

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed May 2, 2000, 12:00 a.m. through May 15, 2000, 11:59 p.m.

Number 2000-11
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Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

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

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

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EDITOR'S NOTE

NOTICE OF PUBLICATION ERROR IN THE MAY 15, 2000, ISSUE OF THE *UTAH STATE BULLETIN*

In the May 15, 2000, issue of the *Utah State Bulletin* (2000-10), due to a clerical error at the Division of Administrative Rules, the notice of correction for an effective date that was incorrect in the May 1, 2000, issue of the *Utah State Bulletin* contained an error. The DAR number was listed as 22605 for R309-405. The DAR number is 22604. The correct DAR number for the notice for Environmental Quality, Drinking Water R309-405, entitled "Compliance and Enforcement: Administrative Penalty" is DAR No. 22604.

If you have any questions regarding any of these corrections, please contact Nancy Lancaster, Publications Editor, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3218, FAX: (801) 538-1773, or Internet E-mail: nlancast@das.state.ut.us.

End of the Editor's Notes Section

SPECIAL NOTICES

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT COMMUNITY DEVELOPMENT, LIBRARY

PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 00-10, dated May 12, 2000. For copies of the complete list, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773. These lists are available on the World Wide Web at: <http://www.state.lib.ut.us/publicat/publicat.htm>.

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 2, 2000, 12:00 a.m., and May 15, 2000, 11:59 p.m., are included in this, the June 1, 2000, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least July 3, 2000. 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 September 29, 2000, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

Administrative Services, Finance
R25-7
Travel-Related Reimbursements for
State Employees

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22836
FILED: 05/10/2000, 09:31
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule was revised as a result of intent language in Senate Bill 1, Line Item 60, of the 2000 legislative session (2000 Utah Laws 344) that directs the Department of Administrative Services to implement a program requiring agencies to reimburse employees for personal vehicle use at a rate equal to, or less than, the per mile cost of a mid-size sedan operated by the Division of Fleet Operations. The intent language also directs that the same mileage rate be applied to legislative staff, the Judicial Branch, and to the Utah System of Higher Education. In addition, the rule was revised to allow the same amount of travel time for employees who drive a state-owned vehicle instead of flying as for those who drive a privately-owned vehicle instead of flying.

(DAR Note: S.B. 1 is found at 2000 Utah Laws 344, and will be effective July 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: The rule was amended to: 1) Change the reimbursement rate for a private vehicle to \$0.25 per mile, or \$0.31 per mile if a state fleet vehicle is not available to the employee; 2) apply the same mileage rate to legislative staff, the Judicial Branch, and to the Utah System of Higher Education; and 3) reimburse employees for a reasonable amount of travel time if they drive a state-owned vehicle instead of flying, as long as the total cost of the trip does not exceed the equivalent cost of the airline trip.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-107, and 2000 Utah Laws 344

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: Amending the rule will result in savings to the state budget because state agencies (including legislative staff, the Judicial Branch, and the Utah System of Higher Education) will spend less on some mileage reimbursements.

LOCAL GOVERNMENTS: This rule applies only to state employees and therefore will have no impact on local government.

OTHER PERSONS: As a result of legislative intent language mandating a reimbursement rate equivalent to the cost of driving a mid-size fleet vehicle, the mileage reimbursement rate in some circumstances will decrease from \$0.31 per mile to \$0.25 per mile. Employees of the state, legislative staff, the Judicial Branch, and the Utah System of Higher Education who choose to drive a personal vehicle when a

fleet vehicle is available will receive \$0.06 less per mile driven. We cannot estimate the aggregate cost to these employees because we do not know the total number of miles that will be driven under these circumstances.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with the revisions to Rule R25-7.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Amendments to Rule R25-7 apply only to state employees (including legislative staff, the Judicial Branch, and the Utah System of Higher Education) and have no impact on businesses--Raylene G. Ireland

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at tcramer@fi.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Kim S. Thorne, Director

R25. Administrative Services, Finance.
R25-7. Travel-Related Reimbursements for State Employees.

.....

R25-7-2. Authority and Exemptions.

(1) This rule is established pursuant to Section 63A-3-107, which authorizes the Division of Finance to adopt rules covering in-state and out-of-state travel.

(2) Senate Bill 1, Line Item 60 of the 2000 legislative session (2000 Utah Laws 344) contains intent language directing that the mileage reimbursement rate authorized in Section R25-7-10 also be applied to legislative staff, the Judicial Branch and to the Utah System of Higher Education.

.....

R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(d) In order to preserve insurance coverage, travelers must fly on tickets in their names only.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the airport long-term parking rate.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51.

(c) Travelers may be reimbursed for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with prior approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle [use is reimbursed] will be at the rate of [31]25 cents per mile, or 31 cents per mile if a state fleet vehicle is not available to the employee.

(c) Exceptions must be approved in writing by the Director of Finance.

(d) Mileage will be computed from the latest official state road map and will be limited to the most economical, usually traveled routes.

(e) The mileage rate is all-inclusive, and additional expenses such as parking and storage will not be allowed unless approved in writing by the Department Director.

(f) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

(g) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if approved by the Department Director.

(a) If the traveler drives a state-owned vehicle, [allowable reimbursement will include allowable expenses for the same period of time that would have occurred had the employee flown, plus] the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the [approved mileage rate] rate of 25 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director.

(i) The airline ticket cost in effect between 15 and 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) An itinerary printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(c) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(d) These reimbursements are all-inclusive, and additional expenses such as parking and toll fees will not be allowed unless approved in writing by the Department Director.

(e) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(f) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Agency, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the travel agency must be approved in advance by the Department Director.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director that he is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, he must certify the existence of at least \$500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that his insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least \$500,000 for liability coverage.

(d) Reimbursement will be made at 50 cents per mile.

(e) Mileage calculation is based on road mileage computed from the latest official state road map and is limited to the most economical, usually-traveled route.

(f) An employee may be reimbursed for rental of the aircraft and purchase of gasoline and oil instead of the amount per mile, with prior approval from the Department Director, when it is cost effective for the state.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 16 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Department of Administrative Services, and the Governor is required.

KEY: air travel, per diem allowance, state employees, transportation

~~September 1, 1999~~2000 **63A-3-107**
 Notice of Continuation October 30, 1998 **63A-3-106**
2000 Utah Laws 344

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs or savings are anticipated as proposed rules are only correcting two statute citations and deleting a provision that was deleted in the Construction Trades Licensing Act, Title 58, Chapter 55, by the 2000 Legislature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The 2000 Legislature eliminated contractor monetary limits, requiring that these rules be amended to correct statutory citations contained in the existing rules and to strike the reference to adjudicative proceedings on monetary limits. The elimination of this subsection further requires the relettering of the subsequent subsections. The proposed amendments to these rules will have no fiscal impact upon the state budget, local governments, the regulated profession, or the general public--Douglas C. Borba

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Ray Walker at the above address, by phone at (801) 530-6256, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.wrwalker@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: A. Gary Bowen, Director

◆ ----- ◆

Commerce, Occupational and Professional Licensing
R156-46b
 Division Utah Administrative Procedures Act Rules

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 22861
 FILED: 05/15/2000, 09:20
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are being proposed due to recent legislation which did away with a contractor monetary limit (H.B. 324) and to correct statute citations.

SUMMARY OF THE RULE OR CHANGE: In Section R156-46b-202, deleted reference to determination of a contractor monetary limit since the division will no longer be issuing a monetary limit as of May 1, 2000, as a result of H.B. 324 passed by the 2000 Legislature. Corrected two statute citations.

(DAR Note: H.B. 324 is found at 2000 Utah Laws 233, and was effective May 1, 2000.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63-46b-1(6) and 58-1-106(1)

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** No cost or savings are anticipated as a result of proposed changes being made beyond minimal costs to reprint the rules once they are made effective.

❖**LOCAL GOVERNMENTS:** Proposed rules do not apply to local governments; therefore, no cost or savings.

❖**OTHER PERSONS:** No costs or savings are anticipated as proposed rules are only correcting two statute citations and deleting a provision that was deleted in the Construction Trades Licensing Act, Title 58, Chapter 55, by the 2000 Legislature.

R156. Commerce, Occupational and Professional Licensing. R156-46b. Division Utah Administrative Procedures Act Rules. R156-46b-202. Informal Adjudicative Proceedings.

(1) The following adjudicative proceedings initiated by a request for agency action are classified as informal adjudicative proceedings:

- (a) approval or denial of application to take a licensure examination;
- (b) disqualification of examination results for cheating on examination;
- (c) request for rescoring of examination;
- (d) approval of application for initial licensure, renewal or reinstatement of licensure, or relicensure;
- (e) denial of application for initial licensure or relicensure;
- (f) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(6)(a);

(g) denial of application for reinstatement of restricted, suspended, or probationary licensure during the term of the restriction, suspension, or probation;

(h) ~~[determination of monetary limit under Section 58-55-21, in conjunction with approval of application for initial licensure or relicensure, or in conjunction with an application for increased monetary limit;~~

~~(i) approval or denial of application for inactive or emeritus licensure status;~~

(j) approval or denial of claims against the Residence Lien Recovery Fund created under Title 38, Chapter 11, except those in which the claimant is precluded from obtaining the required civil judgment or administrative order against the original contractor involved in the claim because the original contractor filed bankruptcy;

(k) approval or denial of request to surrender licensure;

(l) approval or denial of request for entry into diversion program under Section 58-1-404;

(m) matters relating to diversion program;

(n) contested citation hearing held in accordance with Subsection 58-55-~~13(4)~~503(4)(b);

(o) board of appeal held in accordance with Subsection 58-56-8(3);

(p) approval or denial of request for modification of disciplinary order;

(q) informal advice determining the applicability of statute, rule or order to specified circumstances;

(r) declaratory order determining the applicability of statute, rule or order to specified circumstances, when determined by the director to be conducted as an informal adjudicative proceeding;

(s) approval or denial of request for correction of procedural or clerical mistakes;

(t) approval or denial of request for correction of other than procedural or clerical mistakes; and

(u) all other requests for agency action not specifically classified as formal adjudicative proceedings in Subsection R156-46b-201(1).

(2) A disciplinary proceeding initiated by a Notice of Agency Action issued pursuant to a Petition seeking exclusively the issuance of a private reprimand is classified as an informal adjudicative proceeding.

R156-46b-403. Evidentiary Hearings in Informal Adjudicative Proceedings.

(1) Evidentiary hearings are not required for informal division adjudicative proceedings unless required by statute or rule, or permitted by rule and requested by a party within the time prescribed by rule.

(2) Unless otherwise provided, a request for an evidentiary hearing permitted by rule must be submitted in writing no later than 20 days following the issuance of the notice of agency action if the proceeding was initiated by the division, or together with the request for agency action if the proceeding was not initiated by the division.

(3) Evidentiary hearings are required for the following informal proceedings:

(a) R156-46b-202(1)(n), contested citation hearing held in accordance with Subsection 58-55-~~13(4)~~503(4)(b); and

(b) R156-46b-202(1)(o), board of appeal held in accordance with Subsection 58-56-8(3).

(4) Evidentiary hearings are permitted for the following informal proceedings:

(a) R156-46b-202(1)(b), disqualification of examination results for cheating upon an examination;

(b) R156-46b-202(1)(m), matters relating to a diversion program; and

(c) R156-46b-202(2), issuance of a private reprimand.

(5) Unless otherwise agreed by the parties, no evidentiary hearing shall be held in an informal adjudicative proceeding unless timely notice of the hearing has been served upon the parties as required by Subsection 63-46b-5(1)(d). Timely notice means service of a Notice of Hearing upon all parties not later than ten days prior to any scheduled evidentiary hearing.

(6) Parties shall be permitted to testify, present evidence, and comment on the issues at an evidentiary hearing in a division informal adjudicative proceeding.

KEY: administrative procedure, government hearings, occupational licensing

~~1994~~2000 63-46b-1(6)
58-1-106(1)
Notice of Continuation October 22, 1996



**Commerce, Occupational and
Professional Licensing
R156-56a
Recreational Vehicle Rules**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 22862

FILED: 05/15/2000, 09:20

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Title 41, Chapter 20, regarding recreational vehicles, was repealed in its entirety in 1998. Therefore, this rule has no basis in statute and needs to be repealed in its entirety.

(DAR Note: S.B. 143 is found at 1998 Utah Laws 339, and was effective May 4, 1998.)

SUMMARY OF THE RULE OR CHANGE: Rule is being repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 41-20-2(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No costs or savings are anticipated since the statute was repealed in 1998 and this rule has not been enforced since that time.

❖LOCAL GOVERNMENTS: Rules do not apply to local governments; therefore, no cost or savings.

❖OTHER PERSONS: No costs or savings are anticipated since the statute was repealed in 1998 and this rule has not been enforced since that time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs or savings are anticipated since the statute was repealed in 1998 and this rule has not been enforced since that time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The statute authorizing this rule was repealed in 1998, and this amendment repealing the rule in its entirety is for the purpose of removing this noneffective rule from the Administrative Code. The statute authorizing this rule was repealed in 1998 so this rule has had no fiscal impact upon the state budget, local governments, or affected persons since that time--Douglas C. Borba

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at (801) 530-6720, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dsjones@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: A. Gary Bowen, Director

R156. Commerce, Occupational and Professional Licensing.

