonaceous biochemical oxygen demand, and suspended solids shall continue every two weeks until three successive samples are found to be in compliance;
- iii. payment of fines, fees for additional inspections reviews and testing;
- iv. evaluation of the system design including non-approved changes to the system, and the wastewater flow volume, the biological and or chemical loading to the system;
- v. investigate the household practices, or discharge of hazardous chemicals into the system, such as, water softener brine, photo finishing chemicals, laboratory chemicals, excessive amount of cleaners or detergents, etc.; and,
- vi. additional tests or samples to troubleshoot the system malfunction.
- B. Construction Details
- i. The site shall be graded such that surface water drains away from the onsite wastewater system and adjoining area. ~~Administrative Requirements. The local health department having jurisdiction must obtain approval from the division to administer an~~

alternative onsite wastewater system program, as outlined in this section, prior to permitting alternative onsite wastewater systems. Alternative onsite wastewater systems are only to be installed where site limitations prevent the use of conventional onsite wastewater systems.

A. The following alternative onsite wastewater systems may be considered for use upon the executive secretary's approval of a written request from the local health department to administer an alternative onsite wastewater system program:

TABLE 15

System	Rule Reference
Earth fill Systems	R317 4 11.2
"At Grade" Systems	R317 4 11.3
Mound Systems	R317 4 11.4

The local health department request for approval must include a description of their plan to properly manage these systems to protect public health and water quality. This plan must include:

1. Documentation of the adequacy of staff resources to manage the increased work load.
2. Documentation of the technical capability to administer the new systems including any training plans which are needed.
3. A description of measures to be taken by the local health department to insure that designers and installers of these systems are qualified.
4. A description of the methods which will be used to determine the maximum anticipated high ground water table elevation.
5. Documentation that the Local Board of Health and County Commission support this request.
6. A description of how these systems will be managed, inspected and monitored.
7. A ground water management plan which identifies maximum septic system densities to be allowed in order to prevent unacceptable degradation of ground water, or a schedule for completing an acceptable plan within one year. This requirement may be waived or modified by the executive secretary where it can be shown that these systems would be relatively few in number and widely separated, thereby having negligible impact on ground water quality, or where the ground water aquifers vary greatly over relatively short distances making such a ground water study impractical.
8. Documentation of the county's legal authority to implement and enforce correction of malfunctioning systems and their commitment to exercise this authority.

B. All alternative onsite wastewater systems shall be designed, installed and operated under the following conditions:

1. The ground water requirements shall be determined as shown in R317 4 5.
2. The local health department must advise the owner of the system of the alternative status of that type of system. The advisory must contain information concerning risk of failure, level of maintenance required, financial liability for repair, modification or replacement of a failed system and periodic monitoring requirements which are all specific to the type of system to be installed.
3. The local health department and the homeowner shall be provided with sufficient design, installation and operating information to produce a successful, properly operating installation.
4. The local health department is responsible for provision of, or oversight of an approved installation, inspection and maintenance and monitoring program for the systems. Such programs shall include approved procedures for complete periodic maintenance and monitoring of the systems.

5. The local health department may impose more stringent design, installation, operating and monitoring conditions than those required by the Division.

6. All failures, repairs or alterations shall be reported to the local health department. All repairs or alterations must be approved by the local health department.

C. When an alternative onsite wastewater system exists on a property, notification of the existence of that system shall be recorded on the deed of ownership for that property.

11.2. Installation in Earth Fill.

A. Installation of absorption systems in earth fill will be allowed only by the regulatory authority having jurisdiction in accordance with these rules. Installation of absorption systems in earth fill is an alternative disposal method. Conditions for use of alternative onsite wastewater systems are shown in R317 4 11.

B. Absorption trenches and absorption bed type systems may be placed in earth fill. Absorption trench systems placed in earth fill can only be installed over natural soils with a percolation rate range between five and 60 minutes per inch; and absorption bed systems over soils with a percolation rate range of five to 30 minutes per inch.

C. Naturally existing soil with an unacceptable percolation rate may be removed and replaced with earth fill with an acceptable, in-place percolation rate, if the removal of the original soil does not cause other unacceptable site conditions and if acceptable natural soil exists below the replacement. The site must conform to all other acceptability conditions.

D. The maximum acceptable existing slope of a site upon which an "at grade" or "above grade" onsite system can be placed with the use of earth fill is four percent.

E. The minimum area of fill to be placed shall be sufficient to install a system sized for the number of bedrooms in the home, using the percolation rate of 60 minutes per inch. The fill area shall be sized to accommodate an absorption system for a home with a minimum of three bedrooms, and shall include all required clearances within, and outside of the fill and absorption system area.

F. The area of original fill placement shall include that area required for a 100 percent replacement of the drainfield, with all required clearances. The area between trenches shall not be used for replacement area.

G. The fill depth below the bottom of the absorption system shall not exceed six feet.

H. The minimum separation between the natural ground surface and the anticipated maximum ground water table or saturated soil shall be twelve (12) inches.

I. The earth fill shall be considered to be acceptably stabilized if it is allowed to naturally settle for a minimum period of one year, sized to result in its minimum required dimensions after the settling period. Mechanical compaction shall not be allowed.

J. All onsite wastewater systems placed in earth fill shall conform to all other applicable requirements of R317 4, "Onsite Wastewater Systems".

K. The onsite wastewater system and local area surrounding them shall be graded to drain surface water away from the absorption system.

L. After the fill has settled for a minimum of one year, a minimum of two (2) percolation tests/soil exploration tests shall be conducted in the fill. One shall be conducted in the proposed absorption system area and one in the proposed replacement area of the fill. The suitably stabilized fill shall have an in-place percolation rate of between 15 and 45 minutes per inch.

M. The maximum exposed side slope for fill surfaces shall be four horizontal to one vertical. When fill is placed where finished

contours are above the natural ground surface, it shall extend from the center of the wastewater system at the same general top elevation for a minimum of ten feet in all directions beyond the limits of the disposal area perimeter below, before the beginning of the side slope. A suitable soil cap, which will support a vegetative cover, shall cover the entire fill body. The cap shall be provided with a vegetative cover. Access to the fill site shall be restricted to minimize erosion and other physical damage.

11.3. "At-Grade" Systems.

A. Where site conditions may restrict the installation of a standard absorption system, an "at grade" system may be used. It shall be designed, installed, operated and monitored in accordance with these rules. An "at grade" system is considered to be an alternative disposal method. Conditions for use of alternative wastewater systems are shown in R317-4-11.

B. Absorption trenches and absorption bed type absorption systems may be placed in the "at grade" position. Absorption systems placed "at grade" can only be installed over natural soils with a percolation rate range between five and 60 minutes per inch; and absorption bed systems over soils with a percolation rate range of five to 30 minutes per inch.

C. The minimum distance from the top of finished grade to the high seasonal ground water table or perched ground water table shall be four feet.

D. When fill is placed where finished contours are above the natural ground surface, it shall extend from the center of the wastewater system at the same general top elevation for a minimum of ten feet in all directions beyond the limits of the disposal area perimeter below, before the beginning of the side slope.

E. The maximum side slope for above ground fill shall be four (horizontal) : one (Vertical).

F. Maximum acceptable slope of original site surface for placement of an "at grade" system is four percent.

G. The site shall be cleared of vegetation and scarified to an approximate depth of six inches. Any furrows resulting from the scarification shall be perpendicular to any slope on the site.

11.4. Mound Systems.

A. Where site conditions may restrict the use of a standard absorption system, a mound system may be used. It shall be designed, installed, operated and monitored in accordance with these rules. A mound system is considered to be an alternative disposal method. Conditions for use of alternative wastewater systems are shown in R317-4-11.1.

B. The minimum separation between the natural ground surface and the anticipated maximum ground water table or saturated soil shall be twelve (12) inches.

C. The two foot minimum thick unsaturated soil treatment horizon below the bottom of the absorption system shall consist of a minimum of one foot of suitable natural soil.

D. Mound systems shall not be located on sites where the original prevailing surface grade exceeds four percent.

E. All mound type onsite systems shall utilize pressurized systems for distribution of effluent in the absorption system.

F. The local health department in whose jurisdiction the mounds with pressurized systems are to be used, shall have an approved maintenance program in place.

G. The design effluent loading rate through the absorption system bottom to sand fill interface shall be 0.8 gallons per day per square foot of absorption system bottom area.

H. The effluent loading rate at the sand fill to native soil interface shall as specified in Table 16:

TABLE 16

Effluent Loading Rate from Sand Fill to the Natural Soil Surface

PERCOLATION RATE OF NATURAL SOIL (Minutes per inch)	UNIT	LOADING RATE
1-10	gallons per day per square foot	0.45
11-15	gallons per day per square foot	0.40
16-20	gallons per day per square foot	0.35
21-30	gallons per day per square foot	0.30
31-45	gallons per day per square foot	0.25
46-60	gallons per day per square foot	0.20

I. The minimum thickness of aggregate media around the distribution pipes of the absorption system shall be the sum of six inches below the distribution pipe, the diameter of the distribution pipe and two inches above the distribution pipe or ten inches, whichever is larger.

J. Mound systems shall be designed in accordance with "Mound Soil Absorption System Siting, Design and Construction Guidance Manual, April 1, 1996", which is hereby incorporated by reference. A copy is available for public review from the Division of Water Quality, 288 North 1460 West, P.O. Box 144870, Salt Lake City, UT, 84114-4870.

11.5. Supplemental Requirements for Maintenance and Monitoring of "At-Grade" and Earth-Fill Alternative Onsite Wastewater Systems.

A. These requirements are to be applied in addition to the requirements specified in R317-4-13 where applicable.

B. These systems shall be monitored at a period of six months and one year after initial use of the system and annually thereafter for a total of five years. Repairs shall be made at any time to a malfunctioning system, as soon as possible after the malfunction is discovered.

C. The local health department in whose jurisdiction the alternative system is installed shall be responsible for formulation of, administration and supervision of a maintenance and monitoring program that is approved by the Division.

11.6. Supplemental Requirements for Maintenance and Monitoring of Pressure-Distribution Alternative Onsite Wastewater Systems.

A. These requirements are to be applied in addition to the requirements specified R317-4-13, where applicable.

B. These systems shall be monitored every six months throughout the life of the system. Repairs shall be made at any time to a malfunctioning system, as soon as possible after the malfunction is discovered.

C. The local health department in whose jurisdiction the pressurized system is installed shall be responsible for formulation of, administration and supervision of a maintenance and monitoring program that is approved by the Division.

D. Additional requirements for maintenance of these systems are contained in "Mound Soil Absorption System Siting, Design and Construction Guidance Manual, April 1, 1996", which is hereby incorporated by reference. A copy is available for public review from

the Division of Water Quality, 288 North 1460 West, P.O. Box 144870, Salt Lake City, UT, 84114-4870.]

KEY: waste water, onsite wastewater systems, alternative onsite wastewater systems, septic tanks
~~January 30, 2003~~ **2005**
Notice of Continuation February 10, 2005
19-5-104

▼ ————— ▼

Health, Community and Family Health Services, Children with Special Health Care Needs

R398-10

Autism Spectrum Disorders and Mental Retardation Reporting

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27941

FILED: 05/27/2005, 15:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment eliminates age restrictions for reporting of Autism Spectrum Disorders (ASDs) in order to facilitate the collection of prevalence data of ASD and related conditions in the general population over time. Data collection across all ages will facilitate epidemiological studies currently addressing the rising prevalence rates of autism spectrum disorders and possible reasons for the increase.

SUMMARY OF THE RULE OR CHANGE: This change eliminates the "birth to 18 years" age restriction on reporting ASD in the current rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 26-1-30(2)(c), 26-1-30(2)(d), 26-1-30(2)(e), 26-1-30(2)(f), and 26-1-30(2)(g); and Sections 26-5-3 and 26-5-4

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No state funds are being used for the activities undertaken by this rule. It is funded from a federal grant. Early identification may result in a cost savings.
- ❖ **LOCAL GOVERNMENTS:** This amendment does not require local governments to take any action and therefore, there is no impact on local governments.
- ❖ **OTHER PERSONS:** Savings may be incurred to individuals if autism spectrum disorders are recognized and treated early, however it is not possible to quantify the savings. It is anticipated that approximately 10 new cases in individuals over 18 years of age would be identified each year for a cost of \$5 per patient for record access for a total increase in costs of \$50 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Treatment facilities will incur minimal costs in reporting cases to the Utah Department of Health. The form requires less than five minutes to complete per patient. It is estimated that a program specializing in ASD will diagnose and therefore report an average of 2 patients per year at a reporting cost of \$5 per patient for a total facility cost of \$10. Costs incurred by facilities will vary depending on the number of patients identified through the program annually.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Eliminating the age restriction on reporting autism disorders should have no fiscal impact on regulated businesses. David N. Sundwall, MD, Executive Director

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

HEALTH
 COMMUNITY AND FAMILY HEALTH SERVICES,
 CHILDREN WITH SPECIAL HEALTH CARE NEEDS
 44 N MEDICAL DR
 SALT LAKE CITY UT 84113, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judith Zimmerman at the above address, by phone at 801-584-8510, by FAX at 801-584-8579, or by Internet E-mail at jjzimmerman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/18/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R398. Health, Community and Family Health Services, Children with Special Health Care Needs.
R398-10. Autism Spectrum Disorders and Mental Retardation Reporting.

R398-10-1. Purpose and Authority.

This rule establishes reporting requirements for autism spectrum disorder (ASD) and mental retardation and related test results in individuals ~~aged birth to 18 years in Utah~~. Sections 26-1-30(2)(c), (d), (e), (f), (g), 26-5-3, and 26-5-4 authorize this rule.

R398-10-3. Reporting by Diagnostic or Treatment Facilities.

Diagnostic or treatment facilities that provide specialized care for ASD and related disorders shall report or cause to report the following to the Department within thirty days of making an ASD diagnosis ~~on a child aged birth to 18~~:

- (1) patient's name;
- (2) patient's date of birth;
- (3) patient's address;
- (4) home phone;
- (5) patient's sex;

- (6) mother's name;
- (7) mother's date of birth;
- (8) provider name;
- (9) provider degree;
- (10) provider specialty;
- (11) provider address;
- (12) provider phone number;
- (13) diagnosis of autistic disorder, atypical autism, pervasive developmental disorder-not otherwise specified, Asperger's syndrome, or special education classification that makes the individual eligible to receive special education services; and
- (14) date of diagnosis.

KEY: autism spectrum, mental retardation, reporting~~November 20, 2003~~ 2005

26-1-30(2)(c)

26-1-30(2)(d)

26-1-30(2)(e)

26-1-30(2)(f)

26-1-30(2)(g)

26-5-3

26-5-4

▼ ————— ▼

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-33A

Targeted Case Management for the Chronically Mentally Ill

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 27956

FILED: 06/01/2005, 15:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule needs to be repealed and will be replaced with the new rule, R414-33D, that specifies community mental health center services for the seriously mentally ill and how these services are provided throughout the state, either under capitation or on a fee-for-service basis. (DAR NOTE: The proposed new Rule R414-33D is under DAR No. 27958 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety and will be replaced with a new rule, R414-33D. The new rule further delineates reimbursement methodology for nine of the mental health centers where reimbursement for services is included in the capitation rate. For the remaining two fee-for-service mental health centers, providers are paid on a fee-for-service basis for services provided.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no impact to the state budget associated with this repeal because policies that are included in the new rule are currently in place.

❖ LOCAL GOVERNMENTS: There is no impact to local governments as a result of this rulemaking because policies that are included in the new rule are currently in place.

❖ OTHER PERSONS: There is no impact to other persons as a result of this rulemaking because policies that are included in the new rule are currently in place.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because policies that are included in the new rule are currently in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule has no fiscal impact on business. The replacement rule, R414-33D, filed contemporaneously with this repeal adopts existing policy and should also have no new fiscal impact. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.~~**R414-33A. Targeted Case Management for the Chronically Mentally Ill.**~~~~**R414-33A-0. Policy Statement.**~~

~~— A. Targeted case management may be provided to chronically mentally ill Medicaid eligibles who are not otherwise eligible for targeted case management service as part of another approved target group. The need for targeted case management services will be identified by a physician or other mental health professional in the recipient's treatment plan for mental health clinic, outpatient hospital, or physician service.~~

— B. Targeted case management services may not be provided to individuals between the ages of 22 and 64 who are inpatients in institutions for mental disease.

— C. Targeted case management shall be at the option of the individual in the target population.

— D. Targeted case management services may not restrict an individual's free choice of providers of case management services or other Medicaid services.

R414-33A-1. Authority and Purpose.

— A. Authority

— The Consolidated Omnibus Budget Reconciliation Act (P.L. 99-272, COBRA) added Targeted Case Management to the list of optional services which can be provided under the State Medicaid Plan.

— B. Purpose

— The purpose of targeted case management for the chronically mentally ill is to assist individuals in the target group to access needed medical, social, educational and other services and thereby promote the individual's ability to function independently and successfully in the community.

R414-33A-2. Definitions as Used in this Chapter.

— A. "Chronically mentally ill" means those individuals who meet criteria specified in the Utah Mental Health Program Evaluation Committee (UMPEC) Scale on the Persistently and Seriously Mentally Ill.

— B. "Targeted case management services" means a set of planning, coordinating, and monitoring activities that assist individuals in the target group to access needed medical, social, educational, and other services and thereby promote the individual's ability to function independently and successfully in the community.

R414-33A-3. Eligibility Requirements/Coverage.

— Targeted case management services are available to Medicaid recipients who are categorically or medically needy and meet the criteria for chronic mental illness as specified in the Utah Mental Health Program Evaluation Committee (UMPEC) Scale on the Persistently and Seriously Mentally Ill and are determined by a physician or other mental health professional to need targeted case management services. This scale, as of February 9, 1990, is hereby incorporated by reference.

R414-33A-4. Program Access Requirements.

— Targeted case management services are covered benefits only when provided by employees of comprehensive community mental health clinics. Qualified targeted case managers include:

— A. licensed mental health professionals, including psychologist, certified or clinical social worker, social service worker, registered nurse with training or experience in psychiatric nursing, or marriage and family therapist, who are employed by comprehensive community mental health clinics; or

— B. non-licensed individuals who meet the State Division of Mental Health's training standards for case managers and who are supervised by one of the licensed mental health professionals listed in R414-33A-4.

R414-33A-5. Service Coverage.

— A. Targeted case management for the chronically mentally ill must include an assessment of the recipient's potential strengths, resources, and needs, and the development of a comprehensive

service plan that identifies the client's need for medical, social, educational/vocational and other services that promote independent functioning.

— B. Targeted case management services may also include:

— 1. advocating for and linking the recipient with services identified in the service plan such as mental health, housing, medical, social, or nutritional services;

— 2. assisting the recipient to acquire necessary independent living skills such as compliance with the prescribed medication regimen, preparing for job interviews, and managing money, and assisting the recipient during acute crisis episodes to ensure the provision of the most appropriate cost-effective service;

— 3. monitoring to assess the recipient's progress and continued need for service;

— 4. coordinating the delivery of needed service and monitoring to assure the appropriateness and quality of services delivered, including coordinating with the hospital and nursing facility discharge planner in the thirty-day period prior to the patient's discharge into the community.

— C. Targeted case management services for hospital or nursing facility inpatients are limited to the services listed in R414-33A-5B4 and to a maximum of three hours per patient per year.

R414-33A-6. Standards of Care.

— Targeted case management services for the chronically mentally ill may be provided only according to a service plan developed by staff employed by comprehensive community mental health clinics who meet professional qualifications in R414-33A-4.

— A. Assessment

— The targeted case management record shall include an assessment report. Assessment data may be based on information that is already available from other sources such as the clinical evaluation.

— B. Service Plan

— The targeted case management record shall include a service plan signed by the client. The service plan must be developed in conjunction with the recipient, family, and other significant individuals. The service plan must be distinct from the treatment plan for mental health clinic services.

— C. Documentation

— 1. The targeted case management provider shall develop and maintain sufficient written documentation for each targeted case management activity billed that indicates at least the following:

— a. the date of service;

— b. the name of the recipient;

— c. the name of the person providing the service;

— d. a description of the case management activity;

— e. the duration of the activity and units of service; and

— f. the place of service.

— 2. At least every 90 days, the targeted case management provider shall document progress toward goals specified in the service plan.

— 3. The record shall be kept on file and made available as requested for state or federal assessment purposes.

R414-33A-7. Limitations.

— A. Targeted case management services may not include medical or other treatment services.

— B. Payment for case management services under the plan may not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

~~— C. Targeted case management services shall be billed only if that service would not ordinarily be considered an integral part of the mental health clinic service. Services described in the mental health clinic manual as (1) a direct clinic service (e.g. evaluation, medication management,) or (2) an indirect service (e.g. supervision of mental health staff, interdisciplinary team conference for the development of a clinical treatment plan) may not be billed as a case management activity. These services shall be billed as clinic services or be included as an administrative cost in establishing the cost of mental health clinic services.~~

~~— D. Targeted case management services may not be provided to individuals between the ages of 22 and 64 who are inpatients in institutions for mental disease.~~

~~— E. Targeted case management services may not be billed for patients in a hospital or nursing facility prior to the thirty day period before the patient's discharge into the community. This service is limited to three hours per patient per year.~~

~~— F. Outreach activities in which the clinic attempts to contact potential recipients for the service do not constitute targeted case management services.~~

~~— G. Each targeted case management activity involving more than one member of the case management team may be billed only once by one member of the case management team.~~

~~— H. Targeted case management activities conducted with a group of clients shall be billed for only one individual member of the group.~~

R414 33A 8. Prior Authorization.

~~— A. Prior authorization is required only for the targeted case management services provided to patients in a nursing facility or hospital. Prior authorization may be granted for a maximum of three hours of targeted case management per patient per year only for services provided in the thirty day period prior to the patient's discharge into the community from a nursing facility or hospital.~~

~~— B. The targeted case manager shall obtain prior authorization from the Community Based Services Unit before the services are provided. Authorization may be obtained by phone or in writing. The targeted case management provider must specify the following:~~

- ~~— 1. date of admission to the nursing facility or hospital;~~
- ~~— 2. name of the facility;~~
- ~~— 3. expected date of discharge.~~

R414 33A 9. Reimbursement for Services.

~~— A. Interim payments for targeted case management services to mentally ill medicaid recipients are based on the lower of usual and customary charges or the established fee schedule. Rates are established on an hourly basis.~~

~~— B. A cost settlement will be made annually for each mental health center. Targeted case management will be included as part of the mental health clinic's annual cost settlement.~~

**KEY: medicaid
1990**

Notice of Continuation August 2, 2000

26-1-4.1

26-1-5

26-18-3]



Health, Health Care Financing, Coverage and Reimbursement Policy **R414-33D** Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 27958

FILED: 06/01/2005, 15:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to comply with Subsection 26-18-3(2)(a), which requires program policies to be implemented by rule. Rule R414-33A, Targeted Case Management for the Chronically Mentally Ill, will be repealed as a result of this rulemaking because the rule is outdated and does not reflect current policy. (DAR NOTE: The proposed repeal of Rule R414-33A is under DAR No. 27956 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This is a proposed new rule for targeted case management for the seriously mentally ill that is provided by community mental health centers. This new rule replaces Rule R414-33A that will be repealed. The rule further delineates reimbursement methodology for nine of the mental health centers where reimbursement for services is included in the capitation rate. For the remaining two fee-for-service mental health centers, providers are paid on a fee-for-service basis for services provided.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3 and 42 USC 1396n(g)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no impact to the state budget associated with this rulemaking because the policy for targeted case management for the seriously mentally ill is simply being implemented in rule pursuant to Subsection 26-18-3(2)(a).

❖ LOCAL GOVERNMENTS: There is no impact to local governments as a result of this rulemaking because the policy for targeted case management for the seriously mentally ill is simply being implemented in rule pursuant to Subsection 26-18-3(2)(a).

❖ OTHER PERSONS: There is no impact to other persons as a result of this rulemaking because the policy for targeted case management for the seriously mentally ill is simply being implemented in rule pursuant to Subsection 26-18-3(2)(a).

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the policy for targeted case management for the seriously mentally ill is simply being implemented in rule pursuant to Subsection 26-18-3(2)(a).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule adopts existing Medicaid policies for targeted case management for the seriously mentally ill and therefore should have no new fiscal impact on business. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-33D. Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness.

R414-33D-1. Introduction and Authority.

(1) This rule outlines targeted case management services provided to individuals with serious mental illness to assist in gaining access to needed medical, educational, social, and other services.

(2) This rule implements 42 USC 1396n(g), which authorizes targeted case management services and is authorized under UCA 26-18-3.

R414-33D-2. Definitions.

"Serious mental illness" means a serious and often persistent mental illness in an adult or a serious emotional disorder in a child that severely limits the individual's welfare and development or functioning.

R414-33D-3. Client Eligibility Requirements.

Targeted case management is available for individuals with serious mental illness who are categorically or medically needy.

R414-33D-4. Program Access Requirements.

(1) Targeted case management is provided to individuals with serious mental illness for whom a case management needs assessment completed by a qualified targeted case manager documents that:

(a) the individual requires a comprehensive coordinated system of care and treatment or services from a variety of agencies and providers to meet his documented medical, social, educational, and other needs; and

(b) there is reasonable indication that the individual will access needed services only if assisted by a qualified targeted case manager who in accordance with an individualized case management service plan, locates, coordinates, and regularly monitors the service.

(2) Targeted case management services are at the option of the individual in the target population.

(3) Targeted case management services may not restrict an individual's free choice of providers of case management services or other Medicaid services.

R414-33D-5. Service Coverage.

(1) Covered services include:

(a) assessing and documenting the client's potential strengths, resources and needs;

(b) developing a written, individualized, and coordinated case management service plan to assure the client's adequate access to needed medical, social, educational, and other related services with input from the client, the client's family, and other agencies knowledgeable about the client's needs;

(c) linking the client with community resources and needed services, including assisting the client to establish and maintain eligibility for entitlements other than Medicaid;

(d) monitoring the client's symptomatology, functioning, medications, and medication regimen;

(e) coordinating the client's medications and medication regimen with other providers, (f) coordinating the delivery of needed services, including CHEC screenings and follow-up and coordinating with hospital or nursing facility discharge planners in the 30-day period prior to the patient's discharge into the community;

(g) monitoring to assure the appropriateness and quality of services delivered and that they are being obtained in a timely manner;

(h) instructing the client or caretaker, as appropriate, in independently accessing needed services; and

(i) monitoring the client's progress and continued need for targeted case management and other services.

(2) The agency may bill Medicaid for the above activities only if the activities are identified in the case management service plan and the time spent in the activity involves a face-to-face encounter, telephone or written communication with the client, family, caretaker, service provider, or other individual with a direct involvement in providing or assuring the client obtains the necessary services documented in the service plan.