~~R156-56a. Recreational Vehicle Rules.~~

~~R156-56a-1. Title.~~

~~These rules shall be known as the "Recreational Vehicle Rules".~~

~~R156-56a-2. Definitions.~~

~~(1) All definitions set forth in Section 41-20-1 shall apply with respect to these rules.~~

~~(2) "Dealer" means any person, individual, firm, partnership, corporation, or other legal entity which sells more than two new recreational vehicles in any calendar year.~~

~~(3) "Engaged in the business" means that the dealer is organized to and actually engages as a business enterprise in the sale or exchange of new recreational vehicles in any lawful business form and does not include the employees or sales agents of the dealer so engaged.~~

~~(4) "Recreational Vehicle Standard" means the American National Standards Institute (ANSI) 119.2 Standard for the~~

construction of Recreational Vehicles and ANSI 119.5 Standard for the construction of Park Trailers, and the National Electrical Code as amended. No other standard shall be applied for approval of the construction of recreational vehicles or park trailers.

~~R156-56a-3. Specific Editions of the Recreational Vehicle Standards.~~

~~The specific editions of the standard shall be as follows:~~

~~(1) The 1990 edition of the Recreational Vehicles Standards (ANSI 119.2) promulgated by the American National Standards Institute.~~

~~(2) The 1988 edition of the Park Trailer Standard (ANSI 119.5) promulgated by the American National Standards Institute.~~

~~(3) The 1990 edition of the National Electrical Code (NEC) promulgated by the National Fire Protection Agency.~~

~~R156-56a-4. Registration of Dealers.~~

~~Each dealer engaged in the business of selling or exchanging new recreational vehicles shall register with the division on forms supplied by the division and shall pay the required registration fee as provided in Subsection 41-20-4(1).~~

~~R156-56a-5. Records.~~

~~(1) With respect to each new recreational vehicle offered for sale in the state, the dealer shall have available for inspection by the division evidence the vehicle has been manufactured in compliance with the recreational vehicle standards defined in R156-56a-2(4).~~

~~(2) With respect to each new vehicle sold, the dealer shall have available for inspection by the division the following:~~

~~(a) The name, street address, city and state of the purchaser;~~

~~(b) Identifying vehicle identification numbers; and~~

~~(c) Evidence the vehicle has been manufactured in compliance with the recreational vehicle standards defined in R156-56a-2(4).~~

~~R156-56a-6. In-plant Inspection Criteria.~~

~~All agencies which desire to inspect manufacturers in lieu of the Recreational Vehicle Industry Association (RVIA) shall submit to the division the following information:~~

~~(1) The name of the agency;~~

~~(2) The address of the agency, listing all field offices;~~

~~(3) A list of officers of the agency;~~

~~(4) A list of the inspection staff and their inspection experience;~~

~~(5) A list of all the factories they inspect; and~~

~~(6) The method by which the agency shows evidence the construction of the vehicle is to the standards for recreational vehicles.~~

~~R156-56a-7. Evidence of Compliance at the Time of Manufacture Attached to Each Recreational Vehicle.~~

~~Each new recreational vehicle offered for sale in the state shall bear a seal or label, visible from the outside of the vehicle, indicating compliance of the recreational vehicle to the standards by:~~

~~(1) an RVIA seal attached to the vehicle by the manufacturer;~~
or

~~(2) a seal issued by another approved agency attached to the vehicle.~~

~~KEY: recreational vehicles, licensing~~

~~1994~~

~~41-20-2(1)~~

~~Notice of Continuation February 6, 1997]~~



Commerce, Occupational and Professional Licensing
R156-59-302a
Qualifications for Licensure

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22863
FILED: 05/15/2000, 09:53
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Kent Bishop of the GOPB (Governor's Office of Planning and Budget) had concerns regarding the division's nonsubstantive rule filing which added "current licensure as a Certified Public Accountant" to Subsection R156-59-302a(4)(a). As a result of those concerns, the wording is being deleted.

SUMMARY OF THE RULE OR CHANGE: Deleted in Subsection R156-59-302a(4)(a) the wording "current licensure as a Certified Public Accountant," and relettered the remaining paragraphs.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-59-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Minimal cost to the division to reprint these rules once the proposed change is made effective. Any cost will be absorbed in the current division budget.

❖LOCAL GOVERNMENTS: Rules do not apply to local governments; therefore, no cost or savings.

❖OTHER PERSONS: No costs or savings to other persons as the wording being deleted is summarized in greater detail in R156-59-302a(4)(a).

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs or savings are anticipated as the wording being deleted is summarized in greater detail in R156-59-302a(4)(a).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule filing is to remove redundancy in the rules since a CPA (certified public accountant) seeking qualification as a responsible manager would necessarily also possess an accounting degree, which would meet the minimal requirements. The implementation of this proposed amendment will have no impact upon the state budget, local

governments, the regulated industry, or the general public--Douglas C. Borba

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dfairhur@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: A. Gary Bowen, Director

R156. Commerce, Occupational and Professional Licensing. R156-59. Professional Employer Organization Act Rules. R156-59-302a. Qualifications for Licensure.

(1) In accordance with Subsection 58-59-302(5), the Division will permit an independent certified public accountant to certify in a form prescribed by the Division that the applicant has complied with the requirements set forth in Subsections 58-59-302(3) and (4).

(2) In accordance with Subsection 58-59-302(5), the Division shall require an independent certified public accountant to provide the following evidence of financial responsibility:

(a) a certification in a form prescribed by the Division that the PEO has paid all federal, state, and local withholding taxes, unemployment taxes, FICA taxes, workers' compensation premiums, and employee benefit plan premiums; and

(b) the PEO's audited financial statement for the year immediately preceding the date of the license application.

(3) In accordance with Subsection 58-59-302(7), the Division shall require:

(a) a licensed third party administrator to certify that the applicant is in compliance with the requirements set forth in Subsection 58-59-302(7)(b) and (d); and

(b) a qualified actuary who is a member in good standing of the American Academy of Actuaries to submit a statement of actuarial opinion certifying that the applicant is in compliance with the requirements set forth in Subsection 58-59-302(7)(a).

(4) In accordance with Subsection 58-59-302(9), responsible managers shall document the following education and experience requirements:

(a) ~~current licensure as a Certified Public Accountant;~~
~~(b)~~ an earned bachelors or post graduate degree in law, accounting, finance or business administration or other related

educational program approved by the Division in consultation with the Board and has a minimum of two years of full time paid experience in law, accounting, finance, business administration, management, or other related education and experience approved by the Division in consultation with the Board; or

(c)b graduation from high school or have a GED equivalent and have six years of full time paid experience in accounting, finance, business administration, management, or other related experience approved by the Division in consultation with the Board.

(5) In accordance with Subsection 58-59-302(10), good moral character shall be established by evaluating the conduct of the officers, directors, responsible managers who have signatory authority over fiduciary funds or persons who have a controlling interest in the PEO.

(6) In accordance with Subsections 58-59-501(5) and 58-59-502(3), each applicant for licensure as a PEO shall submit a form of the contract to be used between the PEO and the employee and submit a form of the contract to be used between the PEO and the client company to whom leased employees are provided.

(a) The contract forms shall contain:

(i) the name and address of the PEO as filed with the Division of Corporations and Commercial Code and the name and address under which the company does business;

(ii) disclosure that the employee is under contract for the purpose of being leased to a client company;

(iii) disclosure of the identity of the entity from whom the employee will receive compensation for work performed;

(iv) disclosure of the total compensation, including all employee benefits, to which the employee will be entitled;

(v) representation by the PEO that it will pay or cause to be paid when due all amounts to which the employee is entitled or which are to be paid to others, including government agencies and insurance companies; and

(vi) disclosure of any other matter which is material in the employment of the employee by the PEO or in the leasing of the employee to a client company.

(b) The contract forms specified in Subsection (a) shall be accompanied by a letter from legal counsel for the PEO expressing a legal opinion that the contract forms comply with the contract standards set forth in Title 58, Chapter 59, and this section.

KEY: licensing, professional employer organization*
~~April 17, 2000~~ **58-1-106(1)**
 Notice of Continuation January 27, 1998 **58-1-202(1)**
58-59-101



**Environmental Quality, Solid and
 Hazardous Waste
 R315-301
 Solid Waste Authority, Definitions, and
 General Requirements**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 22855

FILED: 05/11/2000, 14:39

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Since the disposal of vegetative materials that are generated as a result of land clearing presents a negligible threat to human health or the environment, the Division of Solid and Hazardous Waste proposes to exempt this waste from Rules R315-301 through R315-320. To eliminate duplicate regulation, the Division of Solid and Hazardous Waste proposes to exempt animal feeding operations from Rules R315-301 through R315-320 if they are operating under a Comprehensive Nutrient Management Plan. The Comprehensive Nutrient Management Plan is a Division of Water Quality program that regulates the management of manure and vegetative waste at animal feeding operations. Also, the rule is changed to update the citations to a state statute and a federal regulation and to increase clarity and accuracy in certain other parts of the rule.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to update references to a state statute and a federal regulation; to add petroleum contaminated soils to the definition of "special wastes"; to clarify and increase accuracy of the definition of "transfer station" by adding that a transfer station is staffed by an employee of the owner or operator during hours of operation; to clarify the definition of "yard waste" by stating that processed wood is not included as yard waste; to exempt vegetative material generated as a result of land clearing from Rules R315-301 through R315-320; and to exempt an animal feeding operation that operates under a Comprehensive Nutrient Management Plan from Rules R315-301 through R315-320.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-108, and 19-6-109

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258 (1999)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: EPA Report SW-846 "Test Methods for Evaluating Solid Waste," as revised December 1996

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The proposed rule changes do not affect state entities. Therefore, there is no anticipated cost or savings to the state budget.

❖**LOCAL GOVERNMENTS:** A local government involved in land clearing may realize a decrease in disposal costs of the vegetative waste generated. An aggregate cost savings cannot be estimated because the number and sizes of land clearing operations by local governments is not known.

❖**OTHER PERSONS:** Persons involved in land clearing operations may realize a decrease in disposal costs of the vegetative waste generated. Owners or operators of animal

feeding operations may realize a decrease in operational costs since duplicate regulation will be eliminated. Animal feeding operations will not be required to receive approval from both the Division of Water Quality and the Division of Solid and Hazardous Waste. The aggregate cost savings cannot be estimated, since the number and sizes of both land clearing operations and animal feeding operations are not known. Other proposed changes in the rule do not change the actual requirements. Therefore, these changes present no anticipated cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons involved in land clearing operations may realize a decrease in costs to dispose of the vegetative waste generated since these materials may be disposed on-site rather than at a permitted landfill. The actual cost savings cannot be estimated since the costs will depend on the amount of vegetative waste generated, the distance to the nearest permitted landfill, and the tipping fees at the landfill. If an owner or operator of an animal feeding operation is operating under a Comprehensive Nutrient Management Plan, they will not be required to receive approval from the Division of Solid and Hazardous Waste for their program to manage manure and vegetative wastes. The cost savings would be associated with not having to prepare a plan of operation and completing the approval process. The cost saving is estimated to be approximately \$1,000 for an animal feeding operation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to Rule R315-301 will decrease the costs of disposal for vegetative waste generated as a result of land clearing and will decrease costs for animal feeding operations by eliminating duplicate regulation--Dianne R. Nielson

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/15/2000

AUTHORIZED BY: Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board

R315. Environmental Quality, Solid and Hazardous Waste.

R315-301. Solid Waste Authority, Definitions, and General Requirements.

R315-301-2. Definitions.

Terms used in Rules R315-301 through R315-320 are defined in Sections 19-1-103 and 19-6-102. In addition, for the purpose of Rules R315-301 through 320, the following definitions apply.

(1) "Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being conducted.

(2) "Airport" means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(3) "Aquifer" means a geological formation, group of formations, or portion of a formation that contains sufficiently saturated permeable material to yield useable quantities of ground water to wells or springs.

(4) "Areas susceptible to mass movement" means those areas of influence, characterized as having an active or substantial possibility of mass movement, where the movement of earth material at, beneath, or adjacent to the landfill unit, because of natural or human-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock falls.

(5) "Asbestos Waste" means friable asbestos, which is any material containing more than 1% asbestos as determined using the method specified in Appendix A, 40 CFR Part 763.1, 1991 ed., which is adopted and incorporated by reference, that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

(6) "Background concentration" means the concentration of a contaminant in ground water upgradient or a lateral hydraulically equivalent point from a facility, practice, or activity, and which has not been affected by that facility, practice, or activity.

(7) "Class I landfill" means a municipal landfill or a commercial landfill solely under contract with a local government taking municipal waste generated within the boundaries of the local government and receiving, on a yearly average, over 20 tons of solid waste per day.

(8) "Class II landfill" means a municipal landfill or a commercial landfill solely under contract with a local government taking municipal waste generated within the boundaries of the local government and receiving, on a yearly average, 20 tons, or less, of solid waste per day.

(9) "Class III landfill" means a non-commercial landfill that is to receive only industrial solid waste, but excluding farms and ranches.

(10) "Class IV landfill" means a landfill that is to receive only construction/demolition waste, yard waste, inert waste, dead animals, or upon meeting the requirements of Section ~~[26-32a-103.5]~~ 19-6-804 and Section R315-320-3, waste tires and materials derived from waste tires.

(11) "Class V landfill" means a commercial landfill which receives any nonhazardous solid waste for disposal. Class V landfill does not include a landfill that is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

(12) "Closed facility" means any facility that no longer receives solid waste and has completed an approved closure plan, and any landfill on which an approved final cover has been installed.

(13) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household waste and industrial wastes.

(14) "Composite liner" means a liner system consisting of two components: the upper component consisting of a synthetic flexible membrane liner, and the lower component consisting of a layer of compacted soil. The composite liner must have the synthetic flexible membrane liner installed in direct and uniform contact with the compacted soil component and be constructed of specified materials and compaction to meet specified permeabilities.

(15) "Composting" means a method of solid waste management whereby the organic component of the waste stream is biologically decomposed under controlled conditions to a state in which the end product or compost can be safely handled, stored, or applied to the land without adversely affecting human health or the environment.

(16) "Construction/demolition waste" means waste from building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures. Such waste may include: bricks, concrete, other masonry materials, soil, asphalt, rock, untreated lumber, rebar, and tree stumps. It does not include asbestos, contaminated soils or tanks resulting from remediation or clean-up at any release or spill, waste paints, solvents, sealers, adhesives, or similar hazardous or potentially hazardous materials.

(17) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water or soil which is a result of human activity.

(18) "Displaced" or "displacement" means the relative movement of any two sides of a fault measured in any direction.

(19) "Drop box facility" means a facility used for the placement of a large detachable container or drop box for the collection of solid waste for transport to a solid waste disposal facility. The facility includes the area adjacent to the containers for necessary entrance, exit, unloading, and turn-around areas. Drop box facilities normally serve the general public with uncompacted loads and receive waste from off-site. Drop box facilities do not include residential or commercial waste containers on the site of waste generation.

(20) "Energy recovery" means the recovery of energy in a useable form from incineration, burning, or any other means of using the heat of combustion of solid waste that involves high temperature (above 1200 degrees Fahrenheit) processing.

(21) "Existing facility" means any facility that was receiving solid waste on or before July 15, 1993.

(22) "Expansion of a solid waste disposal facility" means any lateral or vertical expansion beyond or above the boundaries outlined in the initial permit application. Where no boundaries were designated in the disposal facility permit, expansion shall apply to all new land purchased or acquired after the effective date of these rules.

(23) "Facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating,

storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, e.g., one or more incinerators, landfills, container storage areas, or combinations of ~~them~~ these.

(24) "Floodplain" means the land which has been or may be hereafter covered by flood water which has a 1% chance of occurring any given year. The flood is also referred to as the base flood or 100-year flood.

(25) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure or as determined by EPA test method 9095 (Paint Filter Liquids Test) as provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste" [third edition, November 1986;] as revised December [1987](1996) which is adopted and incorporated by reference.

(26) "Garbage" means discarded animal and vegetable wastes and animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and of such a character and proportion as to be capable of attracting or providing food for vectors. Garbage does not include sewage and sewage sludge.

(27) "Ground water" means subsurface water which is in the zone of saturation including perched ground water.

(28) "Ground water quality standard" means a standard for maximum allowable contamination in ground water as set by Section R315-308-4.

(29) "Hazardous waste" means hazardous waste as defined by Subsection 19-6-102(9) and Section R315-2-3.

(30) "Holocene fault" means a fracture or zone of fractures along which rocks on one side of the fracture have been displaced with respect to those on the other side, which has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene, approximately 11,000 years ago, to the present.

(31) "Household size" means a container for a material or product that is normally and reasonably associated with households or household activities. The containers are of a size and design to hold materials or products generally for immediate use and not for storage, five gallons or less in size.

(32) "Household waste" means any solid waste, including garbage, trash, and sanitary waste in septic tanks, derived from households including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(33) "Incineration" means a controlled thermal process by which solid wastes are physically or chemically altered to gas, liquid, or solid residues which are also regulated solid wastes. Incineration does not include smelting operations where metals are reprocessed or the refining, processing, or the burning of used oil for energy recovery as described in Rule R315-15.

(34) "Industrial solid waste" means any solid waste generated at a manufacturing or other industrial facility that is not a hazardous waste. Industrial solid waste includes waste resulting from the following manufacturing processes and associated activities: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing or foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile

manufacturing; transportation equipment; and water treatment. This term does not include mining waste; oil and gas waste; or other waste excluded by Subsection 19-6-102(17)(b).

(35) "Industrial solid waste facility" means a facility which receives only industrial solid waste from on-site or off-site sources for disposal.

(36) "Inert waste" means noncombustible, nonhazardous solid wastes that retain their physical and chemical structure under expected conditions of disposal, including resistance to biological or chemical attack.

(37) "Landfill" means a disposal facility where solid waste is placed in or on the land and which is not a landtreatment facility or surface impoundment.

(38) "Landtreatment, landfarming, or landspreading facility" means a facility or part of a facility where solid waste is applied onto or incorporated into the soil surface for the purpose of biodegradation.

(39) "Lateral expansion of a solid waste disposal facility" means any horizontal expansion of the waste boundaries of an existing landfill cell, module, or unit or expansions not consistent with past normal operating practices.

(40) "Lateral hydraulically equivalent point" means a point located hydraulically equal to a facility and in the same ground water with similar geochemistry such that the ground water, at that point, has not been affected by the facility.

(41) "Leachate" means a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, miscible, or immiscible materials removed from such waste.

(42) "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include human-made materials, such as fill, concrete and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

(43) "Lower explosive limit" means the lowest percentage by volume of a mixture of explosive gases which will propagate a flame in air at 25 degrees Celsius (77 degrees Fahrenheit) and atmospheric pressure.

(44) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on site specific seismic risk assessment.

(45) "Municipal landfill" means a landfill that is not for profit and is either owned and operated by a local government or a government entity such as a city, town, county, service district, or an entity created by interlocal agreement of local governments, or is solely under contract with a local government or government entity.

(46) "Municipal solid waste" means household waste, commercial solid waste, and non-hazardous sludge.

(47) "New facility" means any facility that begins receiving solid waste after July 15, 1993.

(48) "Off-site" means any site which is not on-site.

(49) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a

cross-roads intersection, and access is by crossing, as opposed to going along the right-of-way. Property separated by a private right-of-way, which the site owner or operator controls, and to which the public does not have access, is also considered on-site property.

(50) "Operator" means the person, as defined by Subsection 19-1-103(4), responsible for the overall operation of a facility.

(51) "Owner" means the person, as defined by Subsection 19-1-103(4), who owns a facility or part of a facility.

(52) "PCB" or "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of materials which contain such substances.

(53) "Permeability" means the ease with which a porous material allows water and the solutes contained therein to flow through it. This is usually expressed in units of centimeters per second (cm/sec) and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of 1×10^{-7} cm/sec or less may be considered impermeable.

(54) "Permit" means the plan approval as required by Subsection 19-6-108(3)(a), or equivalent control document issued by the Executive Secretary to implement the requirements of the Utah Solid and Hazardous Waste Act.

(55) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

(56) "Poor foundation conditions" means those areas where features exist which indicate that a natural or human-induced event may result in inadequate foundation support for the structural components of a landfill unit.

(57) "Putrescible" means organic material subject to decomposition by microorganisms.

(58) "Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certification, or completion of accredited university programs that enable that individual to make sound professional judgements regarding ground water monitoring, contaminant fate and transport, and corrective action.

(59) "Recycling" means extracting valuable materials from the waste stream and transforming or remanufacturing them into usable materials that have a demonstrated or potential market.

(a) Recycling does not include processes that generate such volumes of material that no market exists for the material.

(b) Any part of the waste stream entering a recycling facility and subsequently returned to a waste stream or disposed has the same regulatory designation as the original waste.

(c) Recycling includes the substitution of nonhazardous solid waste fuels for conventional fuels (such as coal, natural gas, and petroleum products) for the purpose of generating the heat necessary to manufacture a product.

(60) "Recyclable materials" means those solid wastes that can be recovered from or otherwise diverted from the waste stream for the purpose of recycling, such as metals, paper, glass, and plastics.

(61) "Run-off" means any rainwater, leachate, or other liquid that has contacted solid waste and drains over land from any part of a facility.

(62) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto the active area of a facility.

(63) "Scavenging" means the uncontrolled removal of solid waste from a facility.

(64) "Seismic impact zone" means an area with a 10% or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in 250 years.

(65) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from septic tank systems.

(66) "Sharps" means any discarded or contaminated article or instrument from a health facility that may cause puncture or cuts. Such waste may include needles, syringes, blades, needles with attached tubing, pipettes, pasteurs, broken glass, and blood vials.

(67) "Sludge" means any solid, semisolid, or liquid waste, including grit and screenings generated from a:

- (a) municipal, commercial, or industrial waste water treatment plant;
- (b) water supply treatment plant;
- (c) car wash facility;
- (d) air pollution control facility; or
- (e) any other such waste having similar characteristics.

(68) "Solid waste disposal facility" means a facility or part of a facility at which solid waste is received from on-site or off-site sources and intentionally placed into or on land and at which waste, if allowed by permit, may remain after closure. Solid waste disposal facilities include landfills, incinerators, and land treatment areas.

(69) "Solid waste incinerator facility" means a facility at which solid waste is received from on-site or off-site sources and is subjected to the incineration process. An incinerator facility that incinerates solid waste for any reason, including energy recovery, volume reduction, or to render it non-infectious, is a solid waste incinerator facility and is subject to Rules R315-301 through 320.

(70) "Special waste" means discarded materials which may require special handling or may pose a threat to public safety, human health, or the environment. Special waste may include ash, automobile bodies, furniture and appliances, infectious waste, tires, dead animals, asbestos, industrial waste, wastes exempt from the hazardous waste classifications under the Federal Resource Conservation and Recovery Act, U.S.C., Section 6901, et seq., PCBs, petroleum contaminated soils, and sludge.

(71) "State" means the State of Utah.

(72) "Structural components" means liners, leachate collection systems, final covers, run-on or run-off systems, and any other component used in the construction and operation of a landfill that is necessary for the protection of human health and the environment.

(73) "Surface impoundment or impoundment" means a facility or part of a facility which is a natural topographic depression, human-made excavation, or diked area formed primarily of earthen materials, although it may be lined with synthetic materials, which is designed to hold an accumulation of liquid waste or waste containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(74) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is staffed by a minimum of one employee of the owner or operator during hours of operation and is used by persons and route collection vehicles to

deposit collected solid waste from off-site into a larger transfer vehicle for transport to a solid waste handling or disposal facility.

(75) "Transport vehicle" means a vehicle capable of hauling large amounts of solid waste such as a truck, packer, or trailer that may be used by refuse haulers to transport solid waste from the point of generation to a transfer station or a disposal facility.

(76) "Twenty-five year storm" means a 24-hour storm of such intensity that it has a 4% probability of being equalled or exceeded any given year. The storm could result in what is referred to as a 25-year flood.

(77) "Unit boundary" means a vertical surface located at the hydraulically downgradient limit of a landfill unit or other solid waste disposal facility unit which is required to monitor ground water. This vertical surface extends down into the ground water.

(78) "Unstable area" means a location that is susceptible to natural or human induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a facility. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

(79) "Vadose zone" means the zone of aeration including soil and capillary water. The zone is bound above by the land surface and below by the water table.

(80) "Vector" means a living animal including insect or other arthropod which is capable of transmitting an infectious disease from one organism to another.

(81) "Washout" means the carrying away of solid waste by waters of a base or 100-year flood.

(82) "Waste tire storage facility" or "waste tire pile" means any site where more than 1,000 waste tires or 1,000 passenger tire equivalents are stored on the ground.

- (a) A waste tire storage facility includes:
- (i) whole waste tires used as a fence;
 - (ii) whole waste tires used as a windbreak; and
 - (iii) waste tire generators where more than 1,000 waste tires are held.

(b) A waste tire storage facility does not include:

- (i) a site where waste tires are stored exclusively in buildings or in trailers;

- (ii) if whole waste tires are stored for five or fewer days, the site of a registered tire recycler or a processor for a registered tire recycler;

- (iii) a permitted solid waste disposal facility that stores whole tires in piles for not longer than one year;

- (iv) a staging area where tires are temporarily placed on the ground, not stored, to accommodate activities such as sorting, assembling, or loading or unloading of trucks; or

- (v) a site where waste tires or material derived from waste tires are stored for five or fewer days and are used for ballast to maintain covers on agricultural materials or to maintain covers at a construction site or are to be recycled or applied to a beneficial use.

(c) Tires attached to a vehicle are not considered waste tires until they are removed from the vehicle.

(83) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(84) "Yard waste" means vegetative matter resulting from landscaping, land maintenance, and land clearing operations including grass clippings, prunings, and other discarded material generated from yards, gardens, parks, and similar types of facilities. Yard waste does not include garbage, paper, plastic, processed wood, sludge, septage, or manure.