(3) Case management services provided to a hospital or nursing facility patient are limited to a maximum of five hours per admission.

R414-33D-6. Qualified Providers.

Targeted case management for individuals with serious mental illness must be provided by an individual employed by community mental health centers who is:

(1) a licensed physician, a licensed psychologist, a licensed clinical social worker, a licensed certified social worker, a licensed social service worker, a licensed advanced practice registered nurse, a licensed registered nurse, a licensed professional counselor, a licensed marriage and family counselor; or

(2) an individual working toward licensure in one of the professions identified in subsection (1) to the extent permitted by Utah Code Title 58; or

(3) a licensed practical nurse or a non-licensed individual who has met the State Division of Substance Abuse and Mental Health's training standards for case managers and who is working under the supervision of one of the individuals identified in subsection (1) or (2).

R414-33D-7. Reimbursement Methodology.

(1) For fee-for-service community mental health centers, the Department pays the lower of the amount billed or the rate on the mental health center's fee schedule. The fee schedule was initially established after consultation with provider representatives. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

(2) For capitated community mental health centers, the Department pays monthly premiums to the centers for all mental health services, including targeted case management.

KEY: Medicaid
2005
26-18-3



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-507
Medicaid Long Term Care Managed
Care

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27935

FILED: 05/24/2005, 16:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change adds a definition of a term later used in the rule and clarifies evaluation and reevaluation of the nursing facility level of care.

SUMMARY OF THE RULE OR CHANGE: In Section R414-507-2, the definition of the term "Minimum Data Set-HOME CARE (MDS-HC)" is added to the rule. In Section R414-507-7, the word "Director" is added after Department for specificity purposes, the word "its" is deleted because it does not correspond to the term "Director"; the words "may" and "or" are added while the word "and" is deleted in order to avoid applying the conditions of evaluation and reevaluation simultaneously, the word "initial" is changed to "initially"; the word "evaluates" is changed to "evaluate"; and the word "reevaluates" is changed to "reevaluate."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no impact to the state budget associated with this rulemaking because the changes only add a definition and include language that clarifies evaluation and reevaluation of the nursing facility level of care.

❖ LOCAL GOVERNMENTS: There is no budget impact to local governments as a result of this rulemaking because the changes only add a definition and include language that clarifies evaluation and reevaluation of the nursing facility level of care.

❖ OTHER PERSONS: There is no budget impact to other persons as a result of this rulemaking because the changes only add a definition and include language that clarifies evaluation and reevaluation of the nursing facility level of care.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the changes only add a definition and include language that clarifies evaluation and reevaluation of the nursing facility level of care.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not change current practice in Medicaid as to evaluation of nursing facility level of care. It should not have any fiscal impact on providers. There may be some minor savings to providers resulting from the rule being clearer and more easily applied by providers. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM ON 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-507. Medicaid Long Term Care Managed Care.

R414-507-2. Definitions.

The definitions in R414-1 apply to this rule. In addition:

(1) "Care Coordination" is a process where representatives of Medicaid programs serving an individual, and the individual's attending physician when possible, participate in the exchange of

information and service planning to assure that the individual's health and welfare needs are identified, develop a comprehensive service plan, and implement the service plan to achieve integration of care across programs.

(2) "Long Term Care" (LTC) means a comprehensive array of services provided to persons of all ages who are experiencing chronic functional limitations due to illness, disability or injury.

(3) "LTC Managed Care Project Contractor" is a Medicaid Primary Inpatient Health Plan or a Medicaid Prepaid Mental Health Plan that has contracted with the Medicaid agency to provide a long term care service package as part of its array of covered services.

(4) "Minimum Data Set-HOME CARE (MDS-HC)" is a trademark standardized assessment instrument developed by the nonprofit consortium known as interRAI.

R414-507-7. Evaluation and Reevaluation of Nursing Facility Level of Care.

The Department Director, or ~~its~~ designee, may initially evaluate ~~s and~~, or periodically reevaluate ~~s~~ at least annually each LTC Managed Care enrollee to determine whether the individual meets the admission criteria of R414-502.

KEY: Medicaid
~~February 15,~~ 2005
 26-1-5
 26-18-3



Human Services, Recovery Services
R527-67
 Locate, Use of Subpoena Duces Tecum

NOTICE OF PROPOSED RULE
 (Repeal)

DAR FILE No.: 27938
 FILED: 05/25/2005, 09:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because the authority to issue subpoenas is in Section 62A-11-304.1.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-304.1

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be no change to the state budget due to this repeal. The Office of Recovery Services (ORS) still has the authority to issue subpoenas.
- ❖ LOCAL GOVERNMENTS: Administrative rules of ORS do not apply to local government.
- ❖ OTHER PERSONS: There will be no cost or savings to other persons because ORS still has the authority to issue subpoenas.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost is associated with this change because ORS still has authority to issue subpoenas.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
 RECOVERY SERVICES
 515 E 100 S
 SALT LAKE CITY UT 84102-4211, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kristen Lowe at the above address, by phone at 801-536-0347, by FAX at 801-536-8833, or by Internet E-mail at klowe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.
~~[R527-67. Locate, Use of Subpoena Duces Tecum.~~
~~R527-67-1. Locate, Use of Subpoena Duces Tecum.~~

~~It is the policy of the Office of Recovery Services that a subpoena may be issued by the Office to obtain information about the location or earnings of an obligor if the information cannot be obtained without a subpoena.~~

~~The use of a subpoena for acquiring information from third parties shall be documented and shall be used only when other appropriate locate resources have been used unsuccessfully to locate the obligor.~~

~~KEY: child support, subpoena~~
~~1999~~
~~Notice of Continuation May 3, 2000~~
~~62A-11-304.1]~~



Public Safety, Fire Marshal
R710-4-3
 Amendments and Additions

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 27976
 FILED: 06/01/2005, 23:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on May 10, 2005, in a regularly scheduled Board meeting and voted by motion to amend Rule R710-4 by adding an amendment to deal with fire alarm system nuisance alarms and a clarification.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to Section R710-4-3 are as follows: 1) in Subsection R710-4-3(3.7.5.1), the Board proposes to add a subsection that would require that fire alarm systems that experience unwarranted nuisance alarms would be required to be sensitivity tested. If the nuisance alarms continued after sensitivity testing, the fire alarm system would need to be replaced as required by the Authority Having Jurisdiction; and 2) in Subsection R710-4-3(3.11.3), the Board proposes to add four words to further clarify the allowance for specialized security in occupancies such as hospitals, nursing homes, and assisted living facilities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because the proposed amendments will not affect state government budget by their enactment.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because the proposed amendments will not affect local government budgets by their enactment.

❖ OTHER PERSONS: There could be an aggregate anticipated cost to other persons with the enactment of the rule amendments. If nuisance fire alarms require sensitivity testing to be completed, there could be a cost of approximately \$100 to \$3,000 per occupancy to complete the sensitivity testing depending on the size of the structure. If the completed adjustments of the fire alarm sensitivity did not reduce nuisance fire alarms, replacement of the fire alarm system could cost from a few thousand dollars to as much as \$100,000 depending on the size and use of the building. To establish a complete and definitive estimation on an aggregate cost to other persons is impossible to complete due to the fact of the unknown number requiring sensitivity testing and the unknown number of systems that would fail again after sensitivity testing and have to be replaced.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs would be from approximately \$100 to \$3,000 per fire alarm system to have the system sensitivity tested. Costs could be from a few thousand dollars to \$100,000 to replace the fire alarm system if a reasonable expectation of sensitivity cannot be obtained when the adjustments are made.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment that would require sensitivity testing on fire alarm systems and possibly require replacement on systems that cannot have nuisance fire alarms lowered to a reasonable degree, would normally only affect the older fire alarm systems. These systems are normally over 20 years of age and many times

cannot be adjusted to stop excessive false alarms. With regard to public safety, an overage of false fire alarms places the responding fire and police agencies and the public at risk as they respond with full alarm to only discover another false alarm. Robert Flowers, Commissioner

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/18/2005

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

R710. Public Safety, Fire Marshal.
R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.
R710-4-3. Amendments and Additions.

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3.7 Fire Alarm Systems

3.7.1 Required Installations

3.7.1.1 All state-owned buildings, college and university buildings, other than institutional, with an occupant load of 300 or more, all schools with an occupant load of 50 or more, shall have an approved fire alarm system with the following features:

3.7.1.1.1 Smoke detectors shall be installed throughout all corridors and spaces open to the corridor at the maximum prescribed spacing of thirty feet on center and no more than fifteen feet from the walls or smoke detectors shall be installed as required in NFPA, Standard 72, Section 5.3.

3.7.1.1.2 In non or partially fire sprinklered buildings, automatic detectors shall be installed in each enclosed space, other than corridors, at maximum prescribed spacing as specified in Section 3.7.1.1.2 for smoke detectors or by the manufacturer's listing for heat detectors.

3.7.1.1.3 Manual fire alarm boxes shall be provided as required. In public and private elementary and secondary schools, manual fire alarm boxes shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the AHJ.

3.7.2 Main Panel

3.7.2.1 An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which

displays the location of all alarm zones and if applicable, device addresses.

3.7.2.2 The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the SFM. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.

3.7.3 System Wiring, Class and Style

3.7.3.1 Fire alarm system wiring shall be designated and installed as a Class A circuit in accordance with the following style classifications:

3.7.3.1.1 The initiating device circuits shall be designated and installed Style D as defined in NFPA, Standard 72.

3.7.3.1.2 The notification appliance circuits shall be designated and installed Style Z as defined in NFPA, Standard 72.

3.7.3.1.3 Signaling line circuits shall be designated and installed Style 6 or 7 as defined in NFPA, Standard 72.

3.7.4 Fan Shut Down

3.7.4.1 The fan shut down relay(s) in the air handling equipment shall be normally energized, and connected through and controlled by a normally closed contact in the fire alarm panel, or a normally closed contact of a remote relay under supervision by the main panel. The relays will transfer on alarm, and shall not restore until the panel is reset.

3.7.4.2 Duct detectors required by the IMC, shall be interconnected, and compatible with the fire alarm system.

3.7.5 Nuisance Alarms

3.7.5.1 IFC, Chapter 9, Section 907.20.5 is amended to add the following sentences: Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.

3.8 Retroactive Installation of Automatic Fire Alarm Systems

3.8.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4 and 907.3.1.9 are deleted.

3.9 Fireworks

3.9.1 IFC, Chapter 33, Section 3301.1.3, Exception 4 is amended to add the following sentence: Fireworks are permitted as allowed in UCA 53-7-220 and UCA 11-3-1.

3.10 Flammable and Combustible Liquids

3.10.1 IFC, Chapter 34, Section 3406.1 is amended to add the following special operation: 8. Sites approved by the AHJ.

3.10.2 IFC, Chapter 34, Section 3406.2 is amended to add the following: On line two after the word "sites" add the words "and sites approved by the AHJ". On line five after the words "borrow pits" add the words "and sites approved by the AHJ".

3.11 Health Care Facilities

3.11.1 LSC Chapters 18, 19, 20 and 21, Sections 18.1.2.4, 19.1.2.4, 20.1.2.2 and 21.1.2.2 (Exiting Through Adjoining Occupancies) exception is deleted.

3.11.2 LSC Chapter 19, Section 19.3.6.1, (Rooms Allowed open to Corridor) exceptions No. 1, No. 5, No. 6, and No. 8 are deleted.

3.11.3 IFC, Chapter 10, Section 1008.1.8.3 is amended to add the following: 5. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require specialized security measures

for their safety, approved access controlled egress may be installed when all the following are met: 5.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or the automatic fire detection system. 5.2 The facility staff can unlock the controlled egress doors by either sensor or keypad. 5.3 The controlled egress doors shall unlock upon loss of power. 6. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IFC, Section 1008.1.8.6.

3.12 Time Out and Seclusion Rooms

3.12.1 Time Out and Seclusion Rooms are allowed in occupancies fully protected by an automatic fire sprinkler system and fire alarm system.

3.12.2 A vision panel shall be provided in the room door for observation purposes.

3.12.3 Time Out and Seclusion Room doors may be fitted with a lock which is not releasable from the inside provided the lock automatically releases by the operation of the fire alarm system or power outage.

3.12.4 Time Out and Seclusion Rooms shall be located where a responsible adult can maintain visual monitoring of the person and room.

KEY: fire prevention, public buildings

~~March 4, 2005~~ July 18, 2005

Notice of Continuation June 12, 2002

53-7-204

Public Safety, Fire Marshal R710-9-6 Amendments and Additions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27975

FILED: 06/01/2005, 23:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on May 10, 2005, in a regularly scheduled Board meeting and voted by motion to amend Rule R710-9 by adding an amendment to deal with fire alarm system nuisance alarms and a clarification.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to Section R710-9-6 are as follows: 1) in Subsection R710-9-6(6.10.3), the Board proposes to add a section that would require that fire alarm systems that experience unwarranted nuisance alarms would be required to be sensitivity tested. If the nuisance alarms continued after sensitivity testing, the fire alarm system would need to be replaced as required by the Authority Having Jurisdiction; and 2) in Subsection R710-9-6(6.11.1), the Board proposes to add four words to further clarify the allowance for specialized security in occupancies such as hospitals, nursing homes, and assisted living facilities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because the proposed amendments will not affect state government budget by their enactment.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the state budget because the proposed amendments will not affect the local government budgets by their enactment.
- ❖ OTHER PERSONS: There could be an aggregate anticipated cost to other persons with the enactment of one of the rule amendments. If nuisance fire alarms require sensitivity testing to be completed, there could be a cost of approximately \$100 to \$3,000 per occupancy to complete the sensitivity testing depending on the size of the structure. If the completed adjustments of the fire alarm sensitivity did not reduce nuisance fire alarms, replacement of the fire alarm system could cost from a few thousand dollars to as much as \$100,000 depending on the size and use of the building. To establish a complete and definitive estimation on an aggregate cost to other persons is impossible to complete due to the fact of the unknown number requiring sensitivity testing and the unknown number of systems that would fail again after sensitivity testing and have to be replaced.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs would be from approximately \$100 to \$3,000 per fire alarm system to have the system sensitivity tested. Costs could be from a few thousand dollars to \$100,000 to replace the fire alarm system if a reasonable expectation of sensitivity cannot be obtain in the adjustments made.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment that would require sensitivity testing on fire alarm systems and possibly require replacement on systems that cannot have nuisance fire alarms lowered to a reasonable degree, would normally only affect the older fire alarm systems. These systems are normally over 20 years of age and many times cannot be adjusted to stop excessive false alarms. With regard to public safety, an overage of false fire alarms places the responding fire and police agencies and the public at risk as they respond with full alarm to only discover another false alarm. Robert Flowers, Commissioner

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/18/2005

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

**R710. Public Safety, Fire Marshal.
R710-9. Rules Pursuant to the Utah Fire Prevention Law.
R710-9-6. Amendments and Additions.**

The following amendments and additions are hereby adopted by the Board for application statewide:

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6.10 Smoke Alarms

6.10.1 IFC, Chapter 9, Section 907.3.2 is amended to add the following: On line three after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.10.2 IFC, Chapter 9, Section 907.3.2.3 is amended to add the following: On line one after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.10.3 IFC, Chapter 9, Section 907.20.5 is amended to add the following sentences: Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.

6.11 Means of Egress

6.11.1 IFC, Chapter 10, Section 1008.1.8.3 is amended to add the following: 5. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require specialized security measures for their safety, approved access controlled egress may be installed when all the following are met: 5.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or the automatic fire detection system. 5.2 The facility staff can unlock the controlled egress doors by either sensor or keypad. 5.3 The controlled egress doors shall unlock upon loss of power. 6. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IFC, Section 1008.1.8.6.

6.11.2 IFC, Chapter 10, Section 1009.3 is amended as follows: On line six of Exception 5 delete "7.75" and replace it with "8". On line seven of Exception 5 delete "10" and replace it with "9".

6.11.3 IFC, Chapter 10, Section 1009.11, Exception 4 is deleted and replaced with the following: 4. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.

6.11.4 IFC, Chapter 10, Section 1009.11.3 is amended to add the following: Exception: Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16mm) and 1.5 inches (38mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6mm) deep on each side and shall be at least 0.5 (13mm) high. Edges within the handgrip shall have a

minimum radius of 0.0625 inch (2mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

6.11.5 IFC, Chapter 10, Section 1012.2 is amended to add the following exception: 3. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards shall form a protective barrier not less than 36 inches (914mm).

6.11.6 IFC, Chapter 10, Section 1027.2 is amended to add the following: On line five after the word "fire" add the words "and building".

6.12 Fireworks

6.12.1 IFC, Chapter 33, Section 3301.1.3 is amended to add the following Exception: 10. The use of fireworks for display and retail sales is allowed as set forth in UCA 53-7-220 and UCA 11-3-1.

6.13 Flammable and Combustible Liquids

6.13.1 IFC, Chapter 34, Section 3404.4.3 is amended as follows: Delete 3403.6 on line three and replace it with 3403.4.

6.14 Liquefied Petroleum Gas

6.14.1 IFC, Chapter 38, Section 3809.12, is amended as follows: Delete 20 from line three and replace it with 10.

6.14.2 IFC, Chapter 38, Section 3809.14 is amended as follows: Delete 20 from line three and replace it with 10.

KEY: fire prevention, law

~~May 3, 2005~~ July 18, 2005

Notice of Continuation June 12, 2002
53-7-204



Tax Commission, Auditing **R865-6F-35** S Corporation Determination of Tax Pursuant to Utah Code Ann. Section 59-7-703

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 27929
FILED: 05/18/2005, 15:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Federal form 1120S line labels have changed; statutory citations have not been updated as the statutes have changed; and obsolete language is no longer necessary.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment updates statutory citations and federal form 1120S line labels, and deletes obsolete language.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-7-703

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Federal form 1120S line labels have changed; statutory citations have not been updated as statutes have changed; and obsolete language is no longer

necessary. All changes are nonsubstantive, and therefore there are no costs or savings to state budget.

❖ LOCAL GOVERNMENTS: None--Federal form 1120S line labels have changed; statutory citations have not been updated as statutes have changed; and obsolete language is no longer necessary. All changes are nonsubstantive, and therefore there are no costs or savings to local government.

❖ OTHER PERSONS: None--Federal form 1120S line labels have changed; statutory citations have not been updated as statutes have changed; and obsolete language is no longer necessary. All changes are nonsubstantive, and therefore there are no costs or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--All changes are nonsubstantive.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact. Pam Hendrickson, Commission Chair

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@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.

R865-6F. Franchise Tax.

R865-6F-35. S Corporation Determination of Tax Pursuant to Utah Code Ann. Section 59-7-703.

~~[A-](1)~~ For purposes of Section ~~[59-7-703(1)(a)(i)]~~ 59-7-703(2)(b)(i), "items of income or loss from Schedule K of the 1120S federal form" shall be calculated by:

~~[+](a)~~ adding back to the line on the Schedule K labeled "~~Income (loss)]~~ Income/loss reconciliation" the amount included on that schedule for:

~~(a)~~(i) charitable contributions; and

~~(b)~~(ii) total foreign taxes paid or accrued.

~~[2-](b)~~ If the S corporation was not required to complete the line labeled "~~Income (loss)]~~ Income/loss reconciliation" on the Schedule K, a pro forma calculation of the amounts for charitable contributions and foreign taxes paid or accrued, and of the amount that would have been entered on the "~~Income (loss)]~~ Income/loss reconciliation" line shall be used for purposes of this rule.

~~[B-](2)~~ The ~~[rate]amount~~ that the S corporation shall withhold for nonresident shareholders shall be computed as follows:

~~[1-](a)~~ ~~[A]~~The deduction shall be equal to 15 percent of the Utah income attributable to nonresident shareholders.

~~(b)~~ The deduction in Subsection (2)(a) shall be allowed in place of a standard deduction, itemized deductions, personal exemptions, federal tax determined for the same period, or any other deductions.

~~(a)~~ An S corporation that is entitled to subtract a loss carryforward and that elected, under the laws in effect prior to January 1, 1994, to use Option A as the method to pay its taxes, shall apply the 15 percent deduction to Utah income attributable to nonresident shareholders after the subtraction for loss carryforwards.

~~2-](3)~~ The tax shall be computed using the maximum Utah individual income tax rate applied to the combined nonresident shareholders' share of the S corporation's income after deduction of the amount allowed under ~~[B-1]~~Subsection (2).

~~[C-](4)~~ An S corporation with nonresident shareholders shall complete Schedule N of form TC-20S, and shall provide the following information for each nonresident shareholder:

~~[1-](a)~~ name;

~~[2-](b)~~ social security number;

~~[3-](c)~~ percentage of S corporation held; and

~~[4-](d)~~ amount of Utah tax paid or withheld on behalf of that shareholder.

KEY: taxation, franchises, historic preservation, trucking industries

~~[October 19, 2004]~~2005

Notice of Continuation April 3, 2002

59-7-703



Tax Commission, Auditing

R865-91-51

Withholding Tax License Pursuant to Utah Code Ann. Section 59-10-405.5

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27930

FILED: 05/18/2005, 16:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 170 (2005) requires a person collecting withholding tax to be licensed with the agency. The license is valid until the holder changes address or ceases to do business. The proposed rule indicates when a licensee shall be determined to have changed address or ceased to do business. (DAR NOTE: S.B. 170 is found at UT L 2005 Ch 198, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: The proposed rule indicates when the agency will invalidate a withholding tax license. These procedures follow the procedures the agency has promulgated for invalidating a sales tax license under Section R865-19S-7.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-405.5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Any impacts would have been taken into account in S.B. 170 (2005).

❖ LOCAL GOVERNMENTS: Any impacts would have been taken into account in S.B. 170 (2005).

❖ OTHER PERSONS: Any impacts would have been taken into account in S.B. 170 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Persons that are not in business will no longer receive forms and returns that a person in business must fill out and return.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses. The Tax Commission will invalidate a withholding tax license when certain events occur and will no longer send forms to businesses that are not active. Pam Hendrickson, Commission Chair

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 cleee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.

R865-91. Income Tax.

R865-91-51. Withholding Tax License Pursuant to Utah Code Ann. Section 59-10-405.5.

(1) The holder of a license issued under Section 59-10-405.5 shall notify the commission:

(a) of any change of address of the business;

(b) of a change of character of the business, or

(c) if the license holder ceases to do business.

(2) The commission may determine that a person has ceased to do business or has changed that person's business address if:

(a) mail is returned as undeliverable as addressed and unable to forward;

(b) the person fails to file four consecutive monthly or quarterly withholding tax returns, or two consecutive annual withholding tax returns;

(c) the person fails to renew its annual business license with the Department of Commerce; or

(d) the person fails to renew its local business license.

(3) If the requirements of Subsection (2) are met, the commission shall notify the license holder that the license will be considered invalid unless the license holder provides evidence within 15 days that the license should remain valid.

(4) A person may request the commission to reopen a withholding tax license that has been determined invalid under Subsection (3).

(5) The holder of a license issued under Section 59-10-405.5 shall be responsible for any withholding tax, interest, and penalties incurred under that license whether those taxes and fees are incurred during the time the license is valid or invalid.

KEY: historic preservation, income tax, tax returns, enterprise zones

[June 29, 2004]2005

**Notice of Continuation April 22, 2002
59-10-405.5**



**Tax Commission, Auditing
R865-19S-8
Bonds and Securities Pursuant to Utah
Code Ann. Section 59-12-107**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 27931
FILED: 05/18/2005, 16:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is being deleted because S.B. 170 (2005) codified the criteria for determining when a sales tax vendor must be bonded. Accordingly, this rule is no longer necessary. (DAR NOTE: S.B. 170 is found at UT L 2005 Ch 198, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: The section is being deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-107

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Any impacts would have been taken into account in S.B. 170 (2005).
- ❖ LOCAL GOVERNMENTS: Any impacts would have been taken into account in S.B. 170 (2005).
- ❖ OTHER PERSONS: Any impacts would have been taken into account in S.B. 170 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: Based on the provisions of S.B. 170 (2005), bond amounts are significantly increased, as are the circumstances under which bonding is required. As a result, some vendors may need to be bonded

who were not bonded before; and others may see an increase in the cost of bonding because of the increased bond amount.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impacts (increased bond amounts) were accounted for when the 2005 Legislature passed S.B. 170. Pam Hendrickson, Commission Chair

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@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.**

~~R865-19S-8. Bonds and Securities Pursuant to Utah Code Ann. Section 59-12-107.~~

~~A. Factors the commission will consider in determining whether a vendor must post security to ensure compliance with the provisions of Title 59, Chapter 12, include:~~

- ~~1. failure to file returns;~~
- ~~2. failure to make payments;~~
- ~~3. filing of returns that are improper; and~~
- ~~4. payment of sales tax with a check that is not honored.~~

~~B. The Tax Commission may accept as security a valid corporate surety bond, United States treasury bond, or other negotiable security it deems adequate.~~

~~C. The bond will be released only upon written request and after a review of all circumstances or upon cessation of business if no liability exists.~~

**]KEY: charities, tax exemptions, religious activities, sales tax
[December 21, 2004]2005
Notice of Continuation April 5, 2002
59-12-107**



Transportation, Motor Carrier, Ports of
Entry
R912-3
Overweight and/or Oversize Permitted
Vehicle Restrictions on Certain
Highways Throughout the State of Utah

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 27953

FILED: 06/01/2005, 13:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department is issuing a new rule (R912-11) to take the place of this one. The Department has decided to reorganize some of its rules; consequently, Rule R912-11 is replacing Rule R912-3. (DAR NOTE: The proposed new Rule R912-11 is under DAR No. 27952 in this issue.)

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-7-406

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No increase or decrease to the State since the rule is actually being replaced.
- ❖ LOCAL GOVERNMENTS: Neither this rule nor the new rule affect local government roads so there will be no costs or savings to local government
- ❖ OTHER PERSONS: Because this rule is simply being replaced, this repeal will result in no additional costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this rule is simply being replaced, this repeal will result in no additional costs or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Repeal of this rule will have no fiscal impact on business. John R. Njord, Executive Director

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

TRANSPORTATION
MOTOR CARRIER, PORTS OF ENTRY
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@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: John R. Njord, Executive Director

R912. Transportation, Motor Carrier, Ports-of-Entry.

~~[R912-3. Restriction of Truck Traffic on SR-128. Legal and Permitted Vehicles.~~

~~R912-3-1. Restrictions on Large Commercial Vehicles Traveling SR-128.~~

~~—(1) The Utah Transportation Commission limits the truck traffic to local usage along SR-128 from near Moab to I-70 in Grand County, as follows:~~

- ~~—(a) No through commercial truck over 55,000 pounds GVW.~~
- ~~—(b) Trucks over 55,000 pounds GVW limited to local usage of businesses or residents along SR-28.~~

~~KEY: permits, safety regulation, trucks
1993~~

~~Notice of Continuation June 25, 2002~~

~~72-1-102~~

~~72-7-408~~

~~72-1-201]~~



Transportation, Motor Carrier, Ports of
Entry
R912-9
Pilot/Escort Requirements and
Certification Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27970

FILED: 06/01/2005, 17:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed new rule is designed to certify pilot/escort drivers and list the mandatory vehicle equipment for pilot/escort services.