R315-301-4. Prohibition of Illegal Disposal or Incineration of Solid Waste.

(1) No person shall incinerate, burn, or otherwise dispose of any solid waste in any place except at a facility which is in compliance with the requirements of Rules R315-301 through 320 and other applicable rules. ~~This requirement does not include the deposition of inert waste used as fill material, mine tailings and overburden, agricultural waste, or the recycling of asphalt as specified in Subsection R315-301-4(2) if the deposition or disposal does not cause a public nuisance or hazard or contribute to land, air, or water pollution.]~~

(2) When deposition or disposal of the following materials does not cause a hazard to human health or the environment or cause a public nuisance, the requirements of Rules R315-301 through 320 do not apply to:

- (a) inert waste used as fill material;
- (b) the disposal of mine tailings and overburden;
- (c) the disposal of vegetative material generated as a result of land clearing;
- (d) the disposal of vegetative agricultural waste;
- (e) the deposition or disposal of manure and vegetative materials from animal feeding operations that operate under a Comprehensive Nutrient Management Plan; or
- (f) the recycling of waste asphalt as specified in Subsection R315-301-4(3).

- ~~(2)~~(3) Recycling of waste asphalt occurs when it is used:
 - (a) as a feedstock in the manufacture of new hot or cold mix asphalt;
 - (b) as underlayment in road construction;
 - (c) as subgrade in road construction when the asphalt is above the historical high level of ground water;
 - (d) under parking lots when the asphalt is above the historical high level of ground water; or
 - (e) as road shoulder when the use meets engineering requirements.

KEY: solid waste management, waste disposal
[~~October 15, 1999~~2000 **19-6-105**
Notice of Continuation April 2, 1998 **19-6-108**
19-6-109
40 CFR 258



**Environmental Quality, Solid and
 Hazardous Waste
 R315-311
 Permit Approval For Solid Waste
 Disposal, Energy Recovery, And
 Incinerator Facilities**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 22856
 FILED: 05/11/2000, 14:39
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Recent changes in the Utah Waste Tire Recycling Act and Rule R315-314 require that Waste Tire Storage Facilities obtain a permit from the Executive Secretary of the Utah Solid and Hazardous Waste Control Board. Rule R315-311 is changed to become applicable to all solid waste facilities for which a permit is required. Therefore, Rule R315-311 would be effective for Waste Tire Storage Facilities and require that these facilities complete the same permit approval process as other solid waste facilities. Also, a citation to a rule is updated.

SUMMARY OF THE RULE OR CHANGE: Rule R315-311 is changed to become effective for the permitting process for a Waste Tire Storage Facility and to update the citation to the subsection of the Solid Waste Rules that specifies the information that must be contained in an application for a permit renewal.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: Since the proposed rule change will not affect state entities and the enforcement of the rule will not change, there will be no cost or savings impact on the state budget.
- ❖LOCAL GOVERNMENTS: The proposed rule change will have no cost or savings impact on local government beyond that currently required by statute or other Solid Waste Rules.
- ❖OTHER PERSONS: Persons that permit a waste tire storage facility will be required to complete a public comment period on the permit application and the draft permit. Thus, these persons will experience an increase in costs associated with the publication of the notice of the public comment period. An estimate of the aggregate cost increase cannot be made since the number of waste tire storage facilities that will apply for a permit is not known.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A waste tire storage facility is currently required to obtain a permit by the Utah Waste Tire Recycling Act and Rule R315-314. The proposed rule change will require these facilities to complete the same permitting process as any other solid waste facility including the public comment period. Therefore, persons permitting a waste tire storage facility will experience an increased cost for the advertising of the public comment period of up to approximately \$260.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed change in Rule R315-311 will cause an increase in cost for businesses that permit a waste tire storage facility of up to approximately \$260 to cover the cost of advertising the public comment period--Dianne R. Neilson

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/15/2000

AUTHORIZED BY: Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board

R315. Environmental Quality, Solid and Hazardous Waste.
R315-311. Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities.
R315-311-1. General Requirements.

(1) Upon submittal of the complete plan of operation and supporting information required by Rule R315-310, as determined by the Executive Secretary, a draft permit will be prepared and the owner or operator of the proposed facility will be notified in writing by the Executive Secretary.

(a) After meeting the requirements of the public comment period and public hearing as stipulated in Section R315-311-3, the owner or operator may be issued a permit which will include appropriate conditions and limitations on operation and types of waste to be accepted at the facility.

(b) Construction shall not begin prior to the receipt of the permit.

(c) An application that has been initiated by an owner or operator but left inactive by the applicant for more than one year shall be ~~cancelled~~ canceled.

(2) Solid waste disposal facility plan approval and permit issuance will depend upon:

(a) the adequacy of the facility in meeting the location standards in Section R315-302-1;

(b) the hydrology and geology of the area; and

(c) the adequacy of the plan of operation, facility design, and monitoring programs in meeting the requirements of the applicable rules.

(3) A permit can be granted for up to five years by the Executive Secretary. Each facility must apply for a permit renewal, as required by Section R315-310-[8]9, 180 days before the expiration date of the current permit.

R315-311-2. Permit Modification, Renewal, or Termination.

(1) A permit may be considered for modification, renewal, or termination at the request of any interested person, including the permittee, or upon the Executive Secretary's initiative as a result of new information or changes in statutes or rules. Requests for modification, reissuance, or termination shall be submitted in writing to the Executive Secretary and shall contain facts or reasons supporting the request. Requests for permit modification, renewal, or termination shall become effective only upon approval by the Executive Secretary.

(a) Minor modifications of a permit or plan of operation shall not be subject to the 30 day public comment period as required by Section R315-311-3. A permit modification shall be considered minor if:

(i) typographical errors are corrected;

(ii) the name, address, or phone number of persons or agencies identified in the permit are changed;

(iii) administrative or informational changes are made;

(iv) procedures for maintaining the operating record are changed;

(v) changes are made to provide for more frequent monitoring, reporting, sampling, or maintenance;

(vi) a compliance date extension request is for a date not to exceed 120 days after the date specified in the approved permit;

(vii) changes are made in the expiration date of the permit to allow an earlier permit termination;

(viii) changes are made in the closure schedule for a unit, in the final closure schedule for the facility, or the closure period is extended;

(ix) the Executive Secretary determines, in the case of a permit transfer application, that no change in the permit other than the change in the name of the owner or operator is necessary;

(x) equipment is upgraded or replaced with functionally equivalent components;

(xi) changes are made in sampling or analysis methods, procedures, or schedules;

(xii) changes are made in quality control/quality assurance plans which will better certify that the specifications for construction, closure, sampling, or analysis will be met;

(xiii) changes are made in the facility plan of operation which conform to guidance or rules approved by the Board or provide more efficient waste handling or more effective waste screening;

(xiv) an existing monitoring well is replaced with a new well without changing the location;

(xv) changes are made in the design or depth of a monitoring well that provides more effective monitoring; or

(xvi) changes are made in the statistical method used to statistically analyze the ground water quality data.

(xvii) Other permit modifications shall be considered to be major modifications.

(xviii) The Executive Secretary may subject any minor modification request to the 30 day public comment period if justified by conditions and circumstances.

(b) If the Executive Secretary determines that major modifications to a permit or plan of operation are justified, a new operational plan incorporating the approved modifications shall be prepared. The modifications shall be subject to the public comment period as specified in Section R315-311-3.

(2) An application for permit renewal shall consist of the information required by Section R315-310-~~[8]~~⁹. Upon receipt of the application, the Executive Secretary will review the application and will notify the applicant as to what information or change of operational practice is required of the applicant, if any, to receive a permit renewal. The current permit shall remain in effect until issuance or denial of a new permit. Each permit renewal shall be subject to the public comment requirements of Section R315-311-3.

(3) The Executive Secretary shall notify, in writing, the owner or operator of any facility of intent to terminate a permit. A permit may be terminated for:

- (a) noncompliance with any condition of the permit;
- (b) noncompliance with any applicable rule;
- (c) failure in the application or during the approval or renewal process to disclose fully all relevant facts;
- (d) misrepresentation by the owner or operator of any relevant facts at any time; or
- (e) a determination that the solid waste activity or facility endangers human health or the environment.

(4) The owner or operator of a facility may appeal any action associated with modification, renewal, or termination in accordance with Section R315-317-3, Title 63 Chapter 46b, and Rule R315-12.

R315-311-3. Public Comment Period.

(1) ~~[All solid waste disposal, energy recovery and incinerator facility]~~The draft permit[s], permit renewal[s], or major modification[s] of a permit, for each solid waste facility that requires a permit, shall be subject to a ~~[30-day]~~30-day public comment period.

(2) A public hearing may be held if a request for public hearing is submitted to the Executive Secretary in writing:

- (a) by a local government, a state agency, ten interested persons, or an interested association having not fewer than ten members; and
- (b) the request is received by the Executive Secretary not more than 15 days after the publication of the public notice.

(3) After due consideration of all comments received, final determination on draft permits or major modification of permits will be made available by public notice.

KEY: solid waste management, waste disposal
~~[November 15, 1997]~~2000 **19-6-104**
Notice of Continuation April 20, 1998 **19-6-105**
19-6-108



Environmental Quality, Solid and Hazardous Waste
R315-312-1
Applicability

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 22857
 FILED: 05/11/2000, 14:39
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To eliminate duplicate regulation of animal feeding operations, it is proposed that Rule R315-312 be changed to exempt these operations from the composting requirements if they compost only manure and vegetative waste. Animal feeding operations are currently regulated by the Division of Water Quality. Also, a change in the rule is proposed that would require manufacturing and industrial facilities to meet the composting requirements of Rule R315-312 if waste from off-site is composted or if the finished compost is used off-site.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to exempt composting at animal feeding operations from the composting requirements if only manure and vegetative waste are composted and to require composting operations at manufacturing and industrial facilities to meet the composting requirements if waste from off-site is composted or if the finished compost is used off-site.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: The proposed changes to the rule do not affect state entities and the enforcement will remain the same. Therefore, no cost or savings impact on the state budget is anticipated.
- ❖LOCAL GOVERNMENTS: The proposed changes to the rule do not affect local governments; therefore, no cost or savings impact for local governments is anticipated.
- ❖OTHER PERSONS: Persons who own or operate animal feeding operations that compost manure and vegetative waste should experience a decrease in operating costs. An estimate of the aggregate cost saving cannot be made since the number of animal feeding operations that compost manure and vegetative matter is not known. Persons who own or operate manufacturing or industrial facilities that compost waste from off-site or the finished compost is used

off-site may experience an increase in costs. An estimate of the aggregate cost increase cannot be made since the number of these facilities is not known.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons who operate animal feeding operations that compost manure and vegetative waste will experience a decrease in costs associated with not having to prepare a plan of operation nor complete the approval process. The cost savings is estimated to be up to approximately \$1,000. Persons who own or operate manufacturing or industrial facilities that compost waste from off-site, or the finished compost is used off-site, may experience an increase in operational costs associated with preparing a plan of operation. The cost increase is estimated to be up to approximately \$1,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed change in Rule R315-312 will allow animal feeding operations that compost manure and vegetative matter to realize a one-time cost savings of up to approximately \$1,000, which is associated with preparing a plan of operation. The proposed rule change will cause a one-time increase in cost of up to approximately \$1,000 for manufacturing and industrial facilities that compost waste from off-site or use the finished compost off-site. The cost increase would result from being required to prepare and submit a plan of operation to the executive secretary--Dianne R. Neilson

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/15/2000

AUTHORIZED BY: Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board

**R315. Environmental Quality, Solid and Hazardous Waste.
 R315-312. Recycling and Composting Facility Standards.
 R315-312-1. Applicability.**

- (1) These standards apply to any facility engaged in recycling or utilization of solid waste on the land including:
 - (a) composting;

- (b) utilization of sewage sludge, septage and other organic wastes on land for beneficial use; and

- (c) accumulation of wastes in piles for recycling or utilization.

(2) These standards do not apply to:

- (a) ~~single family residences and single family farms engaged in composting of their own solid waste~~ animal feeding operations, and dairies, that compost exclusively manure and vegetative material;

- (b) other composting operations in which waste from on-site is composted and the finished compost is used on-site; or

- (c) hazardous waste ~~;~~

- ~~(d) manufacturing and industrial facilities].~~

(3) These standards do not apply to any facility that recycles or utilizes solid wastes solely in containers, tanks, vessels, or in any enclosed building, including buy-back recycling centers.

(4) Effective dates. An existing facility recycling or composting solid waste shall be placed upon a compliance schedule to assure compliance with the requirements of Rule R315-312 on or before a date established by the Executive Secretary.

KEY: solid waste management, waste disposal
[November 16, 1998]2000 **19-6-105**
Notice of Continuation April 20, 1998 **19-6-108**



**Environmental Quality, Solid and
 Hazardous Waste
 R315-315-8
 Petroleum Contaminated Soils**

**NOTICE OF PROPOSED RULE
 (Amendment)**

DAR FILE NO.: 22858
 FILED: 05/11/2000, 14:39
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A new section is proposed to be added to Rule R315-315 that clarifies the standards for the disposal of petroleum contaminated soils that are not a hazardous waste.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to specify that petroleum contaminated soils that are not a hazardous waste may be disposed at a Class I Landfill, a Class II Landfill, or at certain Class V Landfills. Also, the rule is changed to establish the petroleum constituent concentration levels of nonhazardous petroleum contaminated soils at which these soils may be disposed in a Class III Landfill, a Class IV Landfill, or in a Class V Landfill that is permitted to accept exclusively construction/demolition waste.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: State entities that generate soils that contain low levels of petroleum contaminants may experience a decrease in disposal costs for these soils since they may be disposed at a Class IV Landfill (construction/demolition landfill), which generally has a lower tipping fee than other classes of landfills. An estimate of the aggregate cost savings to the state budget cannot be made.

❖LOCAL GOVERNMENTS: Local governments that generate soils that contain low levels of petroleum contaminants may experience a decrease in disposal cost for these soils since they may be disposed at a Class IV Landfill (construction/demolition landfill), which generally has a lower tipping fee than other classes of landfills. An estimate of the aggregate cost savings to local governments cannot be made.

❖OTHER PERSONS: Other persons that generate soils that contain low levels of petroleum contaminants may experience a decrease in disposal cost for these soils since they may be disposed at a Class IV Landfill (construction/demolition landfill), which generally has a lower tipping fee than other classes of landfills. Also, an industrial facility that operates a Class III Landfill may dispose of the low level petroleum contaminated soils at their own landfill rather than transporting these soils to another permitted landfill. This disposal option should be less expensive to these industrial facilities. An estimate of the aggregate cost savings to other persons cannot be made.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons that generate soils that contain low levels of petroleum contaminants may experience a decrease in disposal cost for these soils since they may be disposed at a Class IV Landfill (construction/demolition landfill), which generally has a lower tipping fee than other classes of landfills. If the petroleum contaminated soils meet the proposed standards for disposal in a construction/demolition landfill, it is estimated that a cost savings of approximately \$10 to \$25 per ton of waste could be realized. Also, industrial facilities that operate Class III Landfills may dispose of the low-level petroleum contaminated soils at their own landfills rather than transporting these soils to other permitted landfills. These industrial facilities could realize a costs savings of approximately \$10 to \$25 per ton of waste by qualifying for this disposal option. Current Division of Environmental Response and Remediation management requirements for petroleum contaminated soils call for these soils to be tested prior to treatment or disposal. Therefore, there will be no anticipated cost increase for the testing of these soils beyond that currently required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses that generate petroleum contaminated soils may realize a cost savings of approximately \$10 to \$25 per ton if the levels of contamination are low enough allow the soils to be disposed in a construction/demolition landfill or their own industrial landfill instead of another class of landfill--Dianne R. Neilson

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/15/2000

AUTHORIZED BY: Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-315. Special Waste Requirements.
R315-315-8. Petroleum Contaminated Soils.**

(1) Petroleum contaminated soils that are not a hazardous waste may be accepted for disposal at a:

(a) Class I Landfill;

(b) Class II Landfill; or,

(c) Class V Landfill, except for a Class V Landfill that is permitted to accept exclusively construction/demolition waste.

(2) Petroleum contaminated soils containing petroleum materials at or below the following levels and are otherwise not a hazardous waste, may be accepted for disposal at a Class III Landfill, a Class IV Landfill, or a Class V Landfill that is permitted to accept exclusively construction/demolition waste:

(a) TPH gasoline, 1,500 mg/kg;

(b) TPH diesel, 5,000 mg/kg;

(c) TRPH 10,000 mg/kg;

(d) Benzene, 0.03 mg/kg;

(e) Ethylbenzene, 13 mg/kg;

(f) Toluene, 12 mg/kg; and

(g) Xylenes, 200 mg/kg.

**KEY: solid waste management, waste disposal
[October 15, 1999]2000
Notice of Continuation April 28, 1998**

19-6-105

**Environmental Quality, Solid and
Hazardous Waste**

R315-320

**Waste Tire Transporter and Recycler
Requirements**

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 22859
 FILED: 05/11/2000, 14:39
 RECEIVED BY: NL

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

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R315-320 is changed to implement recent changes in the Utah Waste Tire Recycling Act.

SUMMARY OF THE RULE OR CHANGE: The 2000 Utah State Legislature moved the Utah Waste Tire Recycling Act from the Health Code to the Environmental Code which required the numbering of the Act to change. Therefore, all references to the Utah Waste Tire Recycling Act in Rule R315-320 are changed to the new numbering of the Act. Also, the legislature reinstated the use of funds from the Waste Tire Recycling Trust Fund to remove waste tires from tire piles at landfills. The rule is changed to again allow Waste Tire Recycling funds to be used to cleanup these tire piles.

(DAR Note: H.B. 215 is found at 2000 Utah Laws 51, and was effective May 1, 2000.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-819

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The anticipated aggregate cost to the state budget (Waste Tire Recycling Trust Fund) is estimated to be approximately \$180,000. This estimate is based on an estimated 90,000 waste tires currently in landfill tire piles at a cost for cleanup of \$2 per tire.

❖LOCAL GOVERNMENTS: The anticipated aggregate savings to local governments is estimated to be approximately \$180,000.

❖OTHER PERSONS: Persons involved in the cleanup of waste tire piles at landfills may receive an estimated aggregate revenue of \$180,000. Persons not involved in the specified cleanup activities will experience no cost or savings impact. COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons involved in the cleanup of waste tire piles at landfills may receive an estimated revenue of \$2 per tire removed from these piles and delivered to a waste tire recycler. Persons not involved in the specified cleanup activities will experience no additional compliance cost or savings impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses involved in the cleanup of waste tire piles at landfills may receive an estimated revenue of \$2 per tire removed from these piles and delivered to a waste tire recycler. Business not involved in the specified cleanup activities will experience no fiscal impact beyond that currently required by existing statutes or rules--Dianne R. Neilson

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

Environmental Quality
 Solid and Hazardous Waste

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/15/2000

AUTHORIZED BY: Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board

R315. Environmental Quality, Solid and Hazardous Waste. R315-320. Waste Tire Transporter and Recycler Requirements. R315-320-1. Authority, Purpose, and Inspection.

(1) The waste tire transporter and recycler requirements are promulgated under the authority of the Waste Tire Recycling Act, Title ~~26~~19, Chapter ~~32a~~6, and the Solid and Hazardous Waste Act Title 19, Chapter 6, to protect human health; to prevent land, air and water pollution; to conserve the state's natural, economic, and energy resources; and to promote recycling of waste tires.

(2) Except for Subsections R315-320-4(7) and R315-320-5(7), which apply to the application fees for the registration of a waste tire transporter and a waste tire recycler throughout the state, Rule R315-320 does not supersede any ordinance or regulation adopted by the governing body of a political subdivision or local health department if the ordinance or regulation is at least as stringent as Rule R315-320, nor does Rule R315-320 relieve a tire transporter or recycler from the requirement to meet all applicable local ordinances or regulations.

(3) The Executive Secretary or an authorized representative may enter and inspect the site of a waste tire transporter or a waste tire recycler as specified in Subsection R315-302-2(5)(b).

R315-320-2. Definitions.

Terms used in Rule R315-320 are defined in Sections R315-301-2 and ~~26-32a-103~~19-6-803. In addition, for the purpose of Rule R315-320, the following definitions apply:

(1) "Crumb rubber" means waste tires that have been ground, shredded or otherwise reduced in size such that the particles are less than or equal to 1/4 inch in diameter and are 95% wire free by weight.

(2) "Demonstrated market" exists when an "arms length transaction" has been completed and documented which meets the following conditions:

(a) the transaction must be between a willing seller and a willing buyer who have no other business relationship or responsibility to each other; and

(b) the transaction is for reasonable quantity of material derived from waste tires at a price dictated by current economic conditions.

(c) The potential for sale or the possibility of sale does not constitute the demonstration of a market.

(3) "Shredded Tires" means waste tires that have been reduced in size so that the greatest dimension of a minimum of 60 percent, by weight, of the pieces is no more than six inches and the greatest dimension of any piece is no more than 12 inches.

(4) "Vehicle identification number" means the identifying number assigned by the manufacture or by the Utah Motor Vehicle Division of the Utah Tax Commission for the purpose of identifying the vehicle.

(5) "Waste tire generator" means a person, an individual, or an entity that may cause waste tires to enter the waste stream. A waste tire generator may include:

(a) a tire dealer, a car dealer, a trucking company, an owner or operator of an auto salvage yard, or other person, individual, or entity that removes or replaces tires on a vehicle other than their personal vehicle; or

(b) a tire dealer, a car dealer, a trucking company, an owner or operator of an auto salvage yard, a waste tire transporter, a waste tire recycler, a waste tire processor, a waste tire storage facility, or a disposal facility that receives waste tires from a person, an individual, or an entity.

(6) "Waste tire recycling" or "recycling" means:

(a) the burning of waste tires or material derived from waste tires as a fuel for energy recovery; or

(b) the manufacture or creation of an ultimate product that has a demonstrated market where material derived from waste tires is used as a raw material in the manufacture or creation of the ultimate product.

(c) Waste tire recycling does not include ultimate products that:

(i) are used in a beneficial use; or

(ii) do not have a demonstrated market.

R315-320-3. Landfilling of Waste Tires and Material Derived from Waste Tires.

(1) Landfilling of Whole Tires. Except for tires from devices moved exclusively by human power and tires with a rim diameter greater than 24.5 inches, an individual, including a waste tire transporter, may not dispose of more than four whole tires at one time in a landfill.

(2) Landfilling of Material Derived from Waste Tires.

(a) An individual, including a waste tire transporter, may dispose of material derived from waste tires in a landfill which has a permit issued by the Executive Secretary.

(b) Except for the beneficial use of material derived from waste tires at a landfill, material derived from waste tires shall be disposed in a separate landfill cell that is designed and constructed, as approved by the Executive Secretary, to keep the material in a clean and accessible condition so that it can reasonably be retrieved from the cell for future recycling.

(3) Reimbursement for Landfilling Shredded Tires.

(a) The owner or operator of a permitted landfill may apply for reimbursement for landfilling shredded tires as specified in Subsection R315-320-6(1).

(b) To receive the reimbursement, the owner or operator of the landfill must meet the following conditions:

(i) the waste tires shall be shredded;

(ii) the shredded tires shall be stored in a segregated cell or other landfill facility that ensures the shredded tires are in a clean and accessible condition so that they can be reasonably retrieved and recycled at a future time; and

(iii) the design and operation of the landfill cell or other landfill facility has been reviewed and approved by the Executive Secretary prior to the acceptance of shredded tires.

(4) Violation of Subsection R315-320-3(1), (2), or (3) is subject to enforcement proceedings and a civil penalty as specified in Subsection ~~[26-32a-103.5(4)]~~19-6-804(4).

R315-320-4. Waste Tire Transporter Requirements.

(1) Each waste tire transporter who transports waste tires within the state of Utah must apply for, receive and maintain a current waste tire transporter registration certificate from the Executive Secretary.

(2) Each applicant for registration as a waste tire transporter shall complete a waste tire transporter application form provided by the Executive Secretary and provide the following information:

(a) business name;

(b) address to include:

(i) mailing address; and

(ii) site address if different from mailing address;

(c) telephone number;

(d) list of vehicles used including the following:

(i) description of vehicle;

(ii) license number of vehicle;

(iii) vehicle identification number; and

(iv) name of registered owner;

(e) name of business owner;

(f) name of business operator;

(g) list of sites to which waste tires are to be transported;

(h) liability insurance information as follows:

(i) name of company issuing policy;

(ii) amount of liability insurance coverage; and

(iii) term of policy.

(3) A waste tire transporter shall demonstrate financial responsibility for bodily injury and property damage, including bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising from transporting waste tires. The waste tire transporter shall have and maintain liability coverage for sudden or nonsudden accidental occurrences in the amount of \$300,000.

(4) A waste tire transporter shall notify the Executive Secretary of:

(a) any change in liability insurance coverage within 5 working days of the change; and

(b) any other change in the information provided in Subsection R315-320-4(2) within 20 days of the change.

(5) A registration certificate will be issued to an applicant following the:

(a) completion of the application required by Subsection R315-320-4(2);

(b) presentation of proof of liability coverage as required by Subsection R315-320-4(3); and

(c) payment of the fee as required by the Annual Appropriations Act.

(6) A waste tire transporter registration certificate is not transferable and shall be issued for the term of one year.

(7) If a waste tire transporter is required to be registered by a local government or a local health department:

(a) the waste tire transporter shall pay an annual registration fee to the local government or the local health department not to exceed to the following schedule:

- (i) for one through five trucks, \$50; and
- (ii) \$10 for each additional truck;

(b) the Executive Secretary shall issue a non-transferable registration certificate upon the applicant meeting the requirements of Subsections R315-320-4(2) and (3) and shall not require the payment of the fee specified in Subsection R315-320-4(5)(c); and

(c) the registration certificate shall be valid for one year.

(8) Waste tire transporters storing tires in piles must meet the requirements of Rule R315-314.

(9) Reporting Requirements.

(a) Each waste tire transporter shall submit a quarterly activity report to the Executive Secretary. The activity report shall be submitted on or before the 30th of the month following the end of each quarter.