SUMMARY OF THE RULE OR CHANGE: This rule establishes procedures for certification, including the types of items that must be covered in classes, documentation, equipment standards, signs, and insurance requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-7-406

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There may be some costs resulting from oversight of the general certification process. This would primarily involve clerical work, such as processing mail, permits, and time spent evaluating whether an applicant has met requirements. It is impossible to estimate the costs since it is a new program.

❖ LOCAL GOVERNMENTS: This rule does not apply to local governments. Therefore, there should be no cost.

❖ OTHER PERSONS: The industry will incur costs from needing to attend certification classes. At this time, we do not know how much these costs will be.

COMPLIANCE COSTS FOR AFFECTED PERSONS: We do not know what the costs will be for individuals to receive certification lessons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on business should be minor. It is outweighed by the need to require certification of pilot/escort vehicles so as to improve public safety.

John R. Njord, Executive Director

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

TRANSPORTATION
MOTOR CARRIER, PORTS OF ENTRY
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@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: John R. Njord, Executive Director

R912. Transportation, Motor Carrier, Ports of Entry.**R912-9. Pilot/Escort Requirements and Certification Program.****R912-9-1. Authority.**

This rule is enacted under the authority of Section 72-7-406.

R912-9-2. Purpose.

This rule establishes procedures for pilot/escort driver certification and vehicle equipment requirements for pilot/escort services.

R912-9-3. Definitions.

"Department" means the Utah Department of Transportation.

"Division" means the Motor Carrier Division.

R912-9-4. Pilot/Escort Driver Requirements.

Individuals who operate a pilot/escort vehicle must meet the following requirements:

(1) Must be a minimum of 18 years of age.

(2) Possess a valid drivers license for the state jurisdiction in which he/she resides.

(3) Pilot/Escort driver's will be issued a certification card by an authorized Qualified Certification Program as outlined in R912-10, and shall have it in their possession at all times while in pilot/escort operations.

(4) Initial certification will be valid for four years from the date of issue. One additional four-year certification may be obtained through a mail in or on-line recertification process provided by a Qualified Pilot/Escort Training Entity/Institution.

(5) Pilot/escort drivers must provide a current (within 30 days) Motor Vehicle Record (MVR) certification to the Qualified Certification Program at the time of the course.

(6) Current certification for pilot/escort operators will be honored through expiration date. Prior to expiration of pilot/escort certification it will be the responsibility of the operator to attend classroom instruction provided by an authorized Pilot/Escort Qualified Certification Program. A list of these providers can be obtained by calling (801) 965-4508.

R912-9-5. Driver Certification Process.

(1) Drivers domiciled in Utah must complete a pilot/escort certification course authorized by the Department. A list of authorized instructors may be obtained by contacting (801) 965-4508.

(2) Pilot/ Escort drivers domiciled outside of Utah may operate as a certified pilot/escort driver with another State's certification credential, provided the course meets the minimum requirements outlined in the Pilot/ Escort Training Manual - Best Practices Guidelines as endorsed by the Specialized Carriers and Rigging Association, Federal Highway Administration, and the Commercial Vehicle Safety Alliance; and/or

(3) The Department may enter into a reciprocal agreement with other states provided they can demonstrate that course materials are comprehensive and meet minimum requirements outlined by the Department.

(4) Pilot/escort driver certification expires four years from the date issued. It will be the responsibility of the driver to maintain certification.

R912-9-6. Suspensions and Revocations of Pilot/Escort Driver Certification.

Pilot/escort drivers may have their certification suspended or revoked by the Department if convicted of a disqualifying offense.

(1) Drivers convicted of serious traffic violations such as excessive speed, reckless driving and driving maneuvers reserved for emergency vehicles, driving under the influence of alcohol or controlled substances may have their certification suspended or revoked by the Department.

(2) The Department may suspend for first offenses up to one year. Subsequent offenses may result in permanent revocation of driver certification.

R912-9-7. Steering Committee. Appeal Process.

When a driver is denied pilot/escort-driving privileges for reasons other than the conditions set forth in R912-9-6, the individual may file an appeal. The appeals shall be handled by a

steering committee created by the Division. The steering committee shall have the powers granted to the Deputy Director in R907-1-3 for appeals from other Motor Carrier Division administrative actions. This committee's decision, if adopted by the Director of the Motor Carrier Division, will be considered a final agency order under the Utah Administrative Act.

R912-9-8. Pilot/Escort Vehicle Standards.

(1) Pilot/Escort vehicles may be either a passenger vehicle or a two-axle truck with a 95 inch minimum wheelbase and a maximum gross vehicle weight of 12,000 lbs and properly registered and licensed as required under Sections 41-1a-201 and 41-1a-401.

(2) Equipment and load shall not reduce visibility or mobility of pilot/escort vehicle while in operation.

(3) Trailers may not be towed at any time while in pilot/escort operations.

(4) Pilot/escort vehicles shall be equipped with a two-way radio capable of transmitting and receiving voice messages over a minimum distance of one-half mile. Radio communications must be compatible with accompanying pilot/escort vehicles, utility company vehicles, permitted vehicle operator and police escort, when necessary.

R912-9-9. Pilot/Escort Vehicle Signing Requirements.

(1) Sign requirements on pilot/escort vehicles are as follows:

(a) Pilot escort vehicles must display an "Oversize Load" sign, which shall be mounted on the top of the pilot/escort vehicle.

(b) Signs must be 5 feet by 10 inches in size, with a solid yellow background and 8 inch high by 1-inch wide black letters.

(c) The sign for the front/pilot escort vehicle shall be displayed so as to be clearly legible and readable by oncoming traffic at all times.

(d) The rear pilot/escort vehicle shall display its sign so as to be readable by traffic overtaking from the rear and clearly legible at all times.

R912-9-10. Pilot/Escort Vehicle Lighting Requirements.

(1) Two methods of lighting are authorized by the Department. Requirements are as follows:

(a) Two AAMVA approved amber flashing lights mounted on each side of the required sign. These shall be a minimum of 6 inches in diameter with a capacity of 60 flashes per minute with warning lights illuminated at all times during operation, or

(b) An AAMVA approved amber rotating, oscillating, or flashing beacon/light bar mounted on top of the pilot/escort vehicle. This beacon/light bar must be unobstructed and visible for 360 degrees with warning lights illuminated at all times during operation.

R912-9-11. Pilot/Escort Vehicle Equipment Requirements.

(1) Pilot/Escort vehicles shall be equipped with the following safety items:

(a) Standard 18 inch or 24 inch red/white "STOP" and black/orange "SLOW" paddle signs. Construction zone flagging requires the 24-inch sign.

(b) Nine reflective triangles.

(c) Eight red-burning flares, glow sticks or equivalent illumination device approved by the Department.

(d) Three orange, 18 inch high cones.

(e) Flashlight with two or more D cell batteries.

(f) Orange hardhat and Class 2 safety vest for personnel involved in pilot/escort operations.

(g) A height-measuring pole made of a non-conductive, non-destructive, flexible or frangible material, when escorting a load exceeding 16 feet in height.

(h) Fire extinguisher.

(i) First aid kit.

(j) One spare "oversize load" sign, 7 feet by 18 inches.

(k) Spare tire, tire jack and lug wrench.

(l) Handheld radio or other form of communication for operations outside pilot/escort vehicles.

(2) Vehicles shall not have unauthorized equipment on the vehicle such as those generally reserved for law enforcement personnel.

R912-9-12. Insurance.

(1) Drivers shall carry proof of current insurance as authorized under Section 31-A-22-301.

(2) Pilot/escort vehicles shall have a minimum amount of \$750,000 liability.

R912-9-13. Operating Conditions Requiring Pilot/Escort Vehicles.

(1) One pilot vehicle is required for vehicles/loads, which exceed the following dimensional conditions:

(a) 12 feet in width on secondary highways (non-interstate) and 14 feet in width on divided highways (interstates).

(b) 105 feet in length on secondary highways and 120 feet in length on divided highways.

(c) Overhangs in excess of 20 feet shall have pilot/escort vehicle positioned to the front for front overhangs and to the rear for rear overhangs.

(2) Two pilot/escort vehicles are required for vehicles/loads which exceed the following dimensional conditions:

(a) 14 feet in width on secondary highways and 16 feet in width on divided highways, except for

(i) Mobile and manufactured homes with eaves 12 inches or less on either roadside or curbside shall be measured for box width only and assigned escort vehicles as specified above in R912-9-1.

(ii) Mobile and manufactured homes with eaves greater than 12 inches shall be measured for overall width including eaves and pilot/escort vehicles assigned as specified above R912-9-2; or

(b) 120 feet in length on secondary highways.

(c) 16 feet in height on all highways.

(d) When otherwise required by the Department.

R912-9-14. Convoy Allowances For Permitted Vehicles.

The movement of more than one permitted vehicle in convoy is allowed provided the following requirements are met and authorization is granted by the Division.

(1) The distance between vehicles will not be less than 500 feet nor more than 700 feet.

(2) The number of special permitted vehicles in convoy will not exceed four.

(3) The distance between multiple convoys will be a minimum of one mile.

(4) Except as authorized by the Division, no load in the convoy will exceed 12 feet in width.

(5) Guidelines for convoys of long loads:

TABLE

Overall Length	Convoy Limit	Pilot/Escort Vehicle
95 - 119 ft.	Four	Front and rear
120 - 140 ft.	Two	Front and rear
*Over 140 ft.	--	--

*Must obtain authorization from the Division by calling (801) 965-4508

R912-9-15. Pre-Trip Planning and Coordination Requirements.

(1) A coordination and planning meeting shall be held prior to load movement. The driver(s) carrying or pulling the oversize load(s), the pilot/escort vehicle driver(s), law enforcement officers (if assigned), Department personnel (if involved), and public utilities company representatives (if involved) shall attend. This meeting shall include discussion and coordination on the conduct of the move, including at least the following topics:

- (a) The person designated as being in charge (usually a Department representative or a law enforcement officer).
- (b) Authorized routing and permit conditions. Ensure that all documentation is distributed to all appropriate individuals involved in the move.
- (c) Communication and signals coordination.
- (d) Verification/measurement of load dimensions. Compare with permitted dimensions
- (e) Copies of permit and routing documents shall be provided to all parties involved with the permitted load movement.

R912-9-16. Permitted Vehicle Restrictions on Certain Highways.

Certified pilot/escort operators must refer to highway restrictions specified in R912-11 prior to all load movements.

KEY: permitted vehicles, trucks, pilot/escort vehicles
2005
72-1-201
72-7-406



Transportation, Motor Carrier, Ports of Entry
R912-10
 Requirements for Pilot/Escort Qualified Training and Certification Program

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR File No.: 27971
 FILED: 06/01/2005, 17:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed new rule is issued in order to establish the standards and procedures for persons to become trainers for the pilot/escort certification class (created in Rule R912-9). (DAR NOTE: The proposed new Rule R912-9 is under DAR No. 27970 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This rule sets out how pilot/escort certification trainers can be approved to offer courses by the Department.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-2-1 and 72-7-406

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The cost, if any, of this program will be minimal. It may consist of basic clerical items, like processing applications as well as time spent in reviewing applications and deciding whether the applicant qualifies. It is unknown how much this will cost since it is a new program.
- ❖ LOCAL GOVERNMENTS: This rule does not affect local government so they will incur no cost.
- ❖ OTHER PERSONS: The pilot/escort certification program does not currently exist. Though obtaining certification may cost pilot/escort drivers, it will not cost other persons anything. However, if a person chooses to obtain licensure to become a trainer, he or she will incur costs to meet the requirements of this rule. Because this program is new, potential cost cannot be estimated at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: People will only be affected if they choose to apply to become a trainer. There will be no other cost to members of the public. It is unknown what the cost will be since the program is new.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Establishing standards for certification trainers and courses is essential to a sound certification program. It outweighs any cost that a business may incur should it choose to apply for the program. The rule may actually assist business by creating a market need, i.e., the ability to offer pilot/escort certification courses. John R. Njord, Executive Director

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

TRANSPORTATION
 MOTOR CARRIER, PORTS OF ENTRY
 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@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: John R. Njord, Executive Director

R912. Transportation, Motor Carrier, Ports of Entry.**R912-10. Requirements for Pilot/Escort Qualified Training and Certification Programs.****R912-10-1. Purpose.**

This rule establishes standards and procedures for third-party instructors to train and certify Utah pilot/escort drivers for and on behalf of the Utah Department of Transportation.

R912-10-2. Definitions.

"Department" means the Utah Department of Transportation.

"Division" means the Motor Carrier Division.

R912-10-3. Application Process.

(1) Application to become a third-party pilot/escort trainer/instructor shall be made on a form furnished by the Division, and shall include the following:

- (a) Name and address of entity/institution.
- (b) List of instructors.
- (c) Resumes of each instructor outlining related experience in the pilot/escort, heavy haul, academia, or commercial vehicle enforcement fields.
- (d) A copy of entity/institution's business license.
- (e) Sample of digital image certification card that will be issued to students upon completion of the course.
- (f) Sample of "Flagger" certification card that will issued to students upon completion of the course.
- (g) Procedural guidelines that outlines security measures implemented to safeguard student's personal information.
- (h) Copies of all course curriculum and testing materials. These materials will be reviewed and approved by the Division to ensure that all requirements are met. An overview of course curriculum requirements are outlined in R912-10-4.
- (i) Entity/institution must document procedures that will be followed to verify student's Motor Vehicle Record (MVR) certification and the collection of insurance forms submitted by the applicant at the time of examination.
- (i) Students shall be notified either by mail prior to class or when they call in to sign up that they will need to bring the MVR and proof of insurance with them to the class.
- (ii) Students will not be certified until this documentation is provided to the entity/institution.
- (iii) Entity/institution shall only accept an original MVR certification that is current within 30 days of classroom instruction and proof of insurance from insurance provider.

R912-10-4. Course Curriculum Requirements.

(1) An extensive course curriculum description and requirements are outlined in the application package that can be obtain by contacting the Division at (801) 965-4508. Course curriculum to certify pilot/escort drivers to operate in Utah must cover the following topics:

- (a) Department rules and regulations governing over-size load movements.
- (b) Pilot/escort operations.
- (c) Flagging maneuvers for over dimensional loads.
- (d) Oversize/Overweight load movement, coordination, planning and communication requirements/best practices.
- (e) Pilot/escort vehicle positioning and situational training.
- (f) Rail grade crossing safety.
- (g) Routing techniques, including pre-trip surveys.
- (h) Insurance coverage requirements and liability issues.

R912-10-5. Testing Procedures.

Testing materials shall be submitted to the Division for approval. Tests should be structured in accordance with the following guidelines:

- (1) Minimum of 40 question exam. A minimum of two different examinations shall be submitted and used randomly during the instruction of the course, structured as follows:
 - (a) 12 Fill in the blank;
 - (b) 12 Multiple choice;
 - (c) 12 True/False
 - (d) 1 - 6 questions dealing with safety equipment;
 - (e) 1 - 4 questions dealing with the duties of pilot/escort drivers;
 - (f) 1 - 6 questions dealing maintenance of equipment;
 - (g) 1 - 6 questions dealing with items that must be collected in a route survey.
- (2) Grading of examinations - Provide explanation of how this will be administered.
- (3) Students must pass with a 80% score to be certified.
- (4) Students receiving less than 80% score will be allowed to attend one additional class without additional cost except for reimbursement of any additional materials and postage costs.
- (5) It will be the responsibility of the entity/institution to provide a list of students that attended the course and the corresponding grade to the Department, or approved entity, within 72 hours of the completion of the course.

R912-10-6. Applicant Recertification Procedures.

- (1) Entity/institution shall provide means in which an individual may be re-certified either mail or via Internet.
- (2) Entity/institution shall submit written procedures documenting the process for the proctoring of the examination that will allow the applicant re-certification. The examination shall not be a duplicate of the examination used during the initial certification process and should be constructed as to educate student on updates pertaining to pilot/certification and legal requirements.
- (3) A copy of the individual's resume proctoring the exam must be submitted to the Division. Documentation must be provided to indicate the process in which the individual proctoring the exam ability to obtain verify applicant's Motor Vehicle Record (MVR) check and the collection of insurance forms submitted by the applicant at the time of re-certification.
- (4) Re-certification tests shall be structured as outlined in R912-10-5 with the exception, that the entity replace R912-10-5(1)(d), (e), (f) and (g), with four essay questions.
- (5) Applicant's receiving less than 80% score will be allowed to retake the certification exam one additional time at no additional class without additional cost except for reimbursement of any additional materials and postage costs.
- (6) Students receiving less than 80% score will be allowed to attend one additional class or certify by mail or online without additional cost except for reimbursement of any additional materials and postage costs.
- (7) It will be the responsibility of the entity/institution to provide a list of applicants that have successfully re-certified along with the corresponding grade to the Department, or approved entity, within 72 hours of the date of re-certification.

R912-10-8. Training Costs.

(1) Costs associated with providing classroom instruction, materials, testing and credentialing will be the responsibility of the

authorized training entity/institution. These costs may be passed on to the students for certification in the form of tuition determined by the training entity/institution based on business model and expenses.

(2) Cost proposal and course fees must be submitted to the Department for approval as part of the application process.

R912-10-9. Suspensions and Revocations of Pilot/Escort Training Entities/Institutions.

The Department may suspend or revoke the entity/institution's ability to provide services if the entity/institution fails to meet conditions and requirements set forth under this rule. If an entity/institution has its authority to provide services revoked or suspended, the entity/institution may appeal the decision.

R912-10-10. Steering Committee. Appeal Process.

When an entity/institution's authority is revoked or suspended, the entity/institution may file an appeal. The appeals shall be handled by a steering committee created by the Division. The steering committee shall have the powers granted to the Department's Deputy Director in R907-1-3 for appeals from other Division administrative actions. This committee's decision, if adopted by the Director of the Division, will be considered a final agency order under the Utah Administrative Act.

R912-10-11. Annual review of Rates, Fees and Certification Process.

The Division has the right to review rates, fees, procedures, and the certification process established by the entity/institution whenever the Division deems it necessary to insure compliance with this rule.

R912-10-12. Record Retention and Data Management Requirements.

(1) Authorized Pilot/Escort Qualified Training and Certification Entities/Institutions shall maintain the following certification and recertification records for a period of eight years:

- (a) Student's name, address, and contact information.
- (b) Driver's license number, original MVR and original proof of insurance information from insurance provider.
- (c) Copy of each student's written exam.
- (d) Digital copy of certification/flagger card, including photo.
- (e) Training and expiration dates on all students.
- (f) Recertification and expiration dates.
- (g) List of instructors/proctors/administrators, copy of their resumes and date of classroom instruction and/or recertification dates providing services.

(2) Records may be scanned and kept electronically provided entity/institution has necessary data backup and retrieval procedures.

(3) The Division has the right to review any records retained and may observe the instruction given both in the classroom and through the re-certification process whenever the Division deems it necessary to insure compliance with this rule.

(4) The loss, mutilation or destruction of any records which an entity/institution is required to maintain, must be immediately reported by the entity/institution by affidavit stating:

- (a) The date such records were lost, mutilated, or destroyed; and
- (b) The circumstances involving such loss, mutilation, or destruction.

(5) All records must be retained by the entity/institution for eight years, with the exception of the computerized file thereof,

which is to be kept permanently, during which time they shall be subject to inspection by the Division during reasonable business hours. In the event that the entity/institution goes out-of-business, the permanent record shall be submitted by the entity/institution to the Division.

(6) Upon completion of each training course or re-certification a list of each student shall be electronically uploaded to the Division or its authorized agent within 72 hours of completion of course. Authorized entity/institution's will be provided additional information regarding upload and data set requirements.

(7) All records, including computerized records, must be provided to the Division when requested for the purpose of an audit or review of the entities/institution's records. Failure to provide all records as requested by the Division is a violation of this rule.

(8) Entity/Institution's shall maintain accurate, up to date records. Failure to do so is a violation of this rule.

R912-10-13. Consumer Protection Information.

The Division shall make consumer protection information available to the public that may use the services to obtain pilot/escort vehicle certification. To obtain such information, the public can call the Division at (801) 965-4508.

KEY: permitted vehicles, trucks, pilot/escort vehicles
2005

72-1-201
72-7-406



Transportation, Motor Carrier, Ports of Entry **R912-11** Overweight and/or Oversize Permitted Vehicle Restrictions on Certain Highways Throughout the State of Utah

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27952

FILED: 06/01/2005, 12:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is issued in order to ensure the safety of the general public and the commercial/specialized carrier industry. It does so by clearly defining permit restrictions, including those of certified pilot/vehicle requirements. These restrictions are necessary because the highways in question are unsafe to an extent atypical of the standard highway due to sight distances, curvatures, significant grade changes, and other geometric conditions.

SUMMARY OF THE RULE OR CHANGE: The rule clarifies overweight- and oversize-permitted restrictions and lists the restrictions on particular roads.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-7-406

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The rule will not require additional action by the state and, therefore, should not result in any additional cost. However, the restriction of certain vehicles is expected to reduce wear and tear and, consequently, reduce the State's maintenance costs.

❖ LOCAL GOVERNMENTS: This rule does not affect local government roads and will neither increase nor decrease any costs to localities.

❖ OTHER PERSONS: The motor carrier industry may incur additional indirect costs by requiring a rerouting of traffic from the restricted roads. The Department does not know how many motor carrier vehicles will need to be rerouted or the length of the additional trip and, therefore, cannot now estimate the additional cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In order to comply with this rule, the industry may have to reroute restricted vehicles to other roads. The Department does not know how many motor carrier vehicles will need to be re-routed or the length of the additional trip and, therefore, cannot now estimate the additional cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Section 72-7-406 allows the Department to permit overweight and oversize vehicles. This rule will assist in the permitting process by specifically listing roads that are restricted. Though businesses may incur some costs due to the rule, restricting overweight and oversize vehicles should save the State costs in maintenance. The savings to the State and the public outweighs the costs to the industry and fulfills the Department's mission to protect the state's transportation system. John R. Njord, Executive Director

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

TRANSPORTATION
MOTOR CARRIER, PORTS OF ENTRY
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@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: John R. Njord, Executive Director

R912. Transportation, Motor Carrier, Ports of Entry.

R912-11. Overweight and/or Oversize Permitted Vehicle Restrictions on Certain Highways Throughout the State of Utah.

R912-11-1. Purpose.

The purpose of this rule is to ensure safety for the commercial/specialized carrier industry and the general motoring public by clearly defining oversize and/or overweight permitted vehicle restrictions, including certified pilot/escort vehicle requirements, for certain highways throughout the State of Utah. These highways present hazards above and beyond the typical highway due to sight distance, curvatures, significant grades and other geometric conditions.

R912-11-2. Exceptions.

(1) The Department may grant written authorization for vehicles engaged in public works projects with an origin or destination within the restricted portion of the highways listed below.

(2) Longer Combination Vehicles (LCVs) are exempt from additional pilot/escort vehicle requirements.

(3) The Department may grant temporary waivers to highway prohibitions provided additional police and/or certified pilot/escort vehicles are required. Other safety measures (i.e., road closure, utility vehicle escorts, time of day limitations, etc.) may be required before a waiver is granted.

R912-11-3. State Route 6 from the Nevada/Utah State Line to Delta.

Vehicles or loads exceeding 14 feet 6 inches in width must have authorization from the UDOT, Motor Carrier Division. This authorization can be obtained by calling (801) 965-4508.

R912-11-4. State Route 9 from Hurricane (Reference Post 10) to La Verkin (Reference Post 13).

Vehicles or loads exceeding 12 feet in width require two certified pilot/escort vehicles.

R912-11-5. State Route 9 from the Junction of State Route 17 Eastbound to Zion National Park and from State Route 89 West to Zion National Park.

(1) Vehicles/loads exceeding 8 feet 6 inches in width requires one certified pilot/escort vehicle.

(2) Vehicles/loads exceeding 10 feet in width require two certified pilot/escort vehicles.

(3) Vehicles/loads exceeding 14 feet in width require, in addition to certified pilot/escort vehicles, two police escorts.

(4) Commercial vehicles, regardless of dimensions, are prohibited through Zion National Park.

R912-11-6. State Route 12 Between the Junctions of State Route 89 and State Route 24 (near Torrey, Utah).

(1) Vehicles/loads exceeding 10 feet in width require one certified pilot/escort vehicle.

(2) Vehicles/loads exceeding 12 feet in width require two certified pilot/escort vehicles.

(3) Vehicles/loads exceeding 14 feet in width require, in addition to certified pilot/escort vehicles, two police escorts.

R912-11-7. State Route 14 Between Reference Post 2 and Reference Post 19.

- ____ (1) Vehicles/loads exceeding 8 feet 6 inches in width require one certified pilot/escort vehicle.
- ____ (2) Vehicles/loads exceeding 10 feet in width require two certified pilot/escort vehicles.
- ____ (3) Vehicles/loads exceeding 12 feet in width are prohibited.

R912-11-8. State Route 17 Between Interstate 15 (RP 0) and La Verkin (RP6.07).

- ____ (1) Vehicles or loads exceeding 10 feet in width require one certified pilot/escort vehicle.
- ____ (2) Vehicles or loads exceeding 12 feet in width require two certified pilot/escorts vehicles.

R912-11-9. State Route 20 Between Interstate 15 (RP 0) and State Route 89 (RP 21).

____ Vehicles or loads exceeding 10 feet in width and 75 feet in length are prohibited.

R912-11-10. State Route 24 Between State Route 12 (Torrey) and State Routes 24 and 95 (Hanksville).

- ____ (1) Vehicles or loads exceeding 10 feet in width require one certified pilot/escort vehicle.
- ____ (2) Vehicles or loads exceeding 12 feet in width require two certified pilot/escort vehicles.

R912-11-11. State Route 29 Between Orangeville and Joe's Valley Reservoir.

____ Vehicles or loads exceeding 95 feet in length or 10 feet in width require two certified pilot/escort vehicles.

R912-11-12. State Route 31 West of Electric Lake Between RP 22 and RP 0.

- ____ (1) Vehicles or loads exceeding 10 feet in width and/or 80 feet in length require one certified pilot/escort Vehicle.
- ____ (2) Vehicles or loads exceeding 12 feet in width are prohibited.

R912-11-13. State Route 39 Between State Route 203 (Harrison Blvd at RP 9) and Pineview Reservoir.

____ Vehicles or loads exceeding 10 feet in width are prohibited.

R912-11-14. State Route 39 Between Pineview Reservoir and State Route 16 (Woodruff at RP 67).