(b) The activity report shall contain the following information:

(i) the number of waste tires collected at each waste tire generator, including the name, address, and telephone number of the waste tire generator;

(ii) the number of tires shall be listed by the type of tire based on the following:

(A) passenger/light truck tires or tires with a rim diameter of 19.5 inches or less;

(B) truck tires or tires ranging in size from 7.50x20 to 12R24.5; and

(C) other tires such as farm tractor, earth mover, motorcycle, golf cart, ATV, etc.

(iii) the number or tons of waste tires shipped to each waste tire recycler or processor for a waste tire recycler, including the name, address, and telephone number of each recycler or processor;

(iv) the number of tires shipped as used tires to be resold;

(v) the number of waste tires placed in a permitted waste tire storage facility; and

(vi) the number of tires disposed in a permitted landfill, or put to other legal use.

(c) The activity report may be submitted in electronic format.

(10) Revocation of Registration.

(a) The registration of a waste tire transporter may be revoked upon the Executive Secretary finding that:

(i) the activities of the waste tire transporter that are regulated under Section R315-320-4 have been or are being conducted in a way that endangers human health or the environment;

(ii) the waste tire transporter has made a material misstatement of fact in applying for or obtaining a registration as a waste tire transporter or in the quarterly activity report required by Subsection R315-320-4(9);

(iii) the waste tire transporter has provided a recycler with a material misstatement of fact which the recycler subsequently used as documentation in a request for partial reimbursement under Section ~~[26-32a-108]~~19-6-813;

(iv) the waste tire transporter has violated any provision of the Waste Tire Recycling Act, Title ~~[26]~~19 Chapter ~~[32a]~~6, or any order, approval, or rule issued or adopted under the Act;

(v) the waste tire transporter failed to meet or no longer meets the requirements of Section R315-320-4;

(vi) the waste tire transporter has been convicted under Subsection ~~[26-32a-112.9]~~19-6-822; or

(vii) the waste tire transporter has had the registration from a local government or a local health department revoked.

(b) Registration will not be revoked for submittal of incomplete information required for registration or a reimbursement request if the error was not a material misstatement.

(c) For purposes of Subsection R315-320-4(10)(a), the statements, actions, or failure to act of a waste tire transporter shall include the statements, actions, or failure to act of any officer, director, agent or employee of the waste tire transporter.

(d) The administrative procedures set forth in Rule R315-12 shall govern revocation of registration.

R315-320-5. Waste Tire Recycler Requirements.

(1) Each waste tire recycler operating within the state and each waste tire recycler operating outside the state, but requesting reimbursement allowed by Subsection ~~[26-32a-107(b)]~~19-6-809(1) and Section R315-320-6, must apply for, receive and maintain a current waste tire recycler registration certificate from the Executive Secretary.

(2) Each applicant for registration as a waste tire recycler shall complete a waste tire recycler application form provided by the Executive Secretary and provide the following information:

(a) business name;

(b) address to include:

(i) mailing address; and

(ii) site address if different from mailing address;

(c) telephone number;

(d) owner name;

(e) operator name;

(f) description of the recycling process;

(g) proof that the recycling process described in Subsection R315-320-5(2)(f) is being conducted at the site or that the recycler has the ability to conduct the process at the site;

(h) estimated number of tires to be recycled each year; and

(i) liability insurance information as follows:

(i) name of company issuing policy;

(ii) proof of the amount of liability insurance coverage; and

(iii) term of policy.

(3) A waste tire recycler shall demonstrate financial responsibility for bodily injury and property damage, including bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising from storing and recycling waste tires. The waste tire recycler shall have and maintain liability coverage for sudden or nonsudden accidental occurrences in the amount of \$300,000.

(4) A waste tire recycler shall notify the Executive Secretary of:

(a) any change in liability insurance coverage within 5 working days of the change; and

(b) any other change in the information provided in Subsection R315-320-5(2) within 20 days of the change.

(5) A registration certificate will be issued to an applicant following the:

(a) completion of the application required by Subsection R315-320-5(2);

(b) presentation of proof of liability coverage as required by Subsection R315-320-5(3); and

(c) payment of the fee as required by the Annual Appropriations Act.

(6) A waste tire recycler registration certificate is not transferable and shall be issued for a term of one year.

(7) If a waste tire recycler is required to be registered by a local government or a local health department:

(a) the waste tire recycler shall pay an annual registration fee to the local government or local health department according to the following schedule:

(i) if up to 200 tons of waste tires are recycled per day, the fee shall not exceed \$300;

(ii) if 201 to 700 tons of waste tires are recycled per day, the fee shall not exceed \$400; or

(iii) if over 700 tons of waste tires are recycled per day, the fee shall not exceed \$500.

(b) The Executive Secretary shall issue a non-transferable registration certificate upon the applicant meeting the requirements of Subsections R315-320-5(2) and (3) and shall not require the payment of the fee specified in Subsection R315-320-5(5)(c).

(c) The registration certificate shall be valid for one year.

(8) Waste tire recyclers must meet the requirements of Rule R315-312 for recycling facilities and the requirements of Rule R315-314 for waste tires stored in piles.

(9) Revocation of Registration.

(a) The registration of a waste tire recycler may be revoked upon the Executive Secretary finding that:

(i) the activities of the waste tire recycler that are regulated under Section R315-320-5 have been or are being conducted in a way that endangers human health or the environment;

(ii) the waste tire recycler has made a material misstatement of fact in applying for or obtaining a registration as a waste tire recycler;

(iii) the waste tire recycler has made a material misstatement of fact in applying for partial reimbursement under Section ~~[26-32a-108]~~19-6-813;

(iv) the waste tire recycler has violated any provision of the Waste Tire Recycling Act, Title ~~[26]~~19 Chapter ~~[32a]~~6, or any order, approval, or rule issued or adopted under the Act;

(v) the waste tire recycler has failed to meet or no longer meets the requirements of Subsection R315-320-5(1);

(vi) the waste tire recycler has been convicted under Subsection ~~[26-32a-112.9]~~19-6-822; or

(vii) the waste tire recycler has had the registration from a local government or a local health department revoked.

(b) Registration will not be revoked for submittal of incomplete information required for registration or a reimbursement request if the error was not a material misstatement.

(c) For purposes of Subsection R315-320-5(9)(a), the statements, action, or failure to act of a waste tire recycler shall include the statements, actions, or failure to act of any officer, director, agent, or employee of the waste tire recycler.

(d) The administrative procedures set forth in Rule R315-12 shall govern revocation of registration.

R315-320-6. Reimbursement for Recycling Waste Tires.

(1) Any waste tire recycler who recycles, at an out-of-state location, tires that are generated within the state, may apply for

partial reimbursement to the Executive Secretary as provided in Subsection ~~[26-32a-107(1)(b)]~~19-6-809(1)(b).

(a) A waste tire recycler who requests partial reimbursement from the Executive Secretary, shall meet the following requirements:

(i) the recycler must be registered as required by Section R315-320-5;

(ii) the recycling site must be outside the state; and

(iii) the recycler must demonstrate that the waste tires or material derived from waste tires were generated within the State of Utah and either

(A) removed and transported by a tire transporter registered as required by Section R315-320-4 or a recycler registered as required by Section R315-320-5 or a person as defined in Subsection ~~[26-32a-103(28)(c)]~~19-6-803(28)(c); or

(B) generated by a private person who is not a waste tire transporter as defined in Section ~~[26-32a-103(28)]~~19-6-803(28), and that person brings the waste tires to the recycler.

(b) A waste tire recycler may claim partial reimbursement for waste tires removed from tire piles subject to:

(i) the requirements of Subsections R315-320-6(1) and ~~[26-32a-107.5]~~19-6-810;

(ii) submission of the application as required in Subsection R315-320-6(1)(c); and

(iii) the application required in Subsection R315-320-6(1)(c) may be submitted at a minimum of monthly intervals.

(c) Any waste tire recycler requesting partial reimbursement from the Executive Secretary, must submit an application on a form designated by the Executive Secretary and shall provide the following:

(i) business name;

(ii) name of owner;

(iii) name of operator;

(iv) a brief description of the recycler's business;

(v) quantity, in tons, of waste tires or tire derived material for which partial reimbursement is being claimed, accompanied by documentation of recycling;

(vi) a description of how waste tires or material derived from waste tires were recycled;

(vii) a demonstration that the requirements of Subsection ~~[26-32a-107(4)]~~19-6-809(4) have been met; and

(viii) a demonstration that at least 100,000 waste tires will be recycled each year.

(d) Any waste tire recycler that applies to the Executive Secretary for partial reimbursement for the recycling of crumb rubber or chipped tires must show that the material has been used as a component in a product.

(e) No partial reimbursement will be approved by the Executive Secretary for a recycler that is not the holder of a current, valid waste tire recycler registration at the time of submittal of the request.

(2) No partial reimbursement request submitted by a waste tire recycler for the first time, or the first time a specific recycling process or a beneficial use activity is used, shall be approved by a local health department under Section ~~[26-32a-108]~~19-6-813 until the local health department has received from the Executive Secretary a written certification that the Executive Secretary has determined the processing of the waste tires to be recycling or a beneficial use. If the reimbursement request contains sufficient

information, the Executive Secretary shall make the recycling or beneficial use determination and notify the local health department in writing within 15 days of receiving the request for determination.

(3) In addition to any other penalty imposed by law, any person who knowingly or intentionally provides false information required by Section R315-320-5 or Section R315-320-6 shall be ineligible to receive any reimbursement and shall return to the Division of Finance any reimbursement previously received that was obtained through the use of false information.

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R315-320-8. Reimbursement for the Removal of an Abandoned Tire Pile or a Tire Pile at a Landfill Owned by a Governmental Entity.

(1) A county or municipality applying for payment for removal of an abandoned tire pile or a tire pile at a county or municipal owned landfill shall meet the requirements of Section ~~[26-32a-107.7]~~19-6-811.

(2) The following items shall be submitted to the Executive Secretary when requesting a determination of reasonability of a bid as specified in Subsection ~~[26-32a-107.7(2)]~~19-6-811(2):

- (a) a copy of the bid;
- (b) a letter from the local health department stating that the tire pile is abandoned or that the tire pile is at a landfill owned or operated by a governmental entity ~~[-and certifying that no tires were added to the pile after June 30, 1999];~~ and
- (c) a written statement from the county or municipality that the bidding was conducted according to the legal requirements for competitive bidding.

(3) The Executive Secretary will review the submitted documentation in accordance with Subsection ~~[26-32a-107.7(2)]~~19-6-811(2) and will inform the county or municipality if the bid is reasonable.

(4) A determination of reasonability of the bid will be made and the county or municipality notified withing 30 days of receipt of the request by the Executive Secretary.

(5) A bid determined to be unreasonable shall not be deemed eligible for reimbursement.

KEY: solid waste management, waste disposal
~~[October 15, 1999]~~2000 **19-6-105**
Notice of Continuation March 12, 1999 ~~[26-32a]~~19-6-819



Environmental Quality, Water Quality
R317-2-13
Classification of Waters of the State

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22860
FILED: 05/14/2000, 23:20
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is being made to correct an inadvertent error made in the classification of two stream segments during a previous rulemaking action.

SUMMARY OF THE RULE OR CHANGE: 1) Change the classification of the lower Fremont River and tributaries, from confluence with Muddy Creek to Capitol Reef National Park, from 3A (cold water fishery) to 3C (nongame fishery). This stream segment was inadvertently changed to a 3A classification during the previous rulemaking action; 2) change the classification for Muddy Creek in Box Elder County from 3C to 3A. This intended change was inadvertently omitted from the previous rulemaking action.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104

FEDERAL REQUIREMENT FOR THIS RULE: Clean Water Act, Section 303

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** No costs or savings to the state budget. The proposed amendments will be minor changes in operational procedures already accounted for by DWQ (Division of Water Quality) staff.

❖**LOCAL GOVERNMENTS:** The proposed amendments correct an oversight in a previous rulemaking action, are minor in nature, and will have no effect on local government.

❖**OTHER PERSONS:** The proposed amendments correct an error that was introduced during a previous rulemaking action. The amendment is minor in nature and will not result in a cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments correct an oversight in a previous rulemaking action and are minor in nature. No compliance costs are anticipated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments correct an oversight in a previous rulemaking action and should have no direct or indirect cost impacts on businesses.