____ Vehicles or loads exceeding 10 feet in width and/or 80 feet in length require two certified pilot/escort vehicles.

R912-11-15. State Route 43 and 44 Between Wyoming (RP 0) and State Route 191 (RP 28).

____ Vehicles or loads exceeding 95 feet in length require two certified pilot/escort vehicles.

R912-11-16. State Route 46 Between the Colorado State line and RP 18.

- ____ (1) Vehicles or loads exceeding 10 feet in width and/or 80 feet in length require one certified pilot/escort vehicle.
- ____ (2) Vehicles or loads exceeding 12 feet in width and/or 110 feet in length are prohibited.

R912-11-17. State Route 56 Between Cedar City (RP 61) and the Nevada State Line (RP 0).

- ____ (1) Vehicles or loads exceeding 12 feet in width require one certified pilot/escort vehicle.
- ____ (2) Vehicles or loads exceeding 14 feet in width require two certified pilot/escort vehicles.

R912-11-18. State Route 59 Between RP 19 and RP 23 (Hurricane Hill).

- ____ (1) Vehicles or loads exceeding 12 feet in width and/or 85 feet in length require one certified pilot/escort vehicle.
- ____ (2) Vehicles or loads exceeding 14 feet in width and/or 95 feet in length require two certified pilot/escort vehicles.
- ____ (3) Vehicles or loads exceeding 14 feet 6 inches in width must have authorization from the UDOT, Motor Carrier Division. This authorization can be obtained by calling (801) 965-4508.

R912-11-19. Logan Canyon Between RP 373 and RP 415.

- ____ (1) Vehicles or loads exceeding 10 feet in width and/or 80 feet in length require one certified pilot/escort vehicle.
- ____ (2) Vehicles or loads exceeding 12 feet in width are prohibited.

R912-11-20. State Route 89 Between Kanab and Interstate 70.

____ Vehicles or loads exceeding 10 feet in width and 75 feet in length require one certified pilot/escort vehicle.

R912-11-21. State Route 92 Between Highway 189 (Provo Canyon) and the Sundance Ski Resort.

____ All oversize loads require two certified pilot/escort vehicles.

R912-11-22. State Route 128 Between Interstate 70 and State Route 191 (RP 0 - RP 42).

____ All oversize and vehicles or loads exceeding 55,000 pounds GVW are prohibited.

R912-11-23. State Route 143 Between RP 3 and RP 20 (Brian Head).

- ____ (1) Vehicles or loads exceeding 8 feet 6 inches in width require one certified pilot/escort vehicle.
- ____ (2) Vehicles or loads exceeding 10 feet in width require two certified pilot/escort vehicles.
- ____ (3) Vehicles or loads exceeding 12 feet in width and 65 feet in length are prohibited.

R912-11-24. State Route 153 Between RP 9 to RP 20 (Elk Meadows).

- ____ (1) Vehicles or loads exceeding 8 feet 6 inches in width require one certified pilot/escort vehicle.
- ____ (2) Vehicles or loads exceeding 10 feet in width and 65 feet in length are prohibited.

R912-11-25. State Route 189 (Provo Canyon) Between RP 7 (SR-52) and RP 21 (Wallsburg Junction).

____ All oversize vehicles, including trailers exceeding 48 feet in length, are prohibited.

R912-11-26. State Route 190 (Big Cottonwood Canyon) Between Interstate 215 at Knudsen's Corner and the Salt Lake/Wasatch County Line.

- ____ (1) Vehicles or loads exceeding 9 feet in width and/or 65 feet in length require one certified pilot/escort vehicle.

(2) Vehicle or loads exceeding 10 feet in width and/or 80 feet in length require two certified pilot/escort vehicles.

(3) Vehicles or loads exceeding 12 feet in width are prohibited unless otherwise authorized in accordance with R912-11-1 (a).

R912-11-27. State Route 191 (Indian Canyon) Between State Routes 6 and 40.

(1) Vehicles or loads exceeding 95 feet in length require two certified pilot/escort vehicles.

(2) Vehicles or loads exceeding 15 feet in width require two police escorts in addition to certified pilot/escort vehicles.

R912-11-28. State Route 191 Between Vernal, Utah and the Wyoming State Line.

Vehicles or loads exceeding 95 feet in length require two certified pilot/escort vehicles.

R912-11-29. State Route 191 Between La Sal Junction and the Grand/San Juan County Line.

Vehicles or loads exceeding 15 feet in width require two police escorts.

R912-11-30. State Route 210 (Little Cottonwood Canyon) Between State Route 190 and Alta, Utah.

(1) Vehicles or loads exceeding 9 feet in width and/or 65 feet in length require one certified pilot/escort vehicle.

(2) Vehicles or loads exceeding 10 feet in width and/or 80 feet in length require two certified pilot/escort vehicles.

(3) Vehicles or loads exceeding 12 feet in width are prohibited unless otherwise authorized in accordance with R912-11-1(a).

R912-11-31. State Route 211 Between State Route 191 and Canyon Lands.

(1) Vehicles or loads exceeding 10 feet in width and/or 80 feet in length require one certified pilot/escort vehicle.

(2) Vehicles or loads exceeding 12 feet in width are prohibited unless otherwise authorized in accordance with R912-11-1(a).

R912-11-32. State Route 226 Between State Route 39 and Snow Basin (RP 8).

All oversize loads require two certified pilot/escort vehicles.

R912-11-33. State Route 261 Between RP 7 and 10 (Moki Dugway).

Vehicles or loads exceeding 55,000 pounds GVW are prohibited unless otherwise authorized in accordance with R912-11-1(a).

R912-11-34. State Route 262.

(1) Between Montezuma Creek and Aneth, vehicles or loads exceeding 95 feet in length require two certified pilot/escort vehicles.

(2) Between Reference Posts 15 and 17, north of Montezuma Creek, vehicles or loads exceeding 55,000 pounds GVW are prohibited unless otherwise authorized in accordance with R912-11-1(a).

R912-11-35. State Route 264 Between State Routes 31 and 96.

(1) Vehicles or loads exceeding 10 feet in width and/or 80 feet in length require one certified pilot/escort vehicle.

(2) Vehicles or loads exceeding 12 feet in width and/or 110 feet in length are prohibited unless otherwise authorized in accordance with R912-11-1(a).

R912-11-36. Emigration Canyon Between the Wasatch Drive/Sunnyside Ave. Junction and State Route 65.

(1) Vehicles or loads exceeding 9 feet in width and/or 65 feet in length require one certified pilot/escort vehicle.

(2) Vehicles exceeding 10 feet in width and/or 80 feet in length require two certified pilot/escort vehicles.

(3) Vehicles or loads exceeding 12 feet in width are prohibited unless otherwise authorized in accordance with R912-11-1(a).

R912-3-36. 6200 South, Salt Lake City, Between Redwood Road and Bangerter Highway.

All commercial vehicles are prohibited.

KEY: trucks, safety regulations, permits

2005

72-1-102

72-1-201

72-7-408



Transportation, Motor Carrier, Ports of Entry

R912-14

Changes to Utah's
Oversize/Overweight Permit Program -
Semitrailer Exceeding 48 Feet in
Length

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27972

FILED: 06/01/2005, 18:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to remove the 41-foot maximum king pin setting, which will allow greater flexibility in load distribution. This rule is also intended to make Utah's program comply with neighboring states.

SUMMARY OF THE RULE OR CHANGE: The rule removes the 41-foot maximum king pin setting.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-7-402

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amendment may save money because the requirements will be reduced, thus resulting in fewer vehicles in violation. This reduction should lead to fewer enforcement actions.

- ❖ LOCAL GOVERNMENTS: This rule does not affect local government so there should be no costs or savings.
- ❖ OTHER PERSONS: The rule amendment may reduce costs for the industry since they will have more flexibility in load distribution and a requirement will be reduced.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule does not impose any compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on business except to save money. Getting rid of the maximum king pin requirement does not affect public safety and allows for greater flexibility. John R. Njord, Executive Director

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

TRANSPORTATION
 MOTOR CARRIER, PORTS OF ENTRY
 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@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: John R. Njord, Executive Director

R912. Transportation, Motor Carrier, Ports of Entry.
R912-14. Changes in Utah's Oversize/Overweight Permit Program - Semitrailer Exceeding 48 Feet Length.
R912-14-1. Purpose.

Semi-trailers exceeding 48 feet, and up to 53 feet in length will no longer require oversize permits when operating on or within one mile of routes designated by the Utah Department of Transportation.

R912-14-2. Authority.
 This rule is authorized under Section 72-7-402.

R912-14-3. Provisions.
~~[1-](1)~~ Designated routes include: All State and US Highways.
~~[2-](2)~~ Vehicles operating more than one mile from the routes listed above will require an oversize permit. These permits will be available on a single trip, semi-annual or annual basis.
~~[3-](3)~~ The following restrictions will continue to apply to trailers exceeding 48 feet in length on all highways in Utah.
~~[a. A Maximum 41 kingpin setting, measured from the kingpin to the center of a tandem axle, or to the center of the center axle on a tridem group.~~

- ~~[b-](a)~~ Dual or super single tires (14 inches or greater) are required on all trailer axles.
- ~~[e-](b)~~ Rear under ride protection is required.
- ~~[d-](c)~~ The maximum gross vehicle weight will be determined by Bridge Table B Extended, Section 72-7-404.
- ~~[4-](4)~~ Trailers exceeding 53 feet will require a single trip permit. Trailers exceeding 57 feet will require a special approval prior to entering the state. All of the restrictions in the preceding paragraphs apply also to these trailers.

KEY: trucks, permits
~~February 15, 2000~~ 2005
 Notice of Continuation January 5, 2004
 72-7-402



Transportation, Operations, Traffic and
 Safety
R920-5
 Manual and Specifications on School
 Crossing Zones. Supplemental to Part
 VII of the Manual on Uniform Traffic
 Control Devices

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 27955
 FILED: 06/01/2005, 14:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment is issued in order to make changes to the incorporated manual that comply with recent changes to underlying federal regulations.

SUMMARY OF THE RULE OR CHANGE: This amendment changes the manual incorporated by reference edition date from 2003 to 2005 into this rule by. It adds provisions required by recent revisions to the governing federal regulations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 41-6-20.1 and 72-1-201

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Manual and Specifications on School Crossing Zones, Supplemental to Part VII of the Manual on Uniform Traffic Control Devices (2005 Edition)

ANTICIPATED COST OR SAVINGS TO:
 ❖ THE STATE BUDGET: There should be no increased costs or savings to the state since the state does not pay for school zone traffic control devices or markings.
 ❖ LOCAL GOVERNMENTS: The rule may increase costs to school districts, which will have to change some of their traffic control devices as they replace current ones. It is not known how many devices will have to be changed or when those changes will occur.

❖ OTHER PERSONS: This rule will have no affect on other persons except for private schools, who will also be required to change traffic control devices as they replace existing ones. It is not known how many devices will have to be changed or when those changes will occur.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is unknown how much this rule amendment will add to school districts and private schools since we do not know how many devices will have to be changed or when the changes will occur.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule are required by federal regulations as well as the Department's general obligation to improve the safety of children at school zones. This duty outweighs the costs that private schools may incur. John R. Njord, Executive Director

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

TRANSPORTATION
OPERATIONS, TRAFFIC AND SAFETY
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@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: John R. Njord, Executive Director

R920. Transportation, Operations, Traffic and Safety.
R920-5. Manual and Specifications on School Crossing Zones. Supplemental to Part VII of the Manual on Uniform Traffic Control Devices.

R920-5-1. Incorporation by Reference.

In order to implement the federal government's adoption of the Millenium Edition of the Manual on Uniform Traffic Control Devices, the [d]Department adopts by reference the Utah Traffic Controls for School Zones, Part 7 Supplement to the Manual on Uniform Traffic Control Devices, Millenium Edition, [2003][2005 Edition]. Copies of this document are available at the D[d]epartment, Attn: Traffic and Safety, 4501 South, 2700 West, Salt Lake City, Utah 84114.

KEY: pedestrians, traffic control, traffic safety, traffic signs
[September 16, 2003]2005
Notice of Continuation December 13, 2002
41-6-20(2)



**Workforce Services, Employment
Development
R986-200
Family Employment Program**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27957

FILED: 06/01/2005, 15:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment it to meet federal participation requirements.

SUMMARY OF THE RULE OR CHANGE: The current rule requires participation to the "maximum extent possible" for all participants in the Family Employment Program. This proposed amendment will define, by rule, the phrase "maximum extent possible" to mean 34 hours per week. This change is needed to meet the federal participation requirements for Temporary Assistance for Needy Families (TANF) funded programs.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104, and Subsections 35A-1-104(4) and 35A-3-302(5)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This is a federally-funded program so there are no costs or savings to the state budget.

❖ LOCAL GOVERNMENTS: This rule does not apply to local government so therefore there are no costs or savings to local governments. Local governments do not contribute to the costs of this program.

❖ OTHER PERSONS: There are no costs or savings to any other persons as there are no fees associated with this program and it is federally funded. Some individuals receiving assistance through this program may be required to participate for more hours per week.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. The additional hours of participation will not cost participants.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. Tani Downing, Executive Director

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Tani Downing, Executive Director

R986. Workforce Services, Employment Development.**R986-200. Family Employment Program.****R986-200-210. Requirements of an Employment Plan.**

(1) Within 15 business days of completion of the assessment, the following individuals in the household assistance unit are required to sign and make a good faith effort to participate to the maximum extent possible in a negotiated employment plan:

(a) All parents, including parents whose income and assets are included in determining eligibility of the household but have been determined to be ineligible or disqualified from being included in the financial assistance payment.

(b) Dependent minor children who are at least 16 years old, who are not parents, unless they are full-time students or are employed an average of 30 hours a week or more.

(2) The goal of the employment plan is obtaining marketable employment and it must contain the soonest possible target date for entry into employment consistent with the employability of the individual.

(3) An employment plan consists of activities designed to help an individual become employed. For each activity there will be:

- (a) an expected outcome;
- (b) an anticipated completion date;
- (c) the number of participation hours agreed upon per week;

and

(d) a definition of what will constitute satisfactory progress for the activity.

(4) Each activity must be directed toward the goal of increasing the household's income.

(5) Activities may require that the client:

(a) obtain immediate employment. If so, the parent client shall:

(i) promptly register for work and commence a search for employment for a specified number of hours each week; and

(ii) regularly submit a report to the Department on:

- (A) how much time was spent in job search activities;
- (B) the number of job applications completed;
- (C) the interviews attended;
- (D) the offers of employment extended; and
- (E) other related information required by the Department.

(b) participate in an educational program to obtain a high school diploma or its equivalent, if the parent client does not have a high school diploma;

(c) obtain education or training necessary to obtain employment;

(d) obtain medical, mental health, or substance abuse treatment;

(e) resolve transportation and child care needs;

(f) relocate from a rural area which would require a round trip commute in excess of two hours in order to find employment;

(g) resolve any other barriers identified as preventing or limiting the ability of the client to obtain employment, and/or

(h) participate in rehabilitative services as prescribed by the State Office of Rehabilitation.

(6) The client must meet the performance expectations of each activity in the employment plan in order to stay eligible for financial assistance.

(7) The client must cooperate with the Department's efforts to monitor and evaluate the client's activities and progress under the employment plan, which includes providing the Department with a release of information, if necessary to facilitate the Department's monitoring of compliance.

(8) Where available, supportive services will be provided as needed for each activity.

(9) The client agrees, as part of the employment plan, to cooperate with other agencies, or with individuals or companies under contract with the Department, as outlined in the employment plan.

(10) An employment plan may, at the discretion of the Department, be amended to reflect new information or changed circumstances.

(11) The number of hours of participation in subsection (3)(c) of this section will not be lower than 34 hours per week. 24 of those 34 hours must be in priority activities. A list of approved priority activities is available at each employment center.

(12) In the event a client has barriers which prevent the client from 34 hours of participation per week, or 24 hours in priority activities, a lower number of hours of participation can be approved if:

(a) the Department identifies and documents the barriers which prevent the client from full participation; and

(b) the client agrees to participate to the maximum extent possible to resolve the barriers which prevent the client from participating.

R986-200-240. Additional Payments Available Under Certain Circumstances.

(1) Each parent eligible for financial assistance in the FEP or FEPTP programs who takes part in at least one enhanced participation activity may be eligible to receive \$40 each month in addition to the standard financial assistance payment. Enhanced participation activities are limited to:

(a) work experience sites[public and private internships] of at least 24 hours a week and other priority activities that together total 34 hours per week;

(b) full-time attendance in an education or employment training program; or

(c) employment of 2[0]4 hours or more a week and other priority activities that together total 34 hours per week[in addition to attending school or training; or

(d) employment with gross earnings of at least \$500 per month].

(2) An additional payment of \$15 per month for a pregnant woman in the third month prior to the expected month of delivery. Eligibility for the allowance begins in the month the woman provides medical proof that she is in the third month prior to the expected month of delivery. The pregnancy allowance ends at the end of the month the pregnancy ends.

(3) A limited number of funds are available to individuals for work and training expenses. The funds can only be used to alleviate circumstances which impede the individual's ability to begin or continue employment, job search, training, or education. The payment of these funds is completely discretionary by the Department. The individual does not need to meet any eligibility requirements to request or receive these funds.

(4) Limited funds are available, up to a maximum of \$300, to pay for burial costs if the individual is not entitled to a burial paid for by the county.

KEY: family employment program
~~[April 1, 2004]~~**2005**
 35A-3-301 et seq.



**Workforce Services, Workforce
 Information and Payment Services**
R994-403-123
Obligation of Department Employees

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 27937
 FILED: 05/24/2005, 17:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this change is to move a provision from Section R994-406-205 to create Section R994-403-123 where it can be more easily found. (DAR NOTE: The proposed amendment to R994-406 is found under DAR No. 27928 and was published in the June 1, 2005, issue of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The Department is in the process of rewriting all of its rules. This provision, regarding the obligation of Department employees to report information, was in Rule R994-406 which now deals with overpayments. There are sections in Rule R994-403 which concern the obligations of employees and employers and it seemed logical to move Section R994-406-205 to this rule under Section R994-403-123. It is believed this change will make the provision easier to find.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104, and Subsections 35A-1-104(4) and 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There will be no costs or savings to the state budget. This rule provision has always existed and is simply being moved from one rule to another rule.
- ❖ **LOCAL GOVERNMENTS:** There will be no costs or savings to local governments as this proposed amendment simply moves a section of one rule and places it in another rule.
- ❖ **OTHER PERSONS:** It is not anticipated that there will be any costs or savings to any other persons by moving this section from one rule to another rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department does not anticipate there will be any compliance costs associated with this proposed amendment because the Department is simply moving a section from one rule to another rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses as a result of this rule change. This section concerns the obligations of Department employees to report information which may affect a claim and has always existed. Tani Downing, Executive Director

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

WORKFORCE SERVICES
WORKFORCE INFORMATION
AND PAYMENT SERVICES
 140 E 300 S
 SALT LAKE CITY UT 84111-2333, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Tani Downing, Executive Director

R994. Workforce Services, Workforce Information and Payment Services.

R994-403. Claim for Benefits.

R994-403-123. Obligation of Department Employees.

Employees of the Department are obligated, regardless of when the information is discovered, to bring to the attention of the proper Department representatives any information that may affect a claimant's eligibility for unemployment insurance benefits or information affecting the employer's contributions.

KEY: filing deadlines, registration, student eligibility, unemployment compensation

~~[November 16, 2004]~~**2005**
 Notice of Continuation June 27, 2002
 35A-4-403(1)



**Workforce Services, Workforce
 Information and Payment Services**
R994-508-109
Hearing Procedure

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27936

FILED: 05/24/2005, 17:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this change is to make this rule consistent with proposed changes to Rule R994-406.

SUMMARY OF THE RULE OR CHANGE: The Department has proposed changing the evidentiary standard in fraud cases from "preponderance of the evidence" to "clear and convincing proof" to make unemployment cases the same as public assistance cases administered by the Department.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104, and Subsections 35A-1-104(4) and 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no costs or savings to the state budget. This is a federally-funded program and this change merely reflects what the Department has always done in the case of fraud. If fraud is not found, the claimant will still be at fault for the overpayment. Since the state is a reimbursable employer, the state recovers the same from a fault overpayment as a fraud overpayment so there will be no difference.

❖ LOCAL GOVERNMENTS: There will be no costs or savings to local governments. This is a federally-funded program and this change merely reflects what the Department has always done in the case of fraud. If fraud is not found, the claimant will still be at fault for the overpayment. Since most local governments are reimbursable employers, the local governmental entity recovers the same from a fault overpayment as a fraud overpayment so there will be no difference.

❖ OTHER PERSONS: There will be no costs or savings to any other persons since this change merely reflects Department practice in fraud cases. It is not anticipated that there will be any change in the number of fraud cases.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department has determined that there are no costs associated with complying with this provision of the rule. Individuals who correctly file their claims for benefits are not subject to the overpayment provisions of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on business as a result of this rule change. The Department does not anticipate fewer fraud findings. Employers receive the same credit for fault overpayments as for fraud overpayments so it will have no impact on unemployment rates. Tani Downing, Executive Director

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

WORKFORCE SERVICES

WORKFORCE INFORMATION AND PAYMENT SERVICES

140 E 300 S

SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2005

AUTHORIZED BY: Tani Downing, Executive Director

R994. Workforce Services, Workforce Information and Payment Services.**R994-508. Appeal Procedures.****R994-508-109. Hearing Procedure.**

(1) All hearings will be conducted before an ALJ in such manner as to provide due process and protect the rights of the parties.

(2) The hearing will be recorded.

(3) The ALJ will regulate the course of the hearing to obtain full disclosure of relevant facts and to afford the parties a reasonable opportunity to present their positions.

(4) The decision of the ALJ will be based solely on the testimony and evidence presented at the hearing.

(5) All testimony of the parties and witnesses will be given under oath or affirmation.

(6) All parties will be given the opportunity to provide testimony, present relevant evidence which has probative value, cross-examine any other party and/or other party's witnesses, examine or be provided with a copy of all exhibits, respond, argue, submit rebuttal evidence and/or provide statements orally or in writing, and/or comment on the issues.

(7) The evidentiary standard for ALJ decisions, except in cases of fraud, is a preponderance of the evidence. Preponderance means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The evidentiary standard for determining claimant fraud is clear and convincing evidence. Clear and convincing is a higher standard than preponderance of the evidence and means that the allegations of fraud are highly probable.

(8) The ALJ will direct the order of testimony and rule on the admissibility of evidence. The ALJ may, on the ALJ's own motion or the motion of a party, exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(9) Oral or written evidence of any nature, whether or not conforming to the rules of evidence, may be accepted and will be given its proper weight. A party has the responsibility to present all relevant evidence in its possession. When a party is in possession of evidence but fails to introduce the evidence, an inference may be drawn that the evidence does not support the party's position.

(10) Official Department records, including reports submitted in connection with the administration of the Employment Security Act, may be considered at any time in the appeals process including after the hearing.

(11) Parties may introduce relevant documents into evidence. Parties must mail, fax, or deliver copies of those documents to the ALJ assigned to hear the case and all other interested parties so that the documents are received prior to the hearing. Failure to prefile documents may result in a delay of the proceedings. If a party has good cause for not submitting the documents prior to the hearing or if a party does not receive the documents sent by the Appeals Unit or another party prior to the hearing, the documents will be admitted after provisions are made to insure due process is satisfied. At his or her discretion, the ALJ can either:

- (a) reschedule the hearing to another time;
- (b) allow the parties time to review the documents at an in-person hearing;
- (c) request that the documents be faxed during the hearing, if possible, or read the material into the record in case of telephone hearing; or
- (d) leave the record of the hearing open, send the documents to the party or parties who did not receive them, and give the party or parties an opportunity to submit additional evidence after they are received and reviewed.

(12) The ALJ may, on his or her own motion, take additional evidence as is deemed necessary.

(13) With the consent of the ALJ, the parties to an appeal may stipulate to the facts involved. The ALJ may decide the appeal on the basis of those facts, or may set the matter for hearing and take further evidence as deemed necessary to decide the appeal.

(14) The ALJ may require portions of the testimony be transcribed as necessary for rendering a decision.

(15) All initial determinations made by the Department are exempt from the provisions of the Utah Administrative Procedures Act (UAPA). Appeals from initial determinations will be conducted as formal adjudicative proceedings under UAPA.

KEY: unemployment compensation, appellate procedures

~~April 4, 2004~~ **2005**

Notice of Continuation June 11, 2003

35A-4-508(2)

35A-4-508(5)

35A-4-508(6)

35A-4-406

35A-4-103



End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the 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).

Health, Epidemiology and Laboratory Services, Epidemiology

R386-800

Immunization Coordination

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 27934
FILED: 05/24/2005, 11:08

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: Title 26, Chapter 6, Communicable Disease Control; and Title 26, Chapter 3, Health Statistics, authorize this rule. The rule establishes a system that allows for coordination and data sharing of immunization information among authorized providers to meet statutory immunization requirements and to control disease outbreaks.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of the rule is necessary to authorize the Utah Statewide Immunization Information System (USIIS) participants to report immunization data, provide a method for individuals to opt-out of the program, and provide guidelines for parents/guardians to withdraw a child's enrollment from USIIS.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
EPIDEMIOLOGY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Linda Abel at the above address, by phone at 801-538-9450,
by FAX at 801-538-9440, or by Internet E-mail at
label@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/24/2005



Transportation, Motor Carrier, Ports of Entry

R912-16

Special Mobile Equipment

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 27954
FILED: 06/01/2005, 13:16

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 was enacted under the authority of Sections 41-1a-231, 72-1-201, and 72-9-201,

which give the Department authority to establish standards and procedures regarding the technical details of administration of the state transportation 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 written 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 Legislature continues to vest in the Department authority to set up these standards and procedures. The current rule adequately carries out that duty and therefore, the rule should be continued.

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

TRANSPORTATION
MOTOR CARRIER, PORTS OF ENTRY
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@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 06/01/2005



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Commerce

Occupational and Professional Licensing
No. 27786 (REP): R156-17a. Pharmacy Practice Act Rules.
Published: April 15, 2005
Effective: May 17, 2005

No. 27529 (NEW): R156-17b. Pharmacy Practice Act Rules.
Published: December 1, 2004
Effective: May 17, 2005

No. 27529 (First CPR): R156-17b. Pharmacy Practice Act Rules.
Published: February 15, 2005
Effective: May 17, 2005

No. 27529 (Second CPR): R156-17b. Pharmacy Practice Act Rules.
Published: April 15, 2005
Effective: May 17, 2005

Real Estate

No. 27797 (AMD): R162-102-1. Application.
Published: April 15, 2005
Effective: May 25, 2005

No. 27788 (AMD): R162-107. Unprofessional Conduct.
Published: April 15, 2005
Effective: May 25, 2005

Education

Administration

No. 27798 (AMD): R277-407. School Fees.
Published: April 15, 2005
Effective: May 19, 2005

No. 27799 (AMD): R277-437. Student Enrollment Options.
Published: April 15, 2005
Effective: May 19, 2005

No. 27800 (AMD): R277-438. Dual Enrollment.
Published: April 15, 2005
Effective: May 19, 2005

Environmental Quality

Water Quality

No. 27593 (AMD): R317-2. Standards of Quality for Waters of the State.
Published: January 1, 2005
Effective: June 1, 2005

No. 27593 (CPR): R317-2. Standards of Quality for Waters of the State.
Published: May 1, 2005
Effective: June 1, 2005

Human Services

Services for People with Disabilities

No. 27792 (AMD): R539-2-6. Entry Into and Movement Within Service System.
Published: April 15, 2005
Effective: May 17, 2005

No. 27793 (AMD): R539-3-10. Prohibited Procedures.
Published: April 15, 2005
Effective: May 17, 2005

No. 27801 (NEW): R539-5. Self-Administered Services.
Published: April 15, 2005
Effective: May 17, 2005

No. 27802 (REP): R539-5. Preparation and Maintenance of Client Records.
Published: April 15, 2005
Effective: May 17, 2005

No. 27795 (REP): R539-8. Community-Based Services.
Published: April 15, 2005
Effective: May 17, 2005

Insurance

Administration

No. 27488 (NEW): R590-231. Workers' Compensation Market of Last Resort.
Published: November 1, 2004
Effective: May 20, 2005

No. 27488 (First CPR): R590-231. Workers' Compensation Market of Last Resort.
Published: February 1, 2005
Effective: May 20, 2005

NOTICES OF RULE EFFECTIVE DATES

No. 27488 (Second CPR): R590-231. Workers' Compensation Market of Last Resort.
Published: April 15, 2005
Effective: May 20, 2005

Natural Resources

Forestry, Fire and State Lands

No. 27750 (AMD): R652-70-1900. Camping and Motor Vehicles.
Published: April 1, 2005
Effective: May 20, 2005

No. 27740 (AMD): R652-70-2300. Management of Bear Lake Sovereign Lands.
Published: April 1, 2005
Effective: May 20, 2005

Wildlife Resources

No. 27827 (NEW): R657-55. Wildlife Convention Permits.
Published: May 1, 2005
Effective: June 1, 2005

Public Safety

Driver License

No. 27809 (NEW): R708-41. Requirements for Acceptable Documentation.
Published: May 1, 2005
Effective: June 1, 2005

School and Institutional Trust Lands

Administration

No. 27813 (AMD): R850-21. Oil, Gas and Hydrocarbon Resources.
Published: May 1, 2005
Effective: June 1, 2005

No. 27814 (AMD): R850-24-200. Insurance Requirements.
Published: May 1, 2005
Effective: June 1, 2005

No. 27811 (AMD): R850-50. Range Management.
Published: May 1, 2005
Effective: June 1, 2005

Workforce Services

Employment Development

No. 27824 (AMD): R986-200-214. Assistance for Specified Relatives.
Published: May 1, 2005
Effective: June 1, 2005

Workforce Information and Payment Services

No. 27823 (NEW): R994-304. Special Provisions Regarding Transfers of Unemployment Experience and Assigning Rates.
Published: May 1, 2005
Effective: June 1, 2005

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 1, 2005, including notices of effective date received through June 1, 2005, the effective dates of which are no later than June 15, 2005. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1	Parental Defense Training Standards	27518	CPR	05/13/2005	2005-2/94
R19-1	Parental Defense Counsel Training	27518	NEW	05/13/2005	2004-22/9
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	27603	AMD	03/15/2005	2005-2/2
R23-2	Procurement of Architect-Engineer Services	27605	AMD	03/15/2005	2005-2/7
R23-3	Planning and Programming for Capital Projects	27615	AMD	03/15/2005	2005-2/9
R23-4	Suspension/Debarment and Contract Performance Review Committee	27610	AMD	03/15/2005	2005-2/10
R23-26	Dispute Resolution	27614	NEW	03/15/2005	2005-2/12
<u>Fleet Operations</u>					
R27-1-2	Definitions	27546	AMD	01/10/2005	2004-23/3
R27-3-6	Application for Commute or Take Home Use	27599	NSC	02/01/2005	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R27-4	Vehicle Replacement and Expansion of State Fleet	27543	AMD	01/10/2005	2004-23/5
R27-4-1	Authority	27594	NSC	02/01/2005	Not Printed
R27-6	Fuel Dispensing Program	27544	AMD	01/10/2005	2004-23/7
<u>Records Committee</u>					
R35-1a	State Records Committee Definitions	27621	NEW	03/08/2005	2005-2/17
R35-2	Declining Appeal Hearings	27625	AMD	03/04/2005	2005-2/18
R35-3	Prehearing Conferences	27622	AMD	03/04/2005	2005-2/19
R35-4	Compliance with State Records Committee Decisions and Orders	27624	AMD	03/04/2005	2005-2/20
R35-5	Subpoenas Issued by the Records Committee	27623	AMD	03/04/2005	2005-2/21
R35-6	Expedited Hearing	27620	AMD	03/04/2005	2005-2/22
Agriculture and Food					
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	27570	AMD	01/18/2005	2004-24/5
R58-1-7	Swine	27687	AMD	03/18/2005	2005-4/8
R58-2	Diseases, Inspections and Quarantines	27581	AMD	02/01/2005	2005-1/9
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	27688	5YR	02/01/2005	2005-4/47
R58-10	Meat and Poultry Inspection	27693	5YR	02/03/2005	2005-5/28
R58-17	Aquaculture and Aquatic Animal Health	27696	5YR	02/03/2005	2005-5/28
R58-21	Trichomoniasis	27694	5YR	02/03/2005	2005-5/29
R58-22	Equine Infectious Anemia (EIA)	27695	5YR	02/03/2005	2005-5/29
<u>Marketing and Conservation</u>					
R65-10	Agriculture Resource Development Loans (ARDL)	27787	5YR	03/31/2005	2005-8/56
<u>Plant Industry</u>					
R68-3	Utah Fertilizer Act Governing Fertilizers and Soil Amendments	27645	5YR	01/07/2005	2005-3/58
R68-20	Utah Organic Standards	27697	5YR	02/04/2005	2005-5/30
<u>Regulatory Services</u>					
R70-440	Egg Products Inspection	27514	NSC	01/01/2005	Not Printed
R70-440-2	Adopt by Reference	27628	AMD	02/15/2005	2005-2/23
R70-440-2	Adopt by Reference	27667	NSC	03/01/2005	Not Printed
R70-540-14	Exemptions	27569	AMD	03/18/2005	2004-24/7
R70-960-7	Registration Certificate Displayed	27523	NSC	01/01/2005	Not Printed
Alcoholic Beverage Control					
<u>Administration</u>					
R81-5-5	Advertising	27725	AMD	05/01/2005	2005-6/3
R81-5-14	Membership Fees and Monthly Dues	27726	AMD	05/01/2005	2005-6/4
R81-5-17	Visitor Cards	27727	AMD	05/01/2005	2005-6/5
Capitol Preservation Board (State)					
<u>Administration</u>					
R131-1	Procurement of Architectural and Engineering Services	27711	5YR	02/16/2005	2005-6/33
R131-2	Capitol Hill Facility Use	27712	5YR	02/16/2005	2005-6/33

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R131-7	State Capitol Preservation Board Master Planning Policy	27713	5YR	02/16/2005	2005-6/34
R131-8	CPB Facilities and Grounds: Maintenance of Aesthetics	27631	NEW	03/03/2005	2005-2/24
R131-9	State Capitol Preservation Board Art Program and Policy	27632	NEW	03/03/2005	2005-2/26
Commerce					
<u>Administration</u>					
R151-1	Department of Commerce General Provisions	27633	NEW	02/15/2005	2005-2/29
R151-46b	Department of Commerce Administrative Procedures Act Rules	27636	AMD	02/15/2005	2005-2/32
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	27499	NSC	01/01/2005	Not Printed
R156-17a	Pharmacy Practice Act Rules	27786	REP	05/17/2005	2005-8/2
R156-17b	Pharmacy Practice Act Rules	27529	CPR	05/17/2005	2005-8/43
R156-17b	Pharmacy Practice Act Rules	27529	CPR	05/17/2005	2005-4/31
R156-17b	Pharmacy Practice Act Rules	27529	NEW	05/17/2005	2004-23/20
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	27698	AMD	04/04/2005	2005-5/2
R156-31b	Nurse Practice Act Rules	27600	AMD	02/17/2005	2005-2/36
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	27752	5YR	03/15/2005	2005-7/75
R156-38b	State Construction Registry Rules	27734	NEW	04/18/2005	2005-6/6
R156-47b	Massage Therapy Practice Act Rules	27548	AMD	03/07/2005	2004-24/7
R156-47b	Massage Therapy Practice Act Rules	27548	CPR	03/07/2005	2005-3/51
R156-50	Private Probation Provider Licensing Act Rules	27435	CPR	01/18/2005	2004-24/58
R156-50	Private Probation Provider Licensing Act Rules	27435	AMD	01/18/2005	2004-20/12
R156-56	Utah Uniform Building Standard Act Rules	27489	AMD	01/01/2005	2004-21/6
R156-56-704	Statewide Amendments to the IBC	27490	AMD	01/01/2005	2004-21/11
R156-60c	Professional Counselor Licensing Act Rules	27749	5YR	03/14/2005	2005-7/75
R156-61-502	Unprofessional Conduct	27538	AMD	01/04/2005	2004-23/40
R156-71-202	Naturopathic Physician Formulary	27533	AMD	01/04/2005	2004-23/41
<u>Real Estate</u>					
R162-102-1	Application	27797	AMD	05/25/2005	2005-8/12
R162-107	Unprofessional Conduct	27788	AMD	05/25/2005	2005-8/14
<u>Securities</u>					
R164-2	Investment Adviser - Unlawful Acts	27732	5YR	02/28/2005	2005-6/34
R164-9-1	Registration by Coordination	27777	EMR	03/25/2005	2005-8/53
Community and Economic Development					
<u>Community Development, Community Services</u>					
R202-202-202	Opening and Closing Dates for HEAT Program	27418	AMD	01/12/2005	2004-19/24
R202-203-324	Income Deductions	27421	AMD	01/12/2005	2004-19/25
R202-203-328	Self-Employment Income	27419	AMD	01/12/2005	2004-19/26
R202-207-702	Records Management	27420	AMD	01/12/2005	2004-19/27
Education					
<u>Administration</u>					
R277-400	School Emergency Response Plans	27539	NSC	01/01/2005	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R277-407	School Fees	27798	AMD	05/19/2005	2005-8/15
R277-410	Accreditation of Schools	27705	AMD	04/01/2005	2005-5/8
R277-411	Elementary School Accreditation	27706	AMD	04/01/2005	2005-5/10
R277-412	Junior High and Middle School Accreditation	27707	AMD	04/01/2005	2005-5/13
R277-413	Accreditation of Secondary Schools, Alternative or Special Purpose Schools	27708	AMD	04/01/2005	2005-5/16
R277-422	State Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvement Programs	27702	NSC	03/01/2005	Not Printed
R277-437	Student Enrollment Options	27799	AMD	05/19/2005	2005-8/17
R277-438	Dual Enrollment	27800	AMD	05/19/2005	2005-8/19
R277-473	Testing Procedures	27547	AMD	01/04/2005	2004-23/43
R277-473	Testing Procedures	27872	5YR	05/09/2005	2005-11/90
R277-501	Educator Licensing Renewal, Highly Qualified and Timelines	27722	5YR	02/23/2005	2005-6/35
R277-705-6	Utah Basic Skills Competency Testing Requirements and Procedures	27710	AMD	04/01/2005	2005-5/19
R277-713	Concurrent Enrollment of High School Students in College Courses	27662	AMD	03/21/2005	2005-4/14
R277-725	Electronic High School	27507	NSC	01/01/2005	Not Printed
R277-733	Adult Education Programs	27592	AMD	02/01/2005	2005-1/10
R277-746	Driver Education Programs for Utah Schools	27520	NSC	01/01/2005	Not Printed

Environmental Quality

Air Quality

R307-110-11	Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide	27429	CPR	03/04/2005	2005-3/52
R307-110-11	Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide	27429	AMD	03/04/2005	2004-19/37
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	27343	AMD	01/04/2005	2004-17/12
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	27343	CPR	01/04/2005	2004-23/53
R307-210	Stationary Sources	27665	AMD	04/19/2005	2005-4/17

Drinking Water

R309-100	Administration: Drinking Water Program	27912	5YR	05/16/2005	2005-11/90
R309-105	Administration: General Responsibilities of Public Water Systems	27907	5YR	05/16/2005	2005-11/91
R309-110	Administration: Definitions	27911	5YR	05/16/2005	2005-11/91
R309-115	Administration: Administrative Procedures	27908	5YR	05/16/2005	2005-11/92
R309-150	Water System Rating Criteria	27909	5YR	05/16/2005	2005-11/92
R309-200	Monitoring and Water Quality: Drinking Water Standards	27913	5YR	05/16/2005	2005-11/93
R309-205	Monitoring and Water Quality: Source Monitoring Requirements	27917	5YR	05/16/2005	2005-11/93
R309-210	Monitoring and Water Quality: Distribution System Monitoring	27918	5YR	05/16/2005	2005-11/94
R309-215	Monitoring and Water Quality: Treatment Plant Monitoring	27910	5YR	05/16/2005	2005-11/94
R309-220	Monitoring and Water Quality: Public Notification Requirements	27914	5YR	05/16/2005	2005-11/95
R309-225	Monitoring and Water Quality: Consumer Confidence Reports	27905	5YR	05/16/2005	2005-11/95
R309-300	Certification Rules for Water Supply Operators	27906	5YR	05/16/2005	2005-11/96
R309-305	Certification Rules for Backflow Technicians	27617	NSC	02/01/2005	Not Printed
R309-305	Certification Rules for Backflow Technicians	27915	5YR	05/16/2005	2005-11/96

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R309-305	Certification Rules for Backflow Technicians (5YR EXTENSION)	27780	NSC	05/16/2005	Not Printed
R309-405	Compliance and Enforcement: Administrative Penalty (5YR EXTENSION)	27781	NSC	05/16/2005	Not Printed
R309-405	Compliance and Enforcement: Administrative Penalty	27916	5YR	05/16/2005	2005-11/97
R309-600	Drinking Water Source Protection for Groundwater Sources	27816	5YR	04/14/2005	2005-9/76
R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	27815	5YR	04/14/2005	2005-9/76
<u>Radiation Control</u>					
R313-12	General Provisions	27746	AMD	05/13/2005	2005-7/29
R313-15	Standards for Protection Against Radiation	27744	AMD	05/13/2005	2005-7/33
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	27745	AMD	05/13/2005	2005-7/34
R313-22	Specific Licenses	27747	AMD	05/13/2005	2005-7/36
R313-32	Medical Use of Radioactive Material	27748	AMD	05/13/2005	2005-7/38
R313-34	Requirements for Irradiators	27738	5YR	03/08/2005	2005-7/76
R313-34-1	Requirements for Irradiators	27646	NSC	02/01/2005	Not Printed
<u>Water Quality</u>					
R317-1	Definitions and General Requirements	27659	AMD	04/20/2005	2005-3/5
R317-2	Standards of Quality for Waters of the State	27593	AMD	06/01/2005	2005-1/13
R317-2	Standards of Quality for Waters of the State	27593	CPR	06/01/2005	2005-9/72
R317-3-10	Lagoons	27658	AMD	04/20/2005	2005-3/10
R317-4	Onsite Wastewater Systems	27699	5YR	02/10/2005	2005-5/30
R317-7	Underground Injection Control (UIC) Program	27596	NSC	02/01/2005	Not Printed
R317-8-3	Application Requirements	27657	AMD	04/20/2005	2005-3/12
R317-10-6	Facility Classification System	27656	AMD	04/20/2005	2005-3/18
Governor					
<u>Planning and Budget, Chief Information Officer</u>					
R365-101	Utah Geographic Information Systems Advisory Council	27545	NEW	03/09/2005	2004-23/45
Health					
<u>Administration</u>					
R380-40	Local Health Department Minimum Performance Standards	27571	AMD	02/02/2005	2004-24/9
R380-40	Local Health Department Minimum Performance Standards	27990	5YR	06/06/2005	Not Printed
<u>Epidemiology and Laboratory Services, Epidemiology</u>					
R386-702	Communicable Disease Rule	27496	AMD	05/16/2005	2004-21/13
R386-702	Communicable Disease Rule	27496	CPR	05/16/2005	2005-3/53
R386-800	Immunization Coordination	27934	5YR	05/24/2005	2005-12/90
<u>Epidemiology and Laboratory Services, Environmental Services</u>					
R392-600	Illegal Drug Operations Decontamination Standards	27650	NEW	05/02/2005	2005-3/19
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1	Utah Medicaid Program	27805	AMD	06/03/2005	2005-9/6
R414-1B	Prohibition of Payment for Certain Abortion Services	27582	NSC	02/01/2005	Not Printed
R414-7A	Medicaid Certification of New Nursing Facilities	27806	AMD	06/03/2005	2005-9/10
R414-7D	Intermediate Care Facility for the Mentally Retarded Transition Project	27505	NEW	01/03/2005	2004-22/15

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R414-10A-6	Prior Authorization	27486	NSC	01/01/2005	Not Printed
R414-14	Home Health Service	27733	AMD	04/26/2005	2005-6/12
R414-19A	Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility	27985	5YR	06/03/2005	Not Printed
R414-33	Targeted Case Management Services	27986	5YR	06/03/2005	Not Printed
R414-33C	Targeted Case Management for the Homeless	27703	NEW	04/07/2005	2005-5/23
R414-34-6	Qualified Providers	27589	AMD	02/01/2005	2005-1/21
R414-36-6	Qualified Providers	27591	AMD	02/01/2005	2005-1/22
R414-61	Home and Community Based Waivers	27741	5YR	03/11/2005	2005-7/77
R414-61-2	Incorporation by Reference	27586	AMD	02/01/2005	2005-1/23
R414-63	Medicaid Policy for Pharmacy Reimbursement	27549	AMD	01/26/2005	2004-24/13
R414-90	Diabetes Self-Management Training	27557	AMD	01/19/2005	2004-24/15
R414-200	Non-Traditional Medicaid Health Plan Services	27588	AMD	02/01/2005	2005-1/24
R414-507	Medicaid Long Term Care Managed Care	27629	NEW	02/15/2005	2005-2/42
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-12	Emergency Medical Services Training and Certification Standards	27519	AMD	02/01/2005	2004-22/26
R426-13	Emergency Medical Services Provider Designations	27521	AMD	02/01/2005	2004-23/47
R426-14-303	Ambulance Service and Paramedic Service Licensure	27584	NSC	02/01/2005	Not Printed
R426-15	Licensed and Designated Provider Operations	27522	AMD	02/01/2005	2004-23/48
<u>Health Systems Improvement, Licensing</u>					
R432-7	Specialty Hospital - Psychiatric Hospital Construction	27674	5YR	01/28/2005	2005-4/47
R432-8	Specialty Hospital - Chemical Dependency/Substance Abuse Construction	27675	5YR	01/28/2005	2005-4/48
R432-9	Specialty Hospital - Rehabilitation Construction Rule	27676	5YR	01/28/2005	2005-4/48
R432-10	Specialty Hospital - Long-Term Acute Care Construction Rule	27677	5YR	01/28/2005	2005-4/49
R432-11	Specialty Hospital - Orthopedic Hospital Construction	27678	5YR	01/28/2005	2005-4/49
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	27679	5YR	01/28/2005	2005-4/50
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	27680	5YR	01/28/2005	2005-4/50
R432-14	Birthing Center Construction Rule	27681	5YR	01/28/2005	2005-4/51
R432-30	Adjudicative Procedure	27682	5YR	01/28/2005	2005-4/51
R432-270	Assisted Living Facilities	27683	5YR	01/31/2005	2005-4/52
R432-270-10	Admissions	27692	AMD	05/10/2005	2005-5/24
<u>Medical Examiner</u>					
R448-10	Unattended Death and Reporting Requirements	27988	5YR	06/06/2005	Not Printed
R448-20	Access to Medical Examiner Reports	27989	5YR	06/06/2005	Not Printed
Human Services					
<u>Administration, Administrative Services, Licensing</u>					
R501-18	Abuse Background Screening	27673	5YR	01/27/2005	2005-4/52
R501-19	Residential Treatment Programs	27839	5YR	04/25/2005	2005-10/51
R501-20	Day Treatment Programs	27836	5YR	04/21/2005	2005-10/51
R501-21	Outpatient Treatment Programs	27837	5YR	04/22/2005	2005-10/52
R501-22	Residential Support Programs	27838	5YR	04/22/2005	2005-10/52

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Child and Family Services</u>					
R512-75	Rules Governing Adjudication of Consumer Complaints	27883	5YR	05/12/2005	2005-11/98
<u>Substance Abuse and Mental Health</u>					
R523-1	Policies and Procedures	27638	AMD	03/07/2005	2005-3/28
<u>Recovery Services</u>					
R527-10	Disclosure of Information to the Office of Recovery Services	27640	5YR	01/06/2005	2005-3/58
R527-40	Retained Support	27642	5YR	01/06/2005	2005-3/59
R527-40	Retained Support	27648	AMD	03/14/2005	2005-3/30
R527-210	Guidelines for Setting Child Support Awards	27534	REP	01/04/2005	2004-23/49
R527-255	Substantial Change in Circumstances	27647	AMD	03/14/2005	2005-3/30
R527-394	Posting Bond or Security	27881	5YR	05/12/2005	2005-11/98
R527-475	State Tax Refund Intercept	27641	5YR	01/06/2005	2005-3/59
<u>Services for People with Disabilities</u>					
R539-1	Eligibility	27568	AMD	01/25/2005	2004-24/17
R539-2	Civil Rights	27651	REP	03/12/2005	2005-3/31
R539-2	Service Coordination	27626	NEW	03/12/2005	2005-2/45
R539-2-6	Entry Into and Movement Within Service System	27792	AMD	05/17/2005	2005-8/29
R539-3	Service Coordination	27652	REP	03/12/2005	2005-3/34
R539-3	Rights and Protections	27627	NEW	03/12/2005	2005-2/47
R539-3-10	Prohibited Procedures	27793	AMD	05/17/2005	2005-8/30
R539-4	Quality Assurance	27753	REP	05/03/2005	2005-7/58
R539-4	Behavior Interventions	27724	NEW	05/03/2005	2005-6/16
R539-5	Preparation and Maintenance of Client Records	27802	REP	05/17/2005	2005-8/31
R539-5	Self-Administered Services	27801	NEW	05/17/2005	2005-8/33
R539-8	Community-Based Services	27795	REP	05/17/2005	2005-8/35
Insurance					
<u>Administration</u>					
R590-88	Prohibited Transactions Between Agents and Unauthorized Multiple Employer Trusts	27684	5YR	01/31/2005	2005-4/53
R590-93	Replacement of Life Insurance and Annuities	27829	R&R	06/08/2005	2005-9/12
R590-128	Unfair Discrimination Based Solely on the Failure to Maintain Auto Insurance (Revised)	27685	5YR	01/31/2005	2005-4/53
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	27686	5YR	01/31/2005	2005-4/54
R590-140	Reference Filings of Rate Service Organization Prospective Loss Costs	27785	5YR	03/31/2005	2005-8/56
R590-147	Annual and Quarterly Statement Filing Instructions	27556	R&R	02/10/2005	2004-24/21
R590-148-12	Applications, Enrollment and Replacement of Coverage	27719	AMD	04/28/2005	2005-6/19
R590-163	Filing Quarterly Statements	27554	REP	02/10/2005	2004-24/23
R590-164	Uniform Health Billing Rule	27784	5YR	03/31/2005	2005-8/57
R590-172	Notice to Uninsurable Applicants for Health Insurance	27866	5YR	05/05/2005	2005-11/98
R590-174	Diskette Filing of Annual and Quarterly Statements	27555	REP	02/10/2005	2004-24/24
R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	27644	5YR	01/07/2005	2005-3/60

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	27558	AMD	02/10/2005	2004-24/25
R590-226-3	Documents Incorporated by Reference	27716	AMD	04/28/2005	2005-6/21
R590-227-3	Incorporation by Reference	27717	AMD	04/28/2005	2005-6/22
R590-228-3	Documents Incorporated by Reference	27718	AMD	04/28/2005	2005-6/23
R590-231	Workers' Compensation Market of Last Resort	27488	CPR	05/20/2005	2005-8/50
R590-231	Workers' Compensation Market of Last Resort	27488	CPR	05/20/2005	2005-3/55
R590-231	Workers' Compensation Market of Last Resort	27488	NEW	05/20/2005	2004-21/15

Judicial Conduct Commission

Administration

R595-1	General Provisions	27330	CPR	02/01/2005	2004-24/59
R595-1	Rules of Procedure	27580	REP	02/01/2005	2005-1/26
R595-1	General Provisions	27330	NEW	02/01/2005	2004-17/18
R595-2	Administration	27331	CPR	02/01/2005	2004-24/60
R595-2	Administration	27331	NEW	02/01/2005	2004-17/23
R595-3	Procedure	27332	NEW	02/01/2005	2004-17/24
R595-3	Procedure	27332	CPR	02/01/2005	2004-24/61
R595-3-10	Discipline by Consent	27668	NSC	02/01/2005	Not Printed
R595-4	Sanctions	27333	CPR	02/01/2005	2004-24/64
R595-4	Sanctions	27333	NEW	02/01/2005	2004-17/26
R595-4-2	Sanctions Guidelines	27807	AMD	06/01/2005	2005-9/37

Labor Commission

Antidiscrimination and Labor, Antidiscrimination

R606-3	Nondiscrimination Clause to be used in Contracts Entered into by the State of Utah and its Agencies	28003	5YR	06/08/2005	Not Printed
R606-4	Advertising	28004	5YR	06/08/2005	Not Printed
R606-5	Employment Agencies	28005	5YR	06/08/2005	Not Printed
R606-6	Regulation of Practice and Procedure on Employer Reports and Records	28002	5YR	06/08/2005	Not Printed

Safety

R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	27616	AMD	03/07/2005	2005-2/49
R616-3-3	Safety Codes for Elevators	27590	AMD	02/01/2005	2005-1/30

Money Management Council

Administration

R628-11	Maximum Amount of Public Funds Allowed to be Held by any Qualified Depository	27689	AMD	03/22/2005	2005-4/18
R628-15	Certification as an Investment Adviser	27743	NEW	05/05/2005	2005-7/60
R628-19	Requirements for the Use of Investment Advisers by Public Treasurers	27742	R&R	05/05/2005	2005-7/64