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

Environmental Quality
Water Quality
Cannon Health Building
288 North 1460 West
PO Box 144870
Salt Lake City, UT 84114-4870, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or by Internet E-mail at dwham@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 06/29/2000, 10:30 a.m., Room 125, Cannon Health Building, 288 North 1460 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/21/2000

AUTHORIZED BY: Dianne R. Nielson, Director

R317. Environmental Quality, Water Quality.
R317-2. Standards of Quality for Waters of the State.
R317-2-13. Classification of Waters of the State (see R317-2-6).
 13.1 Upper Colorado River Basin
 a. Colorado River Drainage

TABLE

Paria River and tributaries, from state line to headwaters	2B	3C	4
All tributaries to Lake Powell, except as listed separately	2B	3B	4
Escalante River and tributaries, from Lake Powell to confluence with Boulder Creek	2B	3C	
Escalante River and tributaries, from confluence with Boulder Creek, including Boulder Creek, to headwaters	2B	3A	4
Deer Creek and tributaries, from confluence with Boulder Creek to headwaters	2B	3A	4
Dirty Devil River and tributaries, from Lake Powell to Fremont River	2B	3C	
Fremont River and tributaries, from confluence with Muddy Creek to Capitol Reef National Park	2B	3A 3C	4
Fremont River and tributaries, through Capitol Reef National Park to headwaters	1C	2B	3A 4
Pleasant Creek and tributaries, from confluence with Fremont River to East boundary of Capitol Reef National Park	2B	3C	
Pleasant Creek and tributaries, from East boundary of Capitol Reef National Park to headwaters	1C	2B	3A

Muddy Creek and tributaries, from confluence with Fremont River to Highway U-10 crossing	2B	3C	4
Muddy Creek and tributaries, from Highway U-10 crossing to headwaters	2B	3A	4
Quitcupah Creek and tributaries, from Highway U-10 crossing to headwaters	2B	3A	4
Ivie Creek and tributaries, from Highway U-10 to headwaters	2B	3A	4
San Juan River and tributaries, from Lake Powell to state line except as listed below:	1C	2B	3B 4
Johnson Creek and tributaries, from confluence with Recapture Creek to headwaters	1C	2B	3A 4
Verdure Creek and tributaries, from Highway US-191 crossing to headwaters	2B	3A	4
North Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C	2B	3A 4
South Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C	2B	3A 4
Spring Creek and tributaries, from confluence with Vega Creek to headwaters	2B	3A	4
Montezuma Creek and tributaries, from U.S. Highway 191 to headwaters	1C	2B	3A 4
Colorado River and tributaries, from Lake Powell to state line except as listed separately	1C	2B	3B 4
Indian Creek and tributaries, from confluence with Colorado River to Newspaper Rock State Park	2B	3B	4
Indian Creek and tributaries, through Newspaper Rock State Park to headwaters	1C	2B	3A 4
Kane Canyon Creek and tributaries, from confluence with Colorado River to headwaters	2B	3C	4
Mill Creek and tributaries, from confluence with Colorado River to headwaters	1C	2B	3A 4
Dolores River and tributaries, from confluence with Colorado River to state line	2B	3C	4
Roc Creek and tributaries, from confluence with Dolores River to headwaters	2B	3A	4

LaSal Creek and tributaries, from state line to headwaters	2B 3A	4
Lion Canyon Creek and tributaries, from state line to headwaters	2B 3A	4
Little Dolores River and tributaries, from confluence with Colorado River to state line	2B	3C 4
Bitter Creek and tributaries, from confluence with Colorado River to headwaters	2B	3C 4

b. Green River Drainage

TABLE

Green River and tributaries, from confluence with Colorado River to state line except as listed below:	1C	2B	3B	4
Thompson Creek and tributaries from Interstate Highway 70 to headwaters		2B	3C	4
San Rafael River and tributaries, from confluence with Green River to confluence with Ferron Creek		2B	3C	4
Ferron Creek and tributaries, from confluence with San Rafael River to Millsite Reservoir		2B	3C	4
Ferron Creek and tributaries, from Millsite Reservoir to headwaters	1C	2B 3A		4
Huntington Creek and tributaries, from confluence with Cottonwood Creek to Highway U-10 crossing		2B	3C	4
Huntington Creek and tributaries, from Highway U-10 crossing to headwaters	1C	2B 3A		4
Cottonwood Creek and tributaries, from confluence with Huntington Creek to Highway U-57 crossing		2B	3C	4
Cottonwood Creek and tributaries, from Highway U-57 crossing to headwaters	1C	2B 3A		4
Cottonwood Canal, Emery County	1C	2B		4
Price River and tributaries, from confluence with Green River to Carbon Canal Diversion at Price City Golf Course		2B	3C	4
Price River and tributaries, from Carbon Canal Diversion at Price City Golf Course to Price City Water Treatment Plant intake.		2B 3A		4

Price River and tributaries, from Price City Water Treatment Plant intake to headwaters	1C	2B 3A	4
Grassy Trail Creek and tributaries, from Grassy Trail Creek Reservoir to headwaters	1C	2B 3A	4
Range Creek and tributaries, from confluence with Green River to Range Creek Ranch		2B 3A	4
Range Creek and tributaries, from Range Creek Ranch to headwaters	1C	2B 3A	4
Rock Creek and tributaries, from confluence with Green River to headwaters		2B 3A	4
Nine Mile Creek and tributaries, from confluence with Green River to headwaters		2B 3A	4
Pariette Draw and tributaries, from confluence with Green River to headwaters		2B	3B 3D 4
Willow Creek and tributaries (Uintah County), from confluence with Green River to headwaters		2B 3A	4
Bitter Creek and Tributaries from White River to Headwaters		2B 3A	4
White River and tributaries, from confluence with Green River to state line		2B	3B 4
Duchesne River and tributaries, from confluence with Green River to Myton Water Treatment Plant intake		2B	3B 4
Duchesne River and tributaries, from Myton Water Treatment Plant intake to headwaters	1C	2B 3A	4
Uinta River and tributaries, from confluence with Duchesne River to Highway US-40 crossing		2B	3B 4
Uinta River and tributaries, from Highway US-40 crossing to headwaters		2B 3A	4
Power House Canal from confluence with Uinta River to headwaters		2B 3A	4
Lake Fork River and tributaries, from confluence with Duchesne River to headwaters	1C	2B 3A	4
Lake Fork Canal from Dry Gulch Canal Diversion to Moon Lake	1C	2B	4

b. Kanab Creek Drainage

TABLE

Kanab Creek and tributaries, from state line to irrigation diversion at confluence with Reservoir Canyon	2B	3C	4
Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters	2B	3A	4
Johnson Wash and tributaries, from state line to confluence with Red Wash	2B	3C	4
Johnson Wash and tributaries, from confluence with Red Wash to headwaters	2B	3A	4

Summit Creek and tributaries, from confluence with Bear River to headwaters

2B 3A 4

Cub River and tributaries, from confluence with Bear River to state line, except as listed below:

2B 3B 4

High Creek and tributaries, from confluence with Cub River to headwaters

2B 3A 4

Swan Springs tributary to Swan Creek

1C 2B 3A

All tributaries to Bear Lake from Bear Lake to headwaters

2B 3A 4

Swan Creek and tributaries, from Bear Lake to headwaters

2B 3A 4

Big Creek and tributaries, from Bear Lake to headwaters

2B 3A 4

Bear River and tributaries in Rich County

2B 3A 4

Bear River and tributaries, from Utah-Wyoming state line to headwaters (Summit County)

2B 3A 4

Mill Creek and tributaries, from state line to headwaters (Summit County)

2B 3A 4

13.3 Bear River Basin
a. Bear River Drainage

TABLE

Bear River and tributaries, from Great Salt Lake to Utah-Idaho border, except as listed below:	2B	3B	3D 4
Willard Creek, from Willard Bay Reservoir to headwaters	2B	3A	4
Perry Canyon Creek from U.S. Forest boundary to headwaters	2B	3A	4
Box Elder Creek from confluence with Black Slough to Brigham City Reservoir (the Mayor's Pond)	2B	3C	4
Box Elder Creek, from Brigham City Reservoir (the Mayor's Pond) to headwaters	2B	3A	4
Malad River and tributaries, from confluence with Bear River to state line	2B	3C	
Little Bear River and tributaries, from Cutler Reservoir to headwaters	2B	3A	3D 4
Logan River and tributaries, from Cutler Reservoir to headwaters	2B	3A	3D 4
Blacksmith Fork and tributaries, from confluence with Logan River to headwaters	2B	3A	4
Newton Creek and tributaries, from Cutler Reservoir to Newton Reservoir	2B	3A	4
Clarkston Creek and tributaries, from Newton Reservoir to headwaters	2B	3A	4
Birch Creek and tributaries, from confluence with Clarkston Creek to headwaters	2B	3A	4

13.4 Weber River Basin
a. Weber River Drainage

TABLE

Weber River, from Great Salt Lake to Slaterville diversion, except as listed below:

2B 3C 3D 4

Four Mile Creek from I-15 to headwaters

2B 3A 4

Weber River and tributaries, from Slaterville diversion to Stoddard diversion

2B 3A 4

Weber River and tributaries, from Stoddard diversion to headwaters

1C 2B 3A 4

Strongs Canyon Creek and tributaries, from U.S. National Forest boundary to headwaters

1C 2B 3A 4

Burch Creek and tributaries, from Harrison Boulevard in Ogden to headwaters

1C 2B 3A

Spring Creek and tributaries, from U.S. National Forest boundary to headwaters

1C 2B 3A 4

Ogden River and tributaries, from confluence with Weber River to Pineview Dam

2B 3A 4

Wheeler Creek from confluence with Ogden River to headwaters

1C 2B 3A 4

All tributaries to Pineview Reservoir 1C 2B 3A 4

13.5 Utah Lake-Jordan River Basin
a. Jordan River Drainage

TABLE

Jordan River, from Farmington Bay to North Temple Street, Salt Lake City 2B 3B * 3D 4

Jordan River, from North Temple Street in Salt Lake City to confluence with Little Cottonwood Creek 2B 3B * 4

Surplus Canal from Great Salt Lake to the diversion from the Jordan River 2B 3B * 3D 4

Jordan River from confluence with Little Cottonwood Creek to Narrows Diversion 2B 3A 4

Jordan River, from Narrows Diversion to Utah Lake 1C 2B 3B 4

City Creek, from Memory Park in Salt Lake City to City Creek Water Treatment Plant 2B 3A

City Creek, from City Creek Water Treatment Plant to headwaters 1C 2B 3A

Parley's Creek and tributaries, from 1300 East in Salt Lake City to Mountain Dell Reservoir 2B 3A

Parley's Creek and tributaries, from Mountain Dell Reservoir to headwaters 1C 2B 3A

Emigration Creek and tributaries, from Foothill Boulevard in Salt Lake City to headwaters 2B 3A

Red Butte Creek and tributaries, from Red Butte Reservoir to headwaters 1C 2B 3A

Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate Highway 15 2B 3C 4

Mill Creek (Salt Lake County) and tributaries from Interstate Highway 15 to headwaters 2B 3A 4

Big Cottonwood Creek and tributaries, from confluence with Jordan River to Big Cottonwood Water Treatment Plant 2B 3A 4

Big Cottonwood Creek and tributaries, from Big Cottonwood Water Treatment Plant to headwaters 1C 2B 3A

Deaf Smith Canyon Creek and tributaries 1C 2B 3A 4

Little Cottonwood Creek and tributaries, from confluence with Jordan River to Metropolitan Water Treatment Plant 2B 3A 4

Little Cottonwood Creek and tributaries, from Metropolitan Water Treatment Plant to headwaters 1C 2B 3A

Bell Canyon Creek and tributaries, from Lower Bell's Canyon reservoir to headwaters 1C 2B 3A

Little Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters 1C 2B 3A

Big Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters 1C 2B 3A

South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters 1C 2B 3A

All permanent streams on east slope of Oquirrh Mountains (Coon, Barney's, Bingham, Butterfield, and Rose Creeks) 2B 3D 4

Kersey Creek from confluence of C-7 Ditch to headwaters 2B 3D

* Site specific criteria for total ammonia and dissolved oxygen. See Table 2.14.5.

b. Provo River Drainage

TABLE

Provo River and tributaries, from Utah Lake to Murdock diversion 2B 3A 4

Provo River and tributaries, from Murdock Diversion to headwaters 1C 2B 3A 4

Upper Falls drainage above Provo City diversion 1C 2B 3A

Bridal Veil Falls drainage above Provo City diversion 1C 2B 3A

Lost Creek and tributaries above Provo City diversion 1C 2B 3A

c. Utah Lake Drainage

TABLE

American Fork Creek and tributaries, from diversion at mouth of American Fork Canyon to headwaters 2B 3A 4

Spanish Fork River and tributaries, from Utah Lake to diversion at Moark Junction 2B 3B 3D 4