Natural Resources

Oil, Gas and Mining; Coal

R645-105	Blaster Training, Examination and Certification	27778	5YR	03/25/2005	2005-8/58
R645-400	Inspection and Enforcement: Division Authority and Procedures	27779	5YR	03/25/2005	2005-8/58

Parks and Recreation

R651-202	Boating Advisory Council	27560	AMD	01/15/2005	2004-24/28
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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R651-205-7	Palisade Lake	27559	AMD	01/15/2005	2004-24/29
R651-206	Carrying Passengers for Hire	27561	AMD	01/15/2005	2004-24/29
R651-206	Carrying Passengers for Hire	27664	NSC	02/01/2005	Not Printed
R651-209	Registration Expiration	27562	REP	01/15/2005	2004-24/32
R651-211	Assigned Numbers	27563	AMD	01/15/2005	2004-24/33
R651-212	Display of Yearly Registration Decals and Month of Expiration Decals	27564	AMD	01/15/2005	2004-24/34
R651-215	Personal Flotation Devices	27565	AMD	01/15/2005	2004-24/35
R651-401	Off-Highway Vehicle and Registration Stickers	27566	AMD	01/15/2005	2004-24/37
<u>Forestry, Fire and State Lands</u>					
R652-70-1900	Camping and Motor Vehicles	27750	AMD	05/20/2005	2005-7/66
R652-70-2300	Management of Bear Lake Sovereign Lands	27740	AMD	05/20/2005	2005-7/67
R652-120	Wildland Fire	27843	5YR	04/28/2005	2005-10/53
<u>Water Rights</u>					
R655-3	Reports of Water Right Conveyance	27690	5YR	02/01/2005	2005-4/54
R655-4	Water Well Drillers	27392	AMD	01/12/2005	2004-18/30
R655-4	Water Well Drillers	27691	5YR	02/01/2005	2005-4/55
R655-4	Water Well Drillers	27475	NSC	02/01/2005	Not Printed
<u>Wildlife Resources</u>					
R657-5	Taking Big Game	27550	AMD	01/15/2005	2004-24/38
R657-12	Hunting and Fishing Accommodations for Disabled People	27721	AMD	04/15/2005	2005-6/24
R657-13	Taking Fish and Crayfish	27432	CPR	01/03/2005	2004-22/66
R657-13	Taking Fish and Crayfish	27432	AMD	01/03/2005	2004-20/33
R657-15	Closure of Gunnison, Cub and Hat Islands	27863	5YR	05/05/2005	2005-11/99
R657-21	Cooperative Wildlife Management Units for Small Game and Waterfowl	27864	5YR	05/05/2005	2005-11/99
R657-33	Taking Bear	27649	AMD	03/04/2005	2005-3/36
R657-37	Cooperative Wildlife Management Units for Big Game	27551	AMD	01/15/2005	2004-24/45
R657-38	Dedicated Hunter Program	27552	AMD	01/15/2005	2004-24/48
R657-42-4	Surrenders	27553	AMD	01/15/2005	2004-24/53
R657-47	Trust Fund Permits	27639	REP	03/04/2005	2005-3/39
R657-47	Trust Fund Permits (5YR EXTENSION)	27637	NSC	03/04/2005	Not Printed
R657-55	Wildlife Convention Permits	27827	NEW	06/01/2005	2005-9/38
Professional Practices Advisory Commission					
<u>Administration</u>					
R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	27542	NSC	01/01/2005	Not Printed
Public Safety					
<u>Driver License</u>					
R708-32	Uninsured Motorist Database	27877	5YR	05/10/2005	2005-11/100
R708-36	Disclosure of Personal Identifying Information in MVRs	27878	5YR	05/11/2005	2005-11/100
R708-37	Certification of Licensed Instructors of Commercial Driver Training Schools or Testing Only Schools to Administer Driving Skills Tests	27898	5YR	05/13/2005	2005-11/101
R708-40	Driving Simulators	27579	CPR	04/18/2005	2005-6/28
R708-40	Driving Simulators	27579	NEW	04/18/2005	2005-1/31

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R708-41	Requirements for Acceptable Documentation	27808	EMR	04/11/2005	2005-9/74
R708-41	Requirements for Acceptable Documentation	27809	NEW	06/01/2005	2005-9/41
<u>Fire Marshal</u>					
R710-3-3	Amendments and Additions	27654	AMD	03/04/2005	2005-3/42
R710-4-3	Amendments and Additions	27653	AMD	03/04/2005	2005-3/44
R710-6	Liquefied Petroleum Gas Rules	27573	AMD	01/19/2005	2004-24/54
R710-8	Day Care Rules	27574	NSC	01/01/2005	Not Printed
R710-9-6	Amendments and Additions	27655	AMD	03/04/2005	2005-3/47
R710-9-6	Amendments and Additions	27754	AMD	05/04/2005	2005-7/68
<u>Highway Patrol</u>					
R714-500	Chemical Analysis Standards and Training	27882	5YR	05/12/2005	2005-11/102
Public Service Commission					
<u>Administration</u>					
R746-200-6	Termination of Service	27587	AMD	02/25/2005	2005-1/32
R746-341	Lifeline Rule	27821	AMD	06/20/2005	2005-9/42
R746-360-9	One-Time Distributions from the Fund	27302	CPR	01/04/2005	2004-23/54
R746-360-9	One-Time Distributions from the Fund	27302	AMD	01/04/2005	2004-15/59
R746-409-1	General Provisions	27527	NSC	01/01/2005	Not Printed
Regents (Board Of)					
<u>Administration</u>					
R765-604	New Century Scholarship	27663	5YR	01/19/2005	2005-4/56
R765-604	New Century Scholarship	27666	AMD	03/22/2005	2005-4/22
R765-626	Lender-of-Last-Resort Program	27841	5YR	04/26/2005	2005-10/53
School and Institutional Trust Lands					
<u>Administration</u>					
R850-20	Mineral Resources	27611	REP	04/01/2005	2005-2/50
R850-21	Oil, Gas and Hydrocarbon Resources	27612	NEW	04/01/2005	2005-2/58
R850-21	Oil, Gas and Hydrocarbon Resources	27813	AMD	06/01/2005	2005-9/46
R850-22	Bituminous-Asphaltic Sands and Oil Shale Resources	27613	NEW	04/01/2005	2005-2/65
R850-23	Sand, Gravel and Cinders Permits	27609	NEW	04/01/2005	2005-2/72
R850-24	General Provisions: Mineral and Material Resources, Mineral Leases and Material Permits	27607	NEW	04/01/2005	2005-2/76
R850-24-200	Insurance Requirements	27814	AMD	06/01/2005	2005-9/49
R850-25	Mineral Leases and Materials Permits	27606	NEW	04/01/2005	2005-2/81
R850-26	Coal Leases	27604	NEW	04/01/2005	2005-2/84
R850-27	Geothermal Steam	27601	NEW	04/01/2005	2005-2/86
R850-50	Range Management	27811	AMD	06/01/2005	2005-9/49
R850-130	Materials Permits	27602	REP	04/01/2005	2005-2/89
Tax Commission					
<u>Auditing</u>					
R865-9I-21	Return By Partnership Pursuant to Utah Code Ann. Section 59-10-507	27804	AMD	06/08/2005	2005-9/51
R865-16R	Severance Tax	27739	5YR	03/08/2005	2005-7/77

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R865-19S-20	Basis for Reporting Tax Pursuant to Utah Code Ann. Section 59-12-107	27819	AMD	07/01/2005	2005-9/52
R865-19S-32	Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-103	27820	AMD	07/01/2005	2005-9/54
R865-19S-51	Fabrication and Installation Labor in Connection With Retail Sales of Tangible Personal Property Pursuant to Utah Code Ann. Section 59-12-103	27822	AMD	07/01/2005	2005-9/55
R865-19S-52	Federal, State and Local Taxes Pursuant to Utah Code Ann. Section 59-12-102	27825	AMD	07/01/2005	2005-9/56
R865-19S-60	Sales of Machinery, Fixtures and Supplies to Manufacturers, Businessmen and Others Pursuant to Utah Code Ann. Section 59-12-103	27826	AMD	07/01/2005	2005-9/56
R865-19S-68	Premiums, Gifts, Rebates, and Coupons Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103	27828	AMD	07/01/2005	2005-9/57
R865-19S-71	Transportation Charges in Connection With the Sale of Tangible Personal Property Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104	27831	AMD	07/01/2005	2005-9/58
R865-19S-85	Sales and Use Tax Exemptions for New or Expanding Operations and Normal Operating Replacements Pursuant to Utah Code Ann. Section 59-12-104	27832	AMD	07/01/2005	2005-9/59
R865-19S-90	Telephone Service Pursuant to Utah Code Ann. Section 59-12-103	27833	AMD	07/01/2005	2005-9/61
R865-19S-101	Application of Sales Tax to Fees Assessed in Conjunction with the Retail Sale of a Motor Vehicle Pursuant to Utah Code Ann. Section 59-12-103	27834	AMD	07/01/2005	2005-9/62
<u>Motor Vehicle</u>					
R873-22M-27	Issuance of Special Group License Plates Pursuant to Utah Code Ann. Sections 41-1a-408, 41-1a-409 and 41-1a-414	27803	AMD	05/08/2005	2005-9/63
Transportation					
<u>Motor Carrier, Ports of Entry</u>					
R912-16	Special Mobile Equipment	27954	5YR	06/01/2005	2005-12/90
Workforce Services					
<u>Employment Development</u>					
R986-100	Employment Support Programs	27661	AMD	04/07/2005	2005-4/24
R986-200-214	Assistance for Specified Relatives	27824	AMD	06/01/2005	2005-9/65
R986-500-501	Authority for Adoption Assistance (AA) and Other Applicable Rules	27491	AMD	01/01/2005	2004-21/31
R986-700	Child Care Assistance	27660	AMD	04/07/2005	2005-4/26
<u>Workforce Information and Payment Services</u>					
R994-204	Included Employment	27789	5YR	04/01/2005	2005-8/59
R994-205	Exempt Employment	27791	5YR	04/01/2005	2005-8/59
R994-206	Agricultural Labor	27796	5YR	04/01/2005	2005-8/60
R994-304	Special Provisions Regarding Transfers of Unemployment Experience and Assigning Rates	27823	NEW	06/01/2005	2005-9/69

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired

NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>abortion</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	27582	R414-1B	NSC	02/01/2005	Not Printed
<u>acceptable documentation</u>					
Public Safety, Driver License	27808	R708-41	EMR	04/11/2005	2005-9/74
	27809	R708-41	NEW	06/01/2005	2005-9/41
<u>accreditation</u>					
Education, Administration	27705	R277-410	AMD	04/01/2005	2005-5/8
	27706	R277-411	AMD	04/01/2005	2005-5/10
	27707	R277-412	AMD	04/01/2005	2005-5/13
	27708	R277-413	AMD	04/01/2005	2005-5/16
<u>adjudicative proceedings</u>					
Commerce, Administration	27636	R151-46b	AMD	02/15/2005	2005-2/32
<u>administrative procedure</u>					
Natural Resources, Forestry, Fire and State Lands	27750	R652-70-1900	AMD	05/20/2005	2005-7/66
<u>administrative procedures</u>					
Commerce, Administration	27636	R151-46b	AMD	02/15/2005	2005-2/32
Environmental Quality, Drinking Water	27912	R309-100	5YR	05/16/2005	2005-11/90
	27908	R309-115	5YR	05/16/2005	2005-11/92
	27909	R309-150	5YR	05/16/2005	2005-11/92
	27906	R309-300	5YR	05/16/2005	2005-11/96
	27781	R309-405	NSC	05/16/2005	Not Printed
	27916	R309-405	5YR	05/16/2005	2005-11/97
Natural Resources, Forestry, Fire and State Lands	27740	R652-70-2300	AMD	05/20/2005	2005-7/67
	27843	R652-120	5YR	04/28/2005	2005-10/53
School and Institutional Trust Lands, Administration	27611	R850-20	REP	04/01/2005	2005-2/50
	27813	R850-21	AMD	06/01/2005	2005-9/46
	27612	R850-21	NEW	04/01/2005	2005-2/58
	27613	R850-22	NEW	04/01/2005	2005-2/65
	27606	R850-25	NEW	04/01/2005	2005-2/81
	27604	R850-26	NEW	04/01/2005	2005-2/84
	27601	R850-27	NEW	04/01/2005	2005-2/86
	27811	R850-50	AMD	06/01/2005	2005-9/49

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	27602	R850-130	REP	04/01/2005	2005-2/89
<u>adoption assistance</u> Workforce Services, Employment Development	27491	R986-500-501	AMD	01/01/2005	2004-21/31
<u>adult education</u> Education, Administration	27592	R277-733	AMD	02/01/2005	2005-1/10
<u>advertising</u> Labor Commission, Antidiscrimination and Labor, Antidiscrimination	28004	R606-4	5YR	06/08/2005	Not Printed
<u>aesthetics</u> Capitol Preservation Board (State), Administration	27631	R131-8	NEW	03/03/2005	2005-2/24
<u>air pollution</u> Environmental Quality, Air Quality	27429	R307-110-11	AMD	03/04/2005	2004-19/37
	27429	R307-110-11	CPR	03/04/2005	2005-3/52
	27343	R307-110-12	CPR	01/04/2005	2004-23/53
	27343	R307-110-12	AMD	01/04/2005	2004-17/12
	27665	R307-210	AMD	04/19/2005	2005-4/17
<u>aircraft</u> Tax Commission, Motor Vehicle	27803	R873-22M-27	AMD	05/08/2005	2005-9/63
<u>alcohol</u> Public Safety, Highway Patrol	27882	R714-500	5YR	05/12/2005	2005-11/102
<u>alcoholic beverages</u> Alcoholic Beverage Control, Administration	27725	R81-5-5	AMD	05/01/2005	2005-6/3
	27726	R81-5-14	AMD	05/01/2005	2005-6/4
	27727	R81-5-17	AMD	05/01/2005	2005-6/5
<u>alternative onsite wastewater systems</u> Environmental Quality, Water Quality	27699	R317-4	5YR	02/10/2005	2005-5/30
<u>annuity insurance filings</u> Insurance, Administration	27717	R590-227-3	AMD	04/28/2005	2005-6/22
<u>annuity replacement</u> Insurance, Administration	27829	R590-93	R&R	06/08/2005	2005-9/12
<u>aquaculture</u> Agriculture and Food, Animal Industry	27696	R58-17	5YR	02/03/2005	2005-5/28
<u>architects</u> Administrative Services, Facilities Construction and Management	27605	R23-2	AMD	03/15/2005	2005-2/7
Capitol Preservation Board (State), Administration	27711	R131-1	5YR	02/16/2005	2005-6/33
<u>architecture</u> Capitol Preservation Board (State), Administration	27631	R131-8	NEW	03/03/2005	2005-2/24
<u>art</u> Capitol Preservation Board (State), Administration	27632	R131-9	NEW	03/03/2005	2005-2/26

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>assisted living facilities</u> Public Safety, Fire Marshal	27654	R710-3-3	AMD	03/04/2005	2005-3/42
<u>backflow assembly tester</u> Environmental Quality, Drinking Water	27780	R309-305	NSC	05/16/2005	Not Printed
	27617	R309-305	NSC	02/01/2005	Not Printed
	27915	R309-305	5YR	05/16/2005	2005-11/96
<u>banking law</u> Money Management Council, Administration	27689	R628-11	AMD	03/22/2005	2005-4/18
<u>bear</u> Natural Resources, Wildlife Resources	27649	R657-33	AMD	03/04/2005	2005-3/36
<u>behavior</u> Human Services, Services for People with Disabilities	27724	R539-4	NEW	05/03/2005	2005-6/16
<u>benefits</u> Community and Economic Development, Community Development, Community Services	27420	R202-207-702	AMD	01/12/2005	2004-19/27
<u>big game seasons</u> Natural Resources, Wildlife Resources	27550	R657-5	AMD	01/15/2005	2004-24/38
<u>birds</u> Natural Resources, Wildlife Resources	27863	R657-15	5YR	05/05/2005	2005-11/99
<u>bituminous-asphaltic sands</u> School and Institutional Trust Lands, Administration	27613	R850-22	NEW	04/01/2005	2005-2/65
<u>board members</u> Commerce, Administration	27633	R151-1	NEW	02/15/2005	2005-2/29
<u>boating</u> Natural Resources, Parks and Recreation	27560	R651-202	AMD	01/15/2005	2004-24/28
	27559	R651-205-7	AMD	01/15/2005	2004-24/29
	27664	R651-206	NSC	02/01/2005	Not Printed
	27561	R651-206	AMD	01/15/2005	2004-24/29
	27562	R651-209	REP	01/15/2005	2004-24/32
	27563	R651-211	AMD	01/15/2005	2004-24/33
	27564	R651-212	AMD	01/15/2005	2004-24/34
	27565	R651-215	AMD	01/15/2005	2004-24/35
<u>boilers</u> Labor Commission, Safety	27616	R616-2-3	AMD	03/07/2005	2005-2/49
<u>bonding requirements</u> Human Services, Recovery Services	27881	R527-394	5YR	05/12/2005	2005-11/98
<u>brachytherapy</u> Environmental Quality, Radiation Control	27748	R313-32	AMD	05/13/2005	2005-7/38

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>breath testing</u>					
Public Safety, Highway Patrol	27882	R714-500	5YR	05/12/2005	2005-11/102
<u>broad scope</u>					
Environmental Quality, Radiation Control	27747	R313-22	AMD	05/13/2005	2005-7/36
<u>building codes</u>					
Commerce, Occupational and Professional Licensing	27489	R156-56	AMD	01/01/2005	2004-21/6
	27490	R156-56-704	AMD	01/01/2005	2004-21/11
<u>building inspection</u>					
Commerce, Occupational and Professional Licensing	27489	R156-56	AMD	01/01/2005	2004-21/6
	27490	R156-56-704	AMD	01/01/2005	2004-21/11
<u>burns</u>					
Natural Resources, Forestry, Fire and State Lands	27843	R652-120	5YR	04/28/2005	2005-10/53
<u>capitol-preservation</u>					
Capitol Preservation Board (State), Administration	27711	R131-1	5YR	02/16/2005	2005-6/33
<u>cash management</u>					
Money Management Council, Administration	27743	R628-15	NEW	05/05/2005	2005-7/60
<u>certification</u>					
Labor Commission, Safety	27616	R616-2-3	AMD	03/07/2005	2005-2/49
	27590	R616-3-3	AMD	02/01/2005	2005-1/30
<u>charities</u>					
Tax Commission, Auditing	27819	R865-19S-20	AMD	07/01/2005	2005-9/52
	27820	R865-19S-32	AMD	07/01/2005	2005-9/54
	27822	R865-19S-51	AMD	07/01/2005	2005-9/55
	27825	R865-19S-52	AMD	07/01/2005	2005-9/56
	27826	R865-19S-60	AMD	07/01/2005	2005-9/56
	27828	R865-19S-68	AMD	07/01/2005	2005-9/57
	27831	R865-19S-71	AMD	07/01/2005	2005-9/58
	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
<u>charities tax exemptions</u>					
Tax Commission, Auditing	27833	R865-19S-90	AMD	07/01/2005	2005-9/61
<u>child care</u>					
Workforce Services, Employment Development	27660	R986-700	AMD	04/07/2005	2005-4/26
<u>child support</u>					
Human Services, Recovery Services	27640	R527-10	5YR	01/06/2005	2005-3/58
	27648	R527-40	AMD	03/14/2005	2005-3/30
	27642	R527-40	5YR	01/06/2005	2005-3/59
	27534	R527-210	REP	01/04/2005	2004-23/49
	27647	R527-255	AMD	03/14/2005	2005-3/30

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	27881	R527-394	5YR	05/12/2005	2005-11/98
	27641	R527-475	5YR	01/06/2005	2005-3/59
<u>child welfare</u>					
Administrative Services, Child Welfare Parental Defense (Office of)	27518	R19-1	NEW	05/13/2005	2004-22/9
	27518	R19-1	CPR	05/13/2005	2005-2/94
<u>cinders</u>					
School and Institutional Trust Lands, Administration	27609	R850-23	NEW	04/01/2005	2005-2/72
<u>coal</u>					
School and Institutional Trust Lands, Administration	27611	R850-20	REP	04/01/2005	2005-2/50
	27604	R850-26	NEW	04/01/2005	2005-2/84
<u>coal mines</u>					
Natural Resources, Oil, Gas and Mining; Coal	27778	R645-105	5YR	03/25/2005	2005-8/58
<u>coal mining</u>					
Natural Resources, Oil, Gas and Mining; Coal	27779	R645-400	5YR	03/25/2005	2005-8/58
<u>communicable diseases</u>					
Health, Epidemiology and Laboratory Services, Epidemiology	27496	R386-702	CPR	05/16/2005	2005-3/53
	27496	R386-702	AMD	05/16/2005	2004-21/13
<u>compliance determinations</u>					
Environmental Quality, Drinking Water	27917	R309-205	5YR	05/16/2005	2005-11/93
	27918	R309-210	5YR	05/16/2005	2005-11/94
	27910	R309-215	5YR	05/16/2005	2005-11/94
<u>conduct</u>					
Commerce, Real Estate	27788	R162-107	AMD	05/25/2005	2005-8/14
Professional Practices Advisory Commission, Administration	27542	R686-100	NSC	01/01/2005	Not Printed
<u>consent</u>					
Health, Epidemiology and Laboratory Services, Epidemiology	27934	R386-800	5YR	05/24/2005	2005-12/90
<u>conservation</u>					
Natural Resources, Wildlife Resources	27863	R657-15	5YR	05/05/2005	2005-11/99
<u>construction</u>					
Administrative Services, Facilities Construction and Management	27610	R23-4	AMD	03/15/2005	2005-2/10
<u>construction contracts</u>					
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	28003	R606-3	5YR	06/08/2005	Not Printed
<u>construction disputes</u>					
Administrative Services, Facilities Construction and Management	27610	R23-4	AMD	03/15/2005	2005-2/10
<u>consumer confidence report</u>					
Environmental Quality, Drinking Water	27905	R309-225	5YR	05/16/2005	2005-11/95

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>consumer hearing panel</u> Human Services, Child and Family Services	27883	R512-75	5YR	05/12/2005	2005-11/98
<u>contamination</u> Environmental Quality, Radiation Control	27744	R313-15	AMD	05/13/2005	2005-7/33
<u>contractors</u> Commerce, Occupational and Professional Licensing	27752	R156-38	5YR	03/15/2005	2005-7/75
	27489	R156-56	AMD	01/01/2005	2004-21/6
	27490	R156-56-704	AMD	01/01/2005	2004-21/11
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	28003	R606-3	5YR	06/08/2005	Not Printed
<u>contracts</u> Administrative Services, Facilities Construction and Management	27603	R23-1	AMD	03/15/2005	2005-2/2
	27610	R23-4	AMD	03/15/2005	2005-2/10
<u>conveyance</u> Natural Resources, Water Rights	27690	R655-3	5YR	02/01/2005	2005-4/54
<u>cooperative wildlife management unit</u> Natural Resources, Wildlife Resources	27551	R657-37	AMD	01/15/2005	2004-24/45
<u>cost sharing</u> Health, Health Care Financing, Coverage and Reimbursement Policy	27588	R414-200	AMD	02/01/2005	2005-1/24
<u>counselors</u> Commerce, Occupational and Professional Licensing	27749	R156-60c	5YR	03/14/2005	2005-7/75
<u>CPB</u> Capitol Preservation Board (State), Administration	27631	R131-8	NEW	03/03/2005	2005-2/24
	27632	R131-9	NEW	03/03/2005	2005-2/26
<u>credit insurance filings</u> Insurance, Administration	27718	R590-228-3	AMD	04/28/2005	2005-6/23
<u>cross connection control</u> Environmental Quality, Drinking Water	27617	R309-305	NSC	02/01/2005	Not Printed
	27780	R309-305	NSC	05/16/2005	Not Printed
	27915	R309-305	5YR	05/16/2005	2005-11/96
<u>curricula</u> Education, Administration	27710	R277-705-6	AMD	04/01/2005	2005-5/19
	27662	R277-713	AMD	03/21/2005	2005-4/14
<u>day care</u> Public Safety, Fire Marshal	27574	R710-8	NSC	01/01/2005	Not Printed
<u>decommissioning</u> Environmental Quality, Radiation Control	27747	R313-22	AMD	05/13/2005	2005-7/36

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>decontamination</u> Health, Epidemiology and Laboratory Services, Environmental Services	27650	R392-600	NEW	05/02/2005	2005-3/19
<u>definitions</u> Administrative Services, Fleet Operations	27546	R27-1-2	AMD	01/10/2005	2004-23/3
Environmental Quality, Drinking Water	27911	R309-110	5YR	05/16/2005	2005-11/91
Environmental Quality, Radiation Control	27746	R313-12	AMD	05/13/2005	2005-7/29
<u>design</u> Administrative Services, Facilities Construction and Management	27615	R23-3	AMD	03/15/2005	2005-2/9
<u>disabilities</u> Human Services, Services for People with Disabilities	27801	R539-5	NEW	05/17/2005	2005-8/33
<u>disability</u> Human Services, Services for People with Disabilities	27568	R539-1	AMD	01/25/2005	2004-24/17
<u>disabled persons</u> Human Services, Services for People with Disabilities	27651	R539-2	REP	03/12/2005	2005-3/31
	27652	R539-3	REP	03/12/2005	2005-3/34
	27753	R539-4	REP	05/03/2005	2005-7/58
	27802	R539-5	REP	05/17/2005	2005-8/31
	27795	R539-8	REP	05/17/2005	2005-8/35
Natural Resources, Wildlife Resources	27721	R657-12	AMD	04/15/2005	2005-6/24
<u>disasters</u> Education, Administration	27539	R277-400	NSC	01/01/2005	Not Printed
<u>discharge permits</u> Environmental Quality, Water Quality	27657	R317-8-3	AMD	04/20/2005	2005-3/12
<u>discrimination</u> Labor Commission, Antidiscrimination and Labor, Antidiscrimination	28003	R606-3	5YR	06/08/2005	Not Printed
	28004	R606-4	5YR	06/08/2005	Not Printed
	28005	R606-5	5YR	06/08/2005	Not Printed
	28002	R606-6	5YR	06/08/2005	Not Printed
<u>disease control</u> Agriculture and Food, Animal Industry	27570	R58-1	AMD	01/18/2005	2004-24/5
	27687	R58-1-7	AMD	03/18/2005	2005-4/8
	27694	R58-21	5YR	02/03/2005	2005-5/29
<u>disinfection monitoring</u> Environmental Quality, Drinking Water	27910	R309-215	5YR	05/16/2005	2005-11/94
<u>dispute</u> Administrative Services, Facilities Construction and Management	27614	R23-26	NEW	03/15/2005	2005-2/12
<u>distribution system monitoring</u> Environmental Quality, Drinking Water	27918	R309-210	5YR	05/16/2005	2005-11/94

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>diversion programs</u>					
Commerce, Occupational and Professional Licensing	27499	R156-1	NSC	01/01/2005	Not Printed
<u>drinking water</u>					
Environmental Quality, Drinking Water	27912	R309-100	5YR	05/16/2005	2005-11/90
	27907	R309-105	5YR	05/16/2005	2005-11/91
	27911	R309-110	5YR	05/16/2005	2005-11/91
	27908	R309-115	5YR	05/16/2005	2005-11/92
	27909	R309-150	5YR	05/16/2005	2005-11/92
	27913	R309-200	5YR	05/16/2005	2005-11/93
	27917	R309-205	5YR	05/16/2005	2005-11/93
	27918	R309-210	5YR	05/16/2005	2005-11/94
	27910	R309-215	5YR	05/16/2005	2005-11/94
	27914	R309-220	5YR	05/16/2005	2005-11/95
	27905	R309-225	5YR	05/16/2005	2005-11/95
	27906	R309-300	5YR	05/16/2005	2005-11/96
	27780	R309-305	NSC	05/16/2005	Not Printed
	27617	R309-305	NSC	02/01/2005	Not Printed
	27915	R309-305	5YR	05/16/2005	2005-11/96
	27916	R309-405	5YR	05/16/2005	2005-11/97
	27781	R309-405	NSC	05/16/2005	Not Printed
	27816	R309-600	5YR	04/14/2005	2005-9/76
	27815	R309-605	5YR	04/14/2005	2005-9/76
<u>driver education</u>					
Education, Administration	27520	R277-746	NSC	01/01/2005	Not Printed
<u>driver license</u>					
Public Safety, Driver License	27878	R708-36	5YR	05/11/2005	2005-11/100
<u>driver training</u>					
Public Safety, Driver License	27898	R708-37	5YR	05/13/2005	2005-11/101
<u>driving simulators</u>					
Public Safety, Driver License	27579	R708-40	NEW	04/18/2005	2005-1/31
	27579	R708-40	CPR	04/18/2005	2005-6/28
<u>dual enrollment</u>					
Education, Administration	27800	R277-438	AMD	05/19/2005	2005-8/19
<u>education</u>					
Education, Administration	27798	R277-407	AMD	05/19/2005	2005-8/15
	27702	R277-422	NSC	03/01/2005	Not Printed
<u>education finance</u>					
Education, Administration	27798	R277-407	AMD	05/19/2005	2005-8/15
<u>educational program evaluations</u>					
Education, Administration	27722	R277-501	5YR	02/23/2005	2005-6/35

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>educational testing</u> Education, Administration	27547	R277-473	AMD	01/04/2005	2004-23/43
	27872	R277-473	5YR	05/09/2005	2005-11/90
<u>educational tuition</u> Education, Administration	27798	R277-407	AMD	05/19/2005	2005-8/15
<u>educator license renewal</u> Education, Administration	27722	R277-501	5YR	02/23/2005	2005-6/35
<u>effluent standards</u> Environmental Quality, Water Quality	27659	R317-1	AMD	04/20/2005	2005-3/5
<u>electronic high school</u> Education, Administration	27507	R277-725	NSC	01/01/2005	Not Printed
<u>electronic preliminary lien filing</u> Commerce, Occupational and Professional Licensing	27734	R156-38b	NEW	04/18/2005	2005-6/6
<u>elevators</u> Labor Commission, Safety	27590	R616-3-3	AMD	02/01/2005	2005-1/30
<u>emergency medical services</u> Health, Health Systems Improvement, Emergency Medical Services	27519	R426-12	AMD	02/01/2005	2004-22/26
	27521	R426-13	AMD	02/01/2005	2004-23/47
	27584	R426-14-303	NSC	02/01/2005	Not Printed
	27522	R426-15	AMD	02/01/2005	2004-23/48
<u>emergency preparedness</u> Education, Administration	27539	R277-400	NSC	01/01/2005	Not Printed
<u>employment</u> Labor Commission, Antidiscrimination and Labor, Antidiscrimination	28004	R606-4	5YR	06/08/2005	Not Printed
	28005	R606-5	5YR	06/08/2005	Not Printed
<u>employment agencies</u> Labor Commission, Antidiscrimination and Labor, Antidiscrimination	28005	R606-5	5YR	06/08/2005	Not Printed
<u>employment support procedures</u> Workforce Services, Employment Development	27661	R986-100	AMD	04/07/2005	2005-4/24
<u>employment tests</u> Workforce Services, Workforce Information and Payment Services	27789	R994-204	5YR	04/01/2005	2005-8/59
	27791	R994-205	5YR	04/01/2005	2005-8/59
	27796	R994-206	5YR	04/01/2005	2005-8/60
<u>endangered species</u> Natural Resources, Forestry, Fire and State Lands	27843	R652-120	5YR	04/28/2005	2005-10/53
<u>energy assistance</u> Community and Economic Development, Community Development, Community Services	27418	R202-202-202	AMD	01/12/2005	2004-19/24

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
	27421	R202-203-324	AMD	01/12/2005	2004-19/25
	27419	R202-203-328	AMD	01/12/2005	2004-19/26
	27420	R202-207-702	AMD	01/12/2005	2004-19/27
<u>engineers</u>					
Administrative Services, Facilities Construction and Management	27605	R23-2	AMD	03/15/2005	2005-2/7
Capitol Preservation Board (State), Administration	27711	R131-1	5YR	02/16/2005	2005-6/33
Commerce, Occupational and Professional Licensing	27698	R156-22	AMD	04/04/2005	2005-5/2
<u>enrollment options</u>					
Education, Administration	27799	R277-437	AMD	05/19/2005	2005-8/17
<u>enterprise</u>					
Tax Commission, Auditing	27804	R865-91-21	AMD	06/08/2005	2005-9/51
<u>environmental health</u>					
Environmental Quality, Drinking Water	27816	R309-600	5YR	04/14/2005	2005-9/76
	27815	R309-605	5YR	04/14/2005	2005-9/76
<u>environmental protection</u>					
Environmental Quality, Drinking Water	27912	R309-100	5YR	05/16/2005	2005-11/90
	27909	R309-150	5YR	05/16/2005	2005-11/92
	27906	R309-300	5YR	05/16/2005	2005-11/96
	27781	R309-405	NSC	05/16/2005	Not Printed
	27916	R309-405	5YR	05/16/2005	2005-11/97
<u>exemptions</u>					
Environmental Quality, Radiation Control	27746	R313-12	AMD	05/13/2005	2005-7/29
	27745	R313-19	AMD	05/13/2005	2005-7/34
<u>facilities use</u>					
Capitol Preservation Board (State), Administration	27712	R131-2	5YR	02/16/2005	2005-6/33
<u>family employment program</u>					
Workforce Services, Employment Development	27824	R986-200-214	AMD	06/01/2005	2005-9/65
<u>fertilizers</u>					
Agriculture and Food, Plant Industry	27645	R68-3	5YR	01/07/2005	2005-3/58
<u>finance</u>					
Education, Administration	27702	R277-422	NSC	03/01/2005	Not Printed
<u>financial information</u>					
Human Services, Recovery Services	27640	R527-10	5YR	01/06/2005	2005-3/58
<u>financial institutions</u>					
Money Management Council, Administration	27689	R628-11	AMD	03/22/2005	2005-4/18
<u>fire prevention</u>					
Public Safety, Fire Marshal	27653	R710-4-3	AMD	03/04/2005	2005-3/44
	27574	R710-8	NSC	01/01/2005	Not Printed
	27754	R710-9-6	AMD	05/04/2005	2005-7/68

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	27655	R710-9-6	AMD	03/04/2005	2005-3/47
<u>fish</u>					
Natural Resources, Wildlife Resources	27432	R657-13	AMD	01/03/2005	2004-20/33
	27432	R657-13	CPR	01/03/2005	2004-22/66
<u>fishing</u>					
Natural Resources, Wildlife Resources	27432	R657-13	CPR	01/03/2005	2004-22/66
	27432	R657-13	AMD	01/03/2005	2004-20/33
<u>fleet expansion</u>					
Administrative Services, Fleet Operations	27543	R27-4	AMD	01/10/2005	2004-23/5
<u>fleet expansion vehicle replacement</u>					
Administrative Services, Fleet Operations	27594	R27-4-1	NSC	02/01/2005	Not Printed
<u>food inspection</u>					
Agriculture and Food, Animal Industry	27693	R58-10	5YR	02/03/2005	2005-5/28
Agriculture and Food, Regulatory Services	27514	R70-440	NSC	01/01/2005	Not Printed
	27628	R70-440-2	AMD	02/15/2005	2005-2/23
	27667	R70-440-2	NSC	03/01/2005	Not Printed
	27569	R70-540-14	AMD	03/18/2005	2004-24/7
<u>fuel dispensing</u>					
Administrative Services, Fleet Operations	27544	R27-6	AMD	01/10/2005	2004-23/7
<u>game laws</u>					
Natural Resources, Wildlife Resources	27550	R657-5	AMD	01/15/2005	2004-24/38
	27649	R657-33	AMD	03/04/2005	2005-3/36
<u>geothermal steam</u>					
School and Institutional Trust Lands, Administration	27601	R850-27	NEW	04/01/2005	2005-2/86
<u>government documents</u>					
Administrative Services, Records Committee	27621	R35-1a	NEW	03/08/2005	2005-2/17
	27625	R35-2	AMD	03/04/2005	2005-2/18
	27622	R35-3	AMD	03/04/2005	2005-2/19
	27624	R35-4	AMD	03/04/2005	2005-2/20
	27623	R35-5	AMD	03/04/2005	2005-2/21
	27620	R35-6	AMD	03/04/2005	2005-2/22
Community and Economic Development, Community Development, Community Services	27420	R202-207-702	AMD	01/12/2005	2004-19/27
<u>government hearings</u>					
Commerce, Administration	27636	R151-46b	AMD	02/15/2005	2005-2/32
<u>gravel</u>					
School and Institutional Trust Lands, Administration	27609	R850-23	NEW	04/01/2005	2005-2/72
<u>grievance procedures</u>					
Human Services, Child and Family Services	27883	R512-75	5YR	05/12/2005	2005-11/98

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>health effects</u>					
Environmental Quality, Drinking Water	27914	R309-220	5YR	05/16/2005	2005-11/95
<u>health facilities</u>					
Health, Health Systems Improvement, Licensing	27674	R432-7	5YR	01/28/2005	2005-4/47
	27675	R432-8	5YR	01/28/2005	2005-4/48
	27676	R432-9	5YR	01/28/2005	2005-4/48
	27677	R432-10	5YR	01/28/2005	2005-4/49
	27678	R432-11	5YR	01/28/2005	2005-4/49
	27679	R432-12	5YR	01/28/2005	2005-4/50
	27680	R432-13	5YR	01/28/2005	2005-4/50
	27681	R432-14	5YR	01/28/2005	2005-4/51
	27682	R432-30	5YR	01/28/2005	2005-4/51
	27683	R432-270	5YR	01/31/2005	2005-4/52
	27692	R432-270-10	AMD	05/10/2005	2005-5/24
<u>health insurance</u>					
Human Services, Recovery Services	27640	R527-10	5YR	01/06/2005	2005-3/58
Insurance, Administration	27866	R590-172	5YR	05/05/2005	2005-11/98
<u>hearings</u>					
Environmental Quality, Drinking Water	27908	R309-115	5YR	05/16/2005	2005-11/92
Professional Practices Advisory Commission, Administration	27542	R686-100	NSC	01/01/2005	Not Printed
<u>HEAT</u>					
Community and Economic Development, Community Development, Community Services	27418	R202-202-202	AMD	01/12/2005	2004-19/24
<u>higher education</u>					
Education, Administration	27662	R277-713	AMD	03/21/2005	2005-4/14
	27666	R765-604	AMD	03/22/2005	2005-4/22
	27663	R765-604	5YR	01/19/2005	2005-4/56
	27841	R765-626	5YR	04/26/2005	2005-10/53
<u>historic preservation</u>					
Tax Commission, Auditing	27804	R865-9I-21	AMD	06/08/2005	2005-9/51
<u>hospitals</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	27582	R414-1B	NSC	02/01/2005	Not Printed
<u>human services</u>					
Human Services, Administration, Administrative Services, Licensing	27673	R501-18	5YR	01/27/2005	2005-4/52
	27839	R501-19	5YR	04/25/2005	2005-10/51
	27836	R501-20	5YR	04/21/2005	2005-10/51
	27837	R501-21	5YR	04/22/2005	2005-10/52
	27838	R501-22	5YR	04/22/2005	2005-10/52
Human Services, Services for People with Disabilities	27568	R539-1	AMD	01/25/2005	2004-24/17

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>hunting</u> Natural Resources, Wildlife Resources	27552	R657-38	AMD	01/15/2005	2004-24/48
<u>illegal drug laboratories</u> Health, Epidemiology and Laboratory Services, Environmental Services	27650	R392-600	NEW	05/02/2005	2005-3/19
<u>immunization data reporting</u> Health, Epidemiology and Laboratory Services, Epidemiology	27934	R386-800	5YR	05/24/2005	2005-12/90
<u>income eligibility</u> Community and Economic Development, Community Development, Community Services	27421	R202-203-324	AMD	01/12/2005	2004-19/25
	27419	R202-203-328	AMD	01/12/2005	2004-19/26
<u>income tax</u> Tax Commission, Auditing	27804	R865-9I-21	AMD	06/08/2005	2005-9/51
<u>independent contractor</u> Workforce Services, Workforce Information and Payment Services	27789	R994-204	5YR	04/01/2005	2005-8/59
<u>industrial waste</u> Environmental Quality, Water Quality	27659	R317-1	AMD	04/20/2005	2005-3/5
<u>inspections</u> Agriculture and Food, Animal Industry	27695	R58-22	5YR	02/03/2005	2005-5/29
Agriculture and Food, Plant Industry	27697	R68-20	5YR	02/04/2005	2005-5/30
Agriculture and Food, Regulatory Services	27523	R70-960-7	NSC	01/01/2005	Not Printed
Environmental Quality, Radiation Control	27746	R313-12	AMD	05/13/2005	2005-7/29
<u>insurance</u> Insurance, Administration	27785	R590-140	5YR	03/31/2005	2005-8/56
	27556	R590-147	R&R	02/10/2005	2004-24/21
	27719	R590-148-12	AMD	04/28/2005	2005-6/19
	27554	R590-163	REP	02/10/2005	2004-24/23
	27644	R590-196	5YR	01/07/2005	2005-3/60
	27558	R590-196	AMD	02/10/2005	2004-24/25
<u>insurance companies</u> Insurance, Administration	27685	R590-128	5YR	01/31/2005	2005-4/53
<u>insurance law</u> Insurance, Administration	27684	R590-88	5YR	01/31/2005	2005-4/53
	27686	R590-132	5YR	01/31/2005	2005-4/54
	27784	R590-164	5YR	03/31/2005	2005-8/57
	27555	R590-174	REP	02/10/2005	2004-24/24
<u>intoxilyzer</u> Public Safety, Highway Patrol	27882	R714-500	5YR	05/12/2005	2005-11/102
<u>investigators</u> Commerce, Administration	27633	R151-1	NEW	02/15/2005	2005-2/29

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>investment advisers</u>					
Money Management Council, Administration	27743	R628-15	NEW	05/05/2005	2005-7/60
	27742	R628-19	R&R	05/05/2005	2005-7/64
<u>irradiator</u>					
Environmental Quality, Radiation Control	27738	R313-34	5YR	03/08/2005	2005-7/76
	27646	R313-34-1	NSC	02/01/2005	Not Printed
<u>IT bid committee</u>					
Governor, Planning and Budget, Chief Information Officer	27545	R365-101	NEW	03/09/2005	2004-23/45
<u>IT standards council</u>					
Governor, Planning and Budget, Chief Information Officer	27545	R365-101	NEW	03/09/2005	2004-23/45
<u>judicial conduct commission</u>					
Judicial Conduct Commission, Administration	27580	R595-1	REP	02/01/2005	2005-1/26
	27330	R595-1	CPR	02/01/2005	2004-24/59
	27330	R595-1	NEW	02/01/2005	2004-17/18
	27331	R595-2	CPR	02/01/2005	2004-24/60
	27331	R595-2	NEW	02/01/2005	2004-17/23
	27332	R595-3	NEW	02/01/2005	2004-17/24
	27332	R595-3	CPR	02/01/2005	2004-24/61
	27668	R595-3-10	NSC	02/01/2005	Not Printed
	27333	R595-4	NEW	02/01/2005	2004-17/26
	27333	R595-4	CPR	02/01/2005	2004-24/64
	27807	R595-4-2	AMD	06/01/2005	2005-9/37
<u>law</u>					
Public Safety, Fire Marshal	27754	R710-9-6	AMD	05/04/2005	2005-7/68
	27655	R710-9-6	AMD	03/04/2005	2005-3/47
<u>lease operations</u>					
School and Institutional Trust Lands, Administration	27607	R850-24	NEW	04/01/2005	2005-2/76
	27814	R850-24-200	AMD	06/01/2005	2005-9/49
<u>lease provisions</u>					
School and Institutional Trust Lands, Administration	27813	R850-21	AMD	06/01/2005	2005-9/46
	27612	R850-21	NEW	04/01/2005	2005-2/58
	27613	R850-22	NEW	04/01/2005	2005-2/65
	27606	R850-25	NEW	04/01/2005	2005-2/81
	27604	R850-26	NEW	04/01/2005	2005-2/84
	27601	R850-27	NEW	04/01/2005	2005-2/86
<u>license</u>					
Environmental Quality, Radiation Control	27745	R313-19	AMD	05/13/2005	2005-7/34
<u>license plates</u>					
Tax Commission, Motor Vehicle	27803	R873-22M-27	AMD	05/08/2005	2005-9/63

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>licensing</u>					
Commerce, Occupational and Professional Licensing	27499	R156-1	NSC	01/01/2005	Not Printed
	27786	R156-17a	REP	05/17/2005	2005-8/2
	27529	R156-17b	CPR	05/17/2005	2005-8/43
	27529	R156-17b	CPR	05/17/2005	2005-4/31
	27529	R156-17b	NEW	05/17/2005	2004-23/20
	27600	R156-31b	AMD	02/17/2005	2005-2/36
	27752	R156-38	5YR	03/15/2005	2005-7/75
	27548	R156-47b	CPR	03/07/2005	2005-3/51
	27548	R156-47b	AMD	03/07/2005	2004-24/7
	27435	R156-50	CPR	01/18/2005	2004-24/58
	27435	R156-50	AMD	01/18/2005	2004-20/12
	27489	R156-56	AMD	01/01/2005	2004-21/6
	27490	R156-56-704	AMD	01/01/2005	2004-21/11
	27749	R156-60c	5YR	03/14/2005	2005-7/75
	27538	R156-61-502	AMD	01/04/2005	2004-23/40
	27533	R156-71-202	AMD	01/04/2005	2004-23/41
Commerce, Real Estate	27797	R162-102-1	AMD	05/25/2005	2005-8/12
Human Services, Administration, Administrative Services, Licensing	27673	R501-18	5YR	01/27/2005	2005-4/52
	27839	R501-19	5YR	04/25/2005	2005-10/51
	27836	R501-20	5YR	04/21/2005	2005-10/51
	27837	R501-21	5YR	04/22/2005	2005-10/52
	27838	R501-22	5YR	04/22/2005	2005-10/52
Natural Resources, Water Rights	27392	R655-4	AMD	01/12/2005	2004-18/30
	27475	R655-4	NSC	02/01/2005	Not Printed
	27691	R655-4	5YR	02/01/2005	2005-4/55
<u>liens</u>					
Commerce, Occupational and Professional Licensing	27752	R156-38	5YR	03/15/2005	2005-7/75
<u>life insurance</u>					
Insurance, Administration	27829	R590-93	R&R	06/08/2005	2005-9/12
<u>life insurance filing</u>					
Insurance, Administration	27716	R590-226-3	AMD	04/28/2005	2005-6/21
<u>lifeline rates</u>					
Public Service Commission, Administration	27821	R746-341	AMD	06/20/2005	2005-9/42
<u>liquefied petroleum gas</u>					
Public Safety, Fire Marshal	27573	R710-6	AMD	01/19/2005	2004-24/54
<u>livestock</u>					
Agriculture and Food, Animal Industry	27688	R58-7	5YR	02/01/2005	2005-4/47
<u>loans</u>					
Agriculture and Food, Marketing and Conservation	27787	R65-10	5YR	03/31/2005	2005-8/56

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>local health departments</u>					
Health, Administration	27571	R380-40	AMD	02/02/2005	2004-24/9
	27990	R380-40	5YR	06/06/2005	Not Printed
<u>maintenance</u>					
Capitol Preservation Board (State), Administration	27631	R131-8	NEW	03/03/2005	2005-2/24
<u>massage therapy</u>					
Commerce, Occupational and Professional Licensing	27548	R156-47b	AMD	03/07/2005	2004-24/7
	27548	R156-47b	CPR	03/07/2005	2005-3/51
<u>material permit</u>					
School and Institutional Trust Lands, Administration	27607	R850-24	NEW	04/01/2005	2005-2/76
<u>material permits</u>					
School and Institutional Trust Lands, Administration	27814	R850-24-200	AMD	06/01/2005	2005-9/49
<u>materials handling</u>					
School and Institutional Trust Lands, Administration	27602	R850-130	REP	04/01/2005	2005-2/89
<u>Medicaid</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	27805	R414-1	AMD	06/03/2005	2005-9/6
	27582	R414-1B	NSC	02/01/2005	Not Printed
	27806	R414-7A	AMD	06/03/2005	2005-9/10
	27505	R414-7D	NEW	01/03/2005	2004-22/15
	27486	R414-10A-6	NSC	01/01/2005	Not Printed
	27733	R414-14	AMD	04/26/2005	2005-6/12
	27985	R414-19A	5YR	06/03/2005	Not Printed
	27986	R414-33	5YR	06/03/2005	Not Printed
	27703	R414-33C	NEW	04/07/2005	2005-5/23
	27589	R414-34-6	AMD	02/01/2005	2005-1/21
	27591	R414-36-6	AMD	02/01/2005	2005-1/22
	27741	R414-61	5YR	03/11/2005	2005-7/77
	27586	R414-61-2	AMD	02/01/2005	2005-1/23
	27549	R414-63	AMD	01/26/2005	2004-24/13
	27557	R414-90	AMD	01/19/2005	2004-24/15
	27588	R414-200	AMD	02/01/2005	2005-1/24
	27629	R414-507	NEW	02/15/2005	2005-2/42
<u>medical examiner</u>					
Health, Medical Examiner	27988	R448-10	5YR	06/06/2005	Not Printed
	27989	R448-20	5YR	06/06/2005	Not Printed
<u>mental health</u>					
Commerce, Occupational and Professional Licensing	27749	R156-60c	5YR	03/14/2005	2005-7/75
Human Services, Substance Abuse and Mental Health	27638	R523-1	AMD	03/07/2005	2005-3/28

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>mineral classification</u> School and Institutional Trust Lands, Administration	27606	R850-25	NEW	04/01/2005	2005-2/81
<u>mineral lease</u> School and Institutional Trust Lands, Administration	27607	R850-24	NEW	04/01/2005	2005-2/76
<u>mineral leases</u> School and Institutional Trust Lands, Administration	27814	R850-24-200	AMD	06/01/2005	2005-9/49
<u>mineral resources</u> School and Institutional Trust Lands, Administration	27607	R850-24	NEW	04/01/2005	2005-2/76
	27814	R850-24-200	AMD	06/01/2005	2005-9/49
Tax Commission, Auditing	27739	R865-16R	5YR	03/08/2005	2005-7/77
<u>motor vehicle record</u> Public Safety, Driver License	27878	R708-36	5YR	05/11/2005	2005-11/100
<u>motor vehicles</u> Tax Commission, Motor Vehicle	27803	R873-22M-27	AMD	05/08/2005	2005-9/63
<u>naturopathic physician</u> Commerce, Occupational and Professional Licensing	27533	R156-71-202	AMD	01/04/2005	2004-23/41
<u>naturopaths</u> Commerce, Occupational and Professional Licensing	27533	R156-71-202	AMD	01/04/2005	2004-23/41
<u>new source review</u> Environmental Quality, Air Quality	27665	R307-210	AMD	04/19/2005	2005-4/17
<u>next-of-kin</u> Health, Medical Examiner	27989	R448-20	5YR	06/06/2005	Not Printed
<u>non-traditional</u> Health, Health Care Financing, Coverage and Reimbursement Policy	27588	R414-200	AMD	02/01/2005	2005-1/24
<u>nonpublic schools</u> Education, Administration	27705	R277-410	AMD	04/01/2005	2005-5/8
<u>notice of commencement</u> Commerce, Occupational and Professional Licensing	27734	R156-38b	NEW	04/18/2005	2005-6/6
<u>notice of completion</u> Commerce, Occupational and Professional Licensing	27734	R156-38b	NEW	04/18/2005	2005-6/6
<u>nuclear medicine</u> Environmental Quality, Radiation Control	27748	R313-32	AMD	05/13/2005	2005-7/38
<u>nurses</u> Commerce, Occupational and Professional Licensing	27600	R156-31b	AMD	02/17/2005	2005-2/36
<u>oath</u> Commerce, Administration	27633	R151-1	NEW	02/15/2005	2005-2/29

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>occupational licensing</u>					
Commerce, Occupational and Professional Licensing	27499	R156-1	NSC	01/01/2005	Not Printed
<u>off-highway vehicles</u>					
Natural Resources, Parks and Recreation	27566	R651-401	AMD	01/15/2005	2004-24/37
<u>oil gas and hydrocarbons</u>					
School and Institutional Trust Lands, Administration	27813	R850-21	AMD	06/01/2005	2005-9/46
	27612	R850-21	NEW	04/01/2005	2005-2/58
<u>oil shale</u>					
School and Institutional Trust Lands, Administration	27613	R850-22	NEW	04/01/2005	2005-2/65
<u>onsite wastewater systems</u>					
Environmental Quality, Water Quality	27699	R317-4	5YR	02/10/2005	2005-5/30
<u>opening and closing dates</u>					
Community and Economic Development, Community Development, Community Services	27418	R202-202-202	AMD	01/12/2005	2004-19/24
<u>operations</u>					
School and Institutional Trust Lands, Administration	27813	R850-21	AMD	06/01/2005	2005-9/46
	27612	R850-21	NEW	04/01/2005	2005-2/58
<u>operator certification</u>					
Environmental Quality, Water Quality	27656	R317-10-6	AMD	04/20/2005	2005-3/18
Public Safety, Highway Patrol	27882	R714-500	5YR	05/12/2005	2005-11/102
<u>ownership</u>					
Natural Resources, Water Rights	27690	R655-3	5YR	02/01/2005	2005-4/54
<u>ozone</u>					
Environmental Quality, Air Quality	27429	R307-110-11	CPR	03/04/2005	2005-3/52
	27429	R307-110-11	AMD	03/04/2005	2004-19/37
	27343	R307-110-12	AMD	01/04/2005	2004-17/12
	27343	R307-110-12	CPR	01/04/2005	2004-23/53
<u>parental defense</u>					
Administrative Services, Child Welfare Parental Defense (Office of)	27518	R19-1	CPR	05/13/2005	2005-2/94
	27518	R19-1	NEW	05/13/2005	2004-22/9
<u>payment determination</u>					
Community and Economic Development, Community Development, Community Services	27421	R202-203-324	AMD	01/12/2005	2004-19/25
	27419	R202-203-328	AMD	01/12/2005	2004-19/26
<u>penalties</u>					
Environmental Quality, Drinking Water	27916	R309-405	5YR	05/16/2005	2005-11/97
	27781	R309-405	NSC	05/16/2005	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>people with disabilities</u>					
Human Services, Services for People with Disabilities	27626	R539-2	NEW	03/12/2005	2005-2/45
	27792	R539-2-6	AMD	05/17/2005	2005-8/29
	27627	R539-3	NEW	03/12/2005	2005-2/47
	27793	R539-3-10	AMD	05/17/2005	2005-8/30
	27724	R539-4	NEW	05/03/2005	2005-6/16
<u>performance standards</u>					
Health, Administration	27990	R380-40	5YR	06/06/2005	Not Printed
	27571	R380-40	AMD	02/02/2005	2004-24/9
<u>permit provisions</u>					
School and Institutional Trust Lands, Administration	27609	R850-23	NEW	04/01/2005	2005-2/72
<u>permit terms</u>					
School and Institutional Trust Lands, Administration	27606	R850-25	NEW	04/01/2005	2005-2/81
<u>permits</u>					
Natural Resources, Forestry, Fire and State Lands	27750	R652-70-1900	AMD	05/20/2005	2005-7/66
	27740	R652-70-2300	AMD	05/20/2005	2005-7/67
	27843	R652-120	5YR	04/28/2005	2005-10/53
Natural Resources, Wildlife Resources	27553	R657-42-4	AMD	01/15/2005	2004-24/53
School and Institutional Trust Lands, Administration	27602	R850-130	REP	04/01/2005	2005-2/89
<u>personnel files</u>					
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	28002	R606-6	5YR	06/08/2005	Not Printed
<u>pharmacies</u>					
Commerce, Occupational and Professional Licensing	27786	R156-17a	REP	05/17/2005	2005-8/2
	27529	R156-17b	CPR	05/17/2005	2005-8/43
	27529	R156-17b	CPR	05/17/2005	2005-4/31
	27529	R156-17b	NEW	05/17/2005	2004-23/20
<u>pharmacists</u>					
Commerce, Occupational and Professional Licensing	27786	R156-17a	REP	05/17/2005	2005-8/2
	27529	R156-17b	CPR	05/17/2005	2005-8/43
	27529	R156-17b	NEW	05/17/2005	2004-23/20
	27529	R156-17b	CPR	05/17/2005	2005-4/31
<u>physicians</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	27582	R414-1B	NSC	02/01/2005	Not Printed
<u>pipeline</u>					
Public Service Commission, Administration	27527	R746-409-1	NSC	01/01/2005	Not Printed
<u>plan of operation</u>					
School and Institutional Trust Lands, Administration	27604	R850-26	NEW	04/01/2005	2005-2/84
	27601	R850-27	NEW	04/01/2005	2005-2/86

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>planning</u> Administrative Services, Facilities Construction and Management	27615	R23-3	AMD	03/15/2005	2005-2/9
<u>planning-budgeting</u> Capitol Preservation Board (State), Administration	27713	R131-7	5YR	02/16/2005	2005-6/34
<u>PM10</u> Environmental Quality, Air Quality	27429	R307-110-11	CPR	03/04/2005	2005-3/52
	27429	R307-110-11	AMD	03/04/2005	2004-19/37
	27343	R307-110-12	AMD	01/04/2005	2004-17/12
	27343	R307-110-12	CPR	01/04/2005	2004-23/53
<u>PM2.5</u> Environmental Quality, Air Quality	27429	R307-110-11	AMD	03/04/2005	2004-19/37
	27429	R307-110-11	CPR	03/04/2005	2005-3/52
	27343	R307-110-12	AMD	01/04/2005	2004-17/12
	27343	R307-110-12	CPR	01/04/2005	2004-23/53
<u>policies and procedures</u> Human Services, Substance Abuse and Mental Health	27638	R523-1	AMD	03/07/2005	2005-3/28
<u>policy</u> Capitol Preservation Board (State), Administration	27632	R131-9	NEW	03/03/2005	2005-2/26
<u>preliminary notice</u> Commerce, Occupational and Professional Licensing	27734	R156-38b	NEW	04/18/2005	2005-6/6
<u>prescriptions</u> Health, Health Care Financing, Coverage and Reimbursement Policy	27549	R414-63	AMD	01/26/2005	2004-24/13
<u>primary term</u> School and Institutional Trust Lands, Administration	27611	R850-20	REP	04/01/2005	2005-2/50
<u>privacy</u> Public Safety, Driver License	27878	R708-36	5YR	05/11/2005	2005-11/100
<u>private probation provider</u> Commerce, Occupational and Professional Licensing	27435	R156-50	CPR	01/18/2005	2004-24/58
	27435	R156-50	AMD	01/18/2005	2004-20/12
<u>probation</u> Commerce, Occupational and Professional Licensing	27435	R156-50	AMD	01/18/2005	2004-20/12
	27435	R156-50	CPR	01/18/2005	2004-24/58
<u>procurement</u> Administrative Services, Facilities Construction and Management	27603	R23-1	AMD	03/15/2005	2005-2/2
	27605	R23-2	AMD	03/15/2005	2005-2/7
	27615	R23-3	AMD	03/15/2005	2005-2/9
Capitol Preservation Board (State), Administration	27711	R131-1	5YR	02/16/2005	2005-6/33

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>professional counselors</u> Commerce, Occupational and Professional Licensing	27749	R156-60c	5YR	03/14/2005	2005-7/75
<u>professional engineers</u> Commerce, Occupational and Professional Licensing	27698	R156-22	AMD	04/04/2005	2005-5/2
<u>professional land surveyors</u> Commerce, Occupational and Professional Licensing	27698	R156-22	AMD	04/04/2005	2005-5/2
<u>program</u> Capitol Preservation Board (State), Administration	27632	R131-9	NEW	03/03/2005	2005-2/26
<u>psychologists</u> Commerce, Occupational and Professional Licensing	27538	R156-61-502	AMD	01/04/2005	2004-23/40
<u>public buildings</u> Administrative Services, Facilities Construction and Management	27603	R23-1	AMD	03/15/2005	2005-2/2
Capitol Preservation Board (State), Administration	27712	R131-2	5YR	02/16/2005	2005-6/33
	27713	R131-7	5YR	02/16/2005	2005-6/34
Public Safety, Fire Marshal	27653	R710-4-3	AMD	03/04/2005	2005-3/44
<u>public education</u> Education, Administration	27799	R277-437	AMD	05/19/2005	2005-8/17
	27800	R277-438	AMD	05/19/2005	2005-8/19
<u>public funds</u> Money Management Council, Administration	27742	R628-19	R&R	05/05/2005	2005-7/64
<u>public investments</u> Money Management Council, Administration	27743	R628-15	NEW	05/05/2005	2005-7/60
<u>public notification</u> Environmental Quality, Drinking Water	27914	R309-220	5YR	05/16/2005	2005-11/95
<u>public schools</u> Education, Administration	27705	R277-410	AMD	04/01/2005	2005-5/8
<u>public utilities</u> Public Service Commission, Administration	27587	R746-200-6	AMD	02/25/2005	2005-1/32
	27302	R746-360-9	CPR	01/04/2005	2004-23/54
	27302	R746-360-9	AMD	01/04/2005	2004-15/59
<u>quality standards</u> Environmental Quality, Drinking Water	27913	R309-200	5YR	05/16/2005	2005-11/93
<u>quarantines</u> Agriculture and Food, Animal Industry	27581	R58-2	AMD	02/01/2005	2005-1/9
<u>radiation</u> Environmental Quality, Radiation Control	27738	R313-34	5YR	03/08/2005	2005-7/76
	27646	R313-34-1	NSC	02/01/2005	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>radiation safety</u>					
Environmental Quality, Radiation Control	27738	R313-34	5YR	03/08/2005	2005-7/76
	27646	R313-34-1	NSC	02/01/2005	Not Printed
<u>radioactive material</u>					
Environmental Quality, Radiation Control	27744	R313-15	AMD	05/13/2005	2005-7/33
	27748	R313-32	AMD	05/13/2005	2005-7/38
<u>radioactive materials</u>					
Environmental Quality, Radiation Control	27747	R313-22	AMD	05/13/2005	2005-7/36
<u>radiopharmaceutical</u>					
Environmental Quality, Radiation Control	27748	R313-32	AMD	05/13/2005	2005-7/38
<u>range management</u>					
School and Institutional Trust Lands, Administration	27811	R850-50	AMD	06/01/2005	2005-9/49
<u>real estate appraisal</u>					
Commerce, Real Estate	27797	R162-102-1	AMD	05/25/2005	2005-8/12
<u>real estate appraisals</u>					
Commerce, Real Estate	27788	R162-107	AMD	05/25/2005	2005-8/14
<u>reciprocity</u>					
Environmental Quality, Radiation Control	27745	R313-19	AMD	05/13/2005	2005-7/34
<u>reclamation</u>					
Natural Resources, Oil, Gas and Mining; Coal	27778	R645-105	5YR	03/25/2005	2005-8/58
	27779	R645-400	5YR	03/25/2005	2005-8/58
<u>records</u>					
Health, Medical Examiner	27989	R448-20	5YR	06/06/2005	Not Printed
<u>records appeal hearings</u>					
Administrative Services, Records Committee	27621	R35-1a	NEW	03/08/2005	2005-2/17
	27625	R35-2	AMD	03/04/2005	2005-2/18
	27622	R35-3	AMD	03/04/2005	2005-2/19
	27624	R35-4	AMD	03/04/2005	2005-2/20
	27623	R35-5	AMD	03/04/2005	2005-2/21
	27620	R35-6	AMD	03/04/2005	2005-2/22
<u>recreation</u>					
Natural Resources, Wildlife Resources	27552	R657-38	AMD	01/15/2005	2004-24/48
<u>regulated contaminants</u>					
Environmental Quality, Drinking Water	27913	R309-200	5YR	05/16/2005	2005-11/93
<u>religious activities</u>					
Tax Commission, Auditing	27819	R865-19S-20	AMD	07/01/2005	2005-9/52
	27820	R865-19S-32	AMD	07/01/2005	2005-9/54
	27822	R865-19S-51	AMD	07/01/2005	2005-9/55
	27825	R865-19S-52	AMD	07/01/2005	2005-9/56

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	27826	R865-19S-60	AMD	07/01/2005	2005-9/56
	27828	R865-19S-68	AMD	07/01/2005	2005-9/57
	27831	R865-19S-71	AMD	07/01/2005	2005-9/58
	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
	27833	R865-19S-90	AMD	07/01/2005	2005-9/61
	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
<u>reporting death</u>					
Health, Medical Examiner	27988	R448-10	5YR	06/06/2005	Not Printed
<u>repository</u>					
Governor, Planning and Budget, Chief Information Officer	27545	R365-101	NEW	03/09/2005	2004-23/45
<u>residency requirements</u>					
Community and Economic Development, Community Development, Community Services	27418	R202-202-202	AMD	01/12/2005	2004-19/24
<u>resolution</u>					
Administrative Services, Facilities Construction and Management	27614	R23-26	NEW	03/15/2005	2005-2/12
<u>rights</u>					
Human Services, Services for People with Disabilities	27627	R539-3	NEW	03/12/2005	2005-2/47
	27793	R539-3-10	AMD	05/17/2005	2005-8/30
<u>royalties</u>					
School and Institutional Trust Lands, Administration	27611	R850-20	REP	04/01/2005	2005-2/50
<u>rules</u>					
Public Service Commission, Administration	27587	R746-200-6	AMD	02/25/2005	2005-1/32
<u>rules and procedures</u>					
Health, Epidemiology and Laboratory Services, Epidemiology	27496	R386-702	CPR	05/16/2005	2005-3/53
	27496	R386-702	AMD	05/16/2005	2004-21/13
Public Service Commission, Administration	27821	R746-341	AMD	06/20/2005	2005-9/42
	27527	R746-409-1	NSC	01/01/2005	Not Printed
<u>safety</u>					
Education, Administration	27539	R277-400	NSC	01/01/2005	Not Printed
Environmental Quality, Radiation Control	27744	R313-15	AMD	05/13/2005	2005-7/33
Labor Commission, Safety	27616	R616-2-3	AMD	03/07/2005	2005-2/49
	27590	R616-3-3	AMD	02/01/2005	2005-1/30
Public Service Commission, Administration	27527	R746-409-1	NSC	01/01/2005	Not Printed
Transportation, Motor Carrier, Ports of Entry	27954	R912-16	5YR	06/01/2005	2005-12/90
<u>safety education</u>					
Education, Administration	27539	R277-400	NSC	01/01/2005	Not Printed
<u>sales tax</u>					
Tax Commission, Auditing	27819	R865-19S-20	AMD	07/01/2005	2005-9/52
	27820	R865-19S-32	AMD	07/01/2005	2005-9/54

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	27822	R865-19S-51	AMD	07/01/2005	2005-9/55
	27825	R865-19S-52	AMD	07/01/2005	2005-9/56
	27826	R865-19S-60	AMD	07/01/2005	2005-9/56
	27828	R865-19S-68	AMD	07/01/2005	2005-9/57
	27831	R865-19S-71	AMD	07/01/2005	2005-9/58
	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
	27833	R865-19S-90	AMD	07/01/2005	2005-9/61
	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
<u>sand</u>					
School and Institutional Trust Lands, Administration	27609	R850-23	NEW	04/01/2005	2005-2/72
<u>scholarship</u>					
Regents (Board Of), Administration	27663	R765-604	5YR	01/19/2005	2005-4/56
<u>scholarships</u>					
Regents (Board Of), Administration	27666	R765-604	AMD	03/22/2005	2005-4/22
<u>secondary education</u>					
Regents (Board Of), Administration	27666	R765-604	AMD	03/22/2005	2005-4/22
	27663	R765-604	5YR	01/19/2005	2005-4/56
<u>securities</u>					
Commerce, Securities	27732	R164-2	5YR	02/28/2005	2005-6/34
	27777	R164-9-1	EMR	03/25/2005	2005-8/53
Money Management Council, Administration	27742	R628-19	R&R	05/05/2005	2005-7/64
<u>securities regulation</u>					
Commerce, Securities	27732	R164-2	5YR	02/28/2005	2005-6/34
	27777	R164-9-1	EMR	03/25/2005	2005-8/53
Money Management Council, Administration	27743	R628-15	NEW	05/05/2005	2005-7/60
<u>self administered services</u>					
Human Services, Services for People with Disabilities	27801	R539-5	NEW	05/17/2005	2005-8/33
<u>self-employment income</u>					
Community and Economic Development, Community Development, Community Services	27421	R202-203-324	AMD	01/12/2005	2004-19/25
	27419	R202-203-328	AMD	01/12/2005	2004-19/26
<u>septic tanks</u>					
Environmental Quality, Water Quality	27699	R317-4	5YR	02/10/2005	2005-5/30
<u>services</u>					
Human Services, Services for People with Disabilities	27626	R539-2	NEW	03/12/2005	2005-2/45
<u>settlement</u>					
Administrative Services, Facilities Construction and Management	27614	R23-26	NEW	03/15/2005	2005-2/12
<u>skills tests</u>					
Public Safety, Driver License	27898	R708-37	5YR	05/13/2005	2005-11/101

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>small game</u>					
Natural Resources, Wildlife Resources	27864	R657-21	5YR	05/05/2005	2005-11/99
<u>social services</u>					
Human Services, Services for People with Disabilities	27651	R539-2	REP	03/12/2005	2005-3/31
	27792	R539-2-6	AMD	05/17/2005	2005-8/29
	27652	R539-3	REP	03/12/2005	2005-3/34
	27753	R539-4	REP	05/03/2005	2005-7/58
	27802	R539-5	REP	05/17/2005	2005-8/31
	27795	R539-8	REP	05/17/2005	2005-8/35
<u>source monitoring</u>					
Environmental Quality, Drinking Water	27917	R309-205	5YR	05/16/2005	2005-11/93
<u>sovereign lands</u>					
Natural Resources, Forestry, Fire and State Lands	27750	R652-70-1900	AMD	05/20/2005	2005-7/66
	27740	R652-70-2300	AMD	05/20/2005	2005-7/67
<u>specific licenses</u>					
Environmental Quality, Radiation Control	27747	R313-22	AMD	05/13/2005	2005-7/36
<u>state buildings</u>					
Administrative Services, Facilities Construction and Management	27615	R23-3	AMD	03/15/2005	2005-2/9
Capitol Preservation Board (State), Administration	27713	R131-7	5YR	02/16/2005	2005-6/34
<u>state HEAT office records</u>					
Community and Economic Development, Community Development, Community Services	27420	R202-207-702	AMD	01/12/2005	2004-19/27
<u>state records committee</u>					
Administrative Services, Records Committee	27621	R35-1a	NEW	03/08/2005	2005-2/17
	27625	R35-2	AMD	03/04/2005	2005-2/18
	27622	R35-3	AMD	03/04/2005	2005-2/19
	27624	R35-4	AMD	03/04/2005	2005-2/20
	27623	R35-5	AMD	03/04/2005	2005-2/21
	27620	R35-6	AMD	03/04/2005	2005-2/22
<u>state vehicle use</u>					
Administrative Services, Fleet Operations	27599	R27-3-6	NSC	02/01/2005	Not Printed
<u>stationary sources</u>					
Environmental Quality, Air Quality	27665	R307-210	AMD	04/19/2005	2005-4/17
<u>student loans</u>					
Regents (Board Of), Administration	27841	R765-626	5YR	04/26/2005	2005-10/53
<u>students</u>					
Education, Administration	27662	R277-713	AMD	03/21/2005	2005-4/14
<u>surface water treatment plant monitoring</u>					
Environmental Quality, Drinking Water	27910	R309-215	5YR	05/16/2005	2005-11/94

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>survey</u>					
Environmental Quality, Radiation Control	27738	R313-34	5YR	03/08/2005	2005-7/76
	27646	R313-34-1	NSC	02/01/2005	Not Printed
<u>surveyors</u>					
Commerce, Occupational and Professional Licensing	27698	R156-22	AMD	04/04/2005	2005-5/2
<u>tax exemptions</u>					
Tax Commission, Auditing	27819	R865-19S-20	AMD	07/01/2005	2005-9/52
	27820	R865-19S-32	AMD	07/01/2005	2005-9/54
	27822	R865-19S-51	AMD	07/01/2005	2005-9/55
	27825	R865-19S-52	AMD	07/01/2005	2005-9/56
	27826	R865-19S-60	AMD	07/01/2005	2005-9/56
	27828	R865-19S-68	AMD	07/01/2005	2005-9/57
	27831	R865-19S-71	AMD	07/01/2005	2005-9/58
	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
<u>tax returns</u>					
Tax Commission, Auditing	27804	R865-9I-21	AMD	06/08/2005	2005-9/51
<u>taxation</u>					
Tax Commission, Auditing	27739	R865-16R	5YR	03/08/2005	2005-7/77
Tax Commission, Motor Vehicle	27803	R873-22M-27	AMD	05/08/2005	2005-9/63
<u>teacher certification</u>					
Professional Practices Advisory Commission, Administration	27542	R686-100	NSC	01/01/2005	Not Printed
<u>technology best practices</u>					
Governor, Planning and Budget, Chief Information Officer	27545	R365-101	NEW	03/09/2005	2004-23/45
<u>telecommunications</u>					
Public Service Commission, Administration	27821	R746-341	AMD	06/20/2005	2005-9/42
	27302	R746-360-9	AMD	01/04/2005	2004-15/59
	27302	R746-360-9	CPR	01/04/2005	2004-23/54
<u>telephone</u>					
Public Service Commission, Administration	27821	R746-341	AMD	06/20/2005	2005-9/42
<u>transportation</u>					
Environmental Quality, Radiation Control	27745	R313-19	AMD	05/13/2005	2005-7/34
<u>trucks</u>					
Transportation, Motor Carrier, Ports of Entry	27954	R912-16	5YR	06/01/2005	2005-12/90
<u>unattended death</u>					
Health, Medical Examiner	27988	R448-10	5YR	06/06/2005	Not Printed
<u>underground injection control</u>					
Environmental Quality, Water Quality	27596	R317-7	NSC	02/01/2005	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>unemployment compensation</u>					
Workforce Services, Workforce Information and Payment Services	27789	R994-204	5YR	04/01/2005	2005-8/59
	27791	R994-205	5YR	04/01/2005	2005-8/59
	27796	R994-206	5YR	04/01/2005	2005-8/60
<u>unemployment experience rating</u>					
Workforce Services, Workforce Information and Payment Services	27823	R994-304	NEW	06/01/2005	2005-9/69
<u>uninsured motorist database</u>					
Public Safety, Driver License	27877	R708-32	5YR	05/10/2005	2005-11/100
<u>units</u>					
Environmental Quality, Radiation Control	27746	R313-12	AMD	05/13/2005	2005-7/29
<u>universal service</u>					
Public Service Commission, Administration	27302	R746-360-9	CPR	01/04/2005	2004-23/54
	27302	R746-360-9	AMD	01/04/2005	2004-15/59
<u>utility service shutoff</u>					
Public Service Commission, Administration	27587	R746-200-6	AMD	02/25/2005	2005-1/32
<u>vehicle replacement</u>					
Administrative Services, Fleet Operations	27543	R27-4	AMD	01/10/2005	2004-23/5
<u>waste disposal</u>					
Environmental Quality, Radiation Control	27744	R313-15	AMD	05/13/2005	2005-7/33
Environmental Quality, Water Quality	27659	R317-1	AMD	04/20/2005	2005-3/5
<u>waste water</u>					
Environmental Quality, Water Quality	27699	R317-4	5YR	02/10/2005	2005-5/30
<u>wastewater</u>					
Environmental Quality, Water Quality	27658	R317-3-10	AMD	04/20/2005	2005-3/10
<u>wastewater treatment</u>					
Environmental Quality, Water Quality	27656	R317-10-6	AMD	04/20/2005	2005-3/18
<u>water pollution</u>					
Environmental Quality, Water Quality	27659	R317-1	AMD	04/20/2005	2005-3/5
	27593	R317-2	AMD	06/01/2005	2005-1/13
	27593	R317-2	CPR	06/01/2005	2005-9/72
	27658	R317-3-10	AMD	04/20/2005	2005-3/10
	27657	R317-8-3	AMD	04/20/2005	2005-3/12
	27656	R317-10-6	AMD	04/20/2005	2005-3/18
<u>water quality</u>					
Environmental Quality, Drinking Water	27905	R309-225	5YR	05/16/2005	2005-11/95
Environmental Quality, Water Quality	27658	R317-3-10	AMD	04/20/2005	2005-3/10
	27596	R317-7	NSC	02/01/2005	Not Printed
<u>water quality standards</u>					
Environmental Quality, Water Quality	27593	R317-2	CPR	06/01/2005	2005-9/72
	27593	R317-2	AMD	06/01/2005	2005-1/13

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>water rights</u>					
Natural Resources, Water Rights	27690	R655-3	5YR	02/01/2005	2005-4/54
	27475	R655-4	NSC	02/01/2005	Not Printed
	27691	R655-4	5YR	02/01/2005	2005-4/55
	27392	R655-4	AMD	01/12/2005	2004-18/30
<u>water system rating</u>					
Environmental Quality, Drinking Water	27909	R309-150	5YR	05/16/2005	2005-11/92
<u>watershed management</u>					
Environmental Quality, Drinking Water	27907	R309-105	5YR	05/16/2005	2005-11/91
<u>well drillers</u>					
Natural Resources, Water Rights	27691	R655-4	5YR	02/01/2005	2005-4/55
<u>well drilling</u>					
Natural Resources, Water Rights	27475	R655-4	NSC	02/01/2005	Not Printed
	27392	R655-4	AMD	01/12/2005	2004-18/30
<u>wildlife</u>					
Natural Resources, Wildlife Resources	27550	R657-5	AMD	01/15/2005	2004-24/38
	27721	R657-12	AMD	04/15/2005	2005-6/24
	27432	R657-13	CPR	01/03/2005	2004-22/66
	27432	R657-13	AMD	01/03/2005	2004-20/33
	27863	R657-15	5YR	05/05/2005	2005-11/99
	27864	R657-21	5YR	05/05/2005	2005-11/99
	27649	R657-33	AMD	03/04/2005	2005-3/36
	27551	R657-37	AMD	01/15/2005	2004-24/45
	27552	R657-38	AMD	01/15/2005	2004-24/48
	27553	R657-42-4	AMD	01/15/2005	2004-24/53
	27639	R657-47	REP	03/04/2005	2005-3/39
	27637	R657-47	NSC	03/04/2005	Not Printed
	27827	R657-55	NEW	06/01/2005	2005-9/38
<u>wildlife conservation</u>					
Natural Resources, Wildlife Resources	27552	R657-38	AMD	01/15/2005	2004-24/48
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	27721	R657-12	AMD	04/15/2005	2005-6/24
	27432	R657-13	CPR	01/03/2005	2004-22/66
	27432	R657-13	AMD	01/03/2005	2004-20/33
	27864	R657-21	5YR	05/05/2005	2005-11/99
<u>wildlife management</u>					
Natural Resources, Wildlife Resources	27863	R657-15	5YR	05/05/2005	2005-11/99
<u>wildlife permits</u>					
Natural Resources, Wildlife Resources	27639	R657-47	REP	03/04/2005	2005-3/39
	27637	R657-47	NSC	03/04/2005	Not Printed
	27827	R657-55	NEW	06/01/2005	2005-9/38

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>workers compensation insurance</u> Insurance, Administration	27488	R590-231	CPR	05/20/2005	2005-3/55
<u>workers' compensation insurance</u> Insurance, Administration	27488	R590-231	CPR	05/20/2005	2005-8/50
	27488	R590-231	NEW	05/20/2005	2004-21/15