Spanish Fork River and tributaries, from diversion at Moark Junction to headwaters	2B 3A	4	Salt Creek, from Nephi diversion to headwaters	2B 3A	4
Spring Creek and tributaries, from Utah Lake near Lehi to headwaters	2B 3A	4	Currant Creek, from mouth of Goshen Canyon to Mona Reservoir	2B 3A	4
Lindon Hollow Creek and tributaries, from Utah Lake to headwaters	2B 3B	4	Burrison Creek, from Mona Reservoir to headwaters	2B 3A	4
Mill Race (except from Interstate Highway 15 to the Provo City WWTP discharge) and tributaries from Utah Lake to headwaters	2B 3B	4	Peteetneet Creek and tributaries, from irrigation diversion above Maple Dell to headwaters	2B 3A	4
Mill Race from Interstate Highway 15 to the Provo City wastewater treatment plant discharge	2B 3B	4	Summit Creek and tributaries (above Santaquin), from U.S. National Forest boundary to headwaters	2B 3A	4
Spring Creek and tributaries from Utah Lake (Provo Bay) to 50 feet upstream from the east boundary of the Industrial Parkway Road Right-of-way	2B 3B	4	Rock Canyon Creek and tributaries (East of Provo) from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Tributary to Spring Creek (Utah County) which receives the Springville City WWTP effluent from confluence with Spring Creek to headwaters	2B	3D 4	Dry Creek and tributaries (above Alpine), from U.S. National Forest boundary to headwaters	2B 3A	4
<p>13.6 Sevier River Basin a. Sevier River Drainage</p>					
<p>TABLE</p>					
Spring Creek and tributaries from 50 feet upstream from the east boundary of the Industrial Parkway Road right-of-way to the headwaters	2B 3A	4	Sevier River and tributaries from Sevier Lake to Gunnison Bend Reservoir to U.S. National Forest boundary except the following	2B 3C	4
Ironton Canal from Utah Lake (Provo Bay) to the east boundary of the Denver and Rio Grande Western Railroad right-of-way	2B	3C 4	Beaver River and tributaries from Minersville City to headwaters	2B 3A	4
Ironton Canal from the east boundary of the Denver and Rio Grande Western Railroad right-of-way to the point of diversion from Spring Creek	2B 3A	4	Tributaries to Sevier River from Sevier Lake to Gunnison Bend Reservoir from U.S. National Forest boundary to headwaters, including:	2B 3A	4
Hobble Creek and tributaries, from Utah Lake to headwaters	2B 3A	4	Pioneer Creek and tributaries, Millard County	2B 3A	4
Dry Creek and tributaries from Utah Lake (Provo Bay) to Interstate Highway 15	2B	3C 4	Chalk Creek and tributaries, Millard County	2B 3A	4
Dry Creek and tributaries from Interstate Highway 15 to headwaters	2B 3A	4	Meadow Creek and tributaries, Millard County	2B 3A	4
Benjamin Slough and tributaries (except Beer Creek) from Utah Lake to headwaters	2B 3B	4	Corn Creek and tributaries, Millard County	2B 3A	4
Beer Creek (Utah County) from 4850 West (in NE1/4NE1/4 sec. 36, T.8 S., R.1 E.) to headwaters	2B	3C 4	Tributaries to Sevier River from Gunnison Bend Reservoir to Annabella Diversion from U.S. National Forest boundary to headwaters	2B 3A	4
All other permanent streams entering Utah Lake	2B 3B	4	Sevier River and tributaries from Gunnison Bend Reservoir to Annabella Diversion except the following tributaries:	2B 3B	4
			Oak Creek and tributaries, Millard County	2B 3A	4

Round Valley Creek and tributaries, Millard County	2B 3A	4	Parowan Creek and tributaries	2B 3A	4
Chicken Creek and tributaries, Juab County	2B 3A	4	Duck Creek and tributaries	1C 2B 3A	4
San Pitch River and tributaries, from confluence with Sevier River to Highway U-132 crossing except the following tributaries:	2B	3C 3D 4	13.7 Great Salt Lake Basin a. Western Great Salt Lake Drainage		
			TABLE		
Twelve Mile Creek and tributaries, from U.S. Forest Service boundary to headwaters	2B 3A	4	Grouse Creek and tributaries, Box Elder County	2B 3A	4
Six Mile Creek and tributaries, Sanpete County	2B 3A	4	Muddy Creek and tributaries, Box Elder County	2B 3A [3C]	4
Manti Creek and tributaries, from U.S. Forest Service boundary to headwaters	2B 3A	4	Dove Creek and tributaries, Box Elder County	2B 3A	4
Ephraim Creek and tributaries, from U.S. Forest Service to headwaters	2B 3A	4	Pine Creek and tributaries, Box Elder County	2B 3A	4
Oak Creek and tributaries, from U.S. Forest Service boundary near Spring City to headwaters	2B 3A	4	Rock Creek and tributaries, Box Elder County	2B 3A	4
Fountain Green Creek and tributaries, from U.S. Forest Service boundary to headwaters	2B 3A	4	Fisher Creek and tributaries, Box Elder County	2B 3A	4
San Pitch River and tributaries, from Highway U-132 crossing to headwaters	2B 3A	4	Dunn Creek and tributaries, Box Elder County	2B 3A	4
Judd Creek and tributaries, Juab County	2B 3A	4	Donner Creek and tributaries, from irrigation diversion to Utah-Nevada state line	2B 3A	4
Meadow Creek and tributaries, Juab County	2B 3A	4	Bettridge Creek and tributaries, from irrigation diversion to Utah-Nevada state line	2B 3A	4
Cherry Creek and tributaries, Juab County	2B 3A	4	Indian Creek and tributaries, Box Elder County	2B 3A	4
Tanner Creek and tributaries, Juab County		4	Tenmile Creek and tributaries, Box Elder County	2B 3A	4
Baker Hot Springs, Juab County	2B	3D 4	Curlew (Deep) Creek, Box Elder County	2B 3A	4
Sevier River and tributaries, from Annabella diversion to headwaters	2B 3A	4	Blue Creek and tributaries, from Great Salt Lake to Blue Creek Reservoir	2B	3D 4
Monroe Creek and tributaries, from diversion to headwaters	2B 3A	4	Blue Creek and tributaries, from Blue Creek Reservoir to headwaters	2B 3B	4
Little Creek and tributaries, from irrigation diversion to headwaters	2B 3A	4	All perennial streams on the east slope of the Pilot Mountain Range	1C 2B 3A	4
Pinto Creek and tributaries, from Newcastle Reservoir to headwaters	2B 3A	4	North Willow Creek and tributaries, Tooele County	2B 3A	4
Coal Creek and tributaries	2B 3A	4	South Willow Creek and tributaries, Tooele County	2B 3A	4
Summit Creek and tributaries	2B 3A	4	Hickman Creek and tributaries, Tooele County	2B 3A	4
			Barlow Creek and tributaries, Tooele County	2B 3A	4
			Clover Creek and tributaries, Tooele County	2B 3A	4

Faust Creek and tributaries, Tooele County	2B 3A	4	Indian Creek and tributaries, Beaver County, from Indian Creek Reservoir to headwaters	2B 3A	4
Vernon Creek and tributaries, Tooele County	2B 3A	4	Shoal Creek and tributaries, Iron County	2B 3A	4
Ophir Creek and tributaries, Tooele County	2B 3A	4	b. Farmington Bay Drainage		
Settlement Canyon Creek and tributaries, Tooele County	2B 3A	4	TABLE		
Middle Canyon Creek and tributaries, Tooele County	2B 3A	4	Corbett Creek and tributaries, from Highway to headwaters	2B 3A	4
Tank Wash and tributaries, Tooele County	2B 3A	4	Kays Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B 3B	4
Basin Creek and tributaries, Juab and Tooele Counties	2B 3A	4	North Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
Thomas Creek and tributaries, Juab County	2B 3A	4	Middle Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Indian Farm Creek and tributaries, Juab County	2B 3A	4	South Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Cottonwood Creek and tributaries, Juab County	2B 3A	4	Snow Creek and tributaries	2B 3C	4
Red Cedar Creek and tributaries, Juab County	2B 3A	4	Holmes Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B 3B	4
Granite Creek and tributaries, Juab County	2B 3A	4	Holmes Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Trout Creek and tributaries, Juab County	2B 3A	4	Baer Creek and tributaries, from Farmington Bay to Interstate Highway 15	2B 3C	4
Birch Creek and tributaries, Juab County	2B 3A	4	Baer Creek and tributaries, from Interstate Highway 15 to Highway US-89	2B 3B	4
Deep Creek and tributaries, from Rock Spring Creek to headwaters, Juab and Tooele Counties	2B 3A	4	Baer Creek and tributaries, from Highway US-89 to headwaters	1C 2B 3A	4
Cold Spring, Juab County	2B 3C 3D		Shepard Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Cane Spring, Juab County	2B 3C 3D		Farmington Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest boundary	2B 3B	4
Lake Creek, from Garrison (Pruess) Reservoir to Nevada state line	2B 3A	4	Farmington Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Snake Creek and tributaries, Millard County	2B 3B	4	Rudd Creek and tributaries, from Davis aqueduct to headwaters	2B 3A	4
Salt Marsh Spring Complex, Millard County	2B 3A		Steed Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Twin Springs, Millard County	2B 3B				
Tule Spring, Millard County	2B 3C 3D				
Coyote Spring Complex, Millard County	2B 3C 3D				
Hamblin Valley Wash and tributaries, from Nevada state line to headwaters (Beaver and Iron Counties)	2B 3D 4				

Davis Creek and tributaries, from Highway US-89 to headwaters	2B 3A	4
Lone Pine Creek and tributaries, from Highway US-89 to headwaters	2B 3A	4
Ricks Creek and tributaries, from Highway I-15 to headwaters	1C 2B 3A	4
Barnard Creek and tributaries, from Highway US-89 to headwaters	2B 3A	4
Parrish Creek and tributaries, from Davis Aqueduct to headwaters	2B 3A	4
Deuel Creek and tributaries, from Davis Aqueduct to headwaters	2B 3A	4
Stone Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest boundary	2B 3A	4
Stone Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Barton Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
Mill Creek (Davis County) and tributaries, from confluence with State Canal to U.S. National Forest boundary	2B 3B	4
Mill Creek (Davis County) and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
North Canyon Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
Hobart Slough	2B 3C	4
Hooper Slough	2B 3C	4
Willard Slough	2B 3C	4
Willard Creek to Headwaters	1C 2B 3A	4
Chicken Creek to Headwaters	1C 2B 3A	4
Cold Water Creek to Headwaters	1C 2B 3A	4
One House Creek to Headwaters	1C 2B 3A	4
Garner Creek to Headwaters	1C 2B 3A	4

13.8 Snake River Basin
a. Raft River Drainage (Box Elder County)

TABLE

Raft River and tributaries	2B 3A	4
Clear Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4

Onemile Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
George Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
Johnson Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
Birch Creek and tributaries, from state line to headwaters	2B 3A	4
Pole Creek and tributaries, from state line to headwaters	2B 3A	4
Goose Creek and tributaries	2B 3A	4
Hardesty Creek and tributaries, from state line to headwaters	2B 3A	4
Meadow Creek and tributaries, from state line to headwaters	2B 3A	4

13.9 All irrigation canals and ditches statewide, except as otherwise designated 4

13.10 All drainage canals and ditches statewide, except as otherwise designated 3E

13.11 National Wildlife Refuges and State Waterfowl Management Areas

TABLE

Bear River National Wildlife Refuge, Box Elder County	3B 3D
Brown's Park Waterfowl Management Area, Daggett County	3A 3D
Clear Lake Waterfowl Management Area, Millard County	3C 3D
Desert Lake Waterfowl Management Area, Emery County	3C 3D
Farmington Bay Waterfowl Management Area, Davis and Salt Lake Counties	3C 3D
Fish Springs National Wildlife Refuge, Juab County	3C 3D
Harold Crane Waterfowl Management Area, Box Elder County	3C 3D
Howard Slough Waterfowl Management Area, Weber County	3C 3D
Locomotive Springs Waterfowl Management Area, Box Elder County	3B 3D
Ogden Bay Waterfowl Management Area, Weber County	3C 3D
Ouray National Wildlife Refuge, Uintah County	3B 3D

Powell Slough Waterfowl Management Area, Utah County	3C 3D
Public Shooting Grounds Waterfowl Management Area, Box Elder County	3C 3D
Salt Creek Waterfowl Management Area, Box Elder County	3C 3D
Stewart Lake Waterfowl Management Area, Uintah County	3B 3D
Timpie Springs Waterfowl Management Area, Tooele County	3B 3D

Olsen Pond	2B 3B	4
Scofield Reservoir	1C 2B 3A	4

e. Daggett County

	TABLE	
Browne Reservoir	2B 3A	4
Daggett Lake	2B 3A	4
Flaming Gorge Reservoir (Utah portion)	1C 2A 2B 3A	4
Long Park Reservoir	2B 3A	4
Sheep Creek Reservoir	2B 3A	4
Spirit Lake	2B 3A	4
Upper Potter Lake	2B 3A	4

13.12 Lakes and Reservoirs (20 Acres or Larger). All lakes not listed in 13.12 are assigned by default to the classification of the stream with which they are associated.

a. Beaver County

	TABLE	
Anderson Meadow Reservoir	2B 3A	4
Manderfield Reservoir	2B 3A	4
LaBaron Reservoir	2B 3A	4
Middle Kent's Lake	2B 3A	4
Minersville Reservoir	2B 3A 3D 4	
Puffer Lake	2B 3A	
Three Creeks Reservoir	2B 3A	4

f. Davis County

	TABLE	
Farmington Ponds	2B 3A	4
Kaysville Highway Ponds	2B 3A	4
Holmes Creek Reservoir	2B 3B	4

g. Duchesne County

	TABLE	
Allred Lake	2B 3A	4
Atwine Lake	2B 3A	4
Atwood Lake	2B 3A	4
Betsy Lake	2B 3A	4
Big Sandwash Reservoir	1C 2B 3A	4
Bluebell Lake	2B 3A	4
Brown Duck Reservoir	2B 3A	4
Butterfly Lake	2B 3A	4
Cedarview Reservoir	2B 3A	4
Chain Lake #1	2B 3A	4
Chepeta Lake	2B 3A	4
Clements Reservoir	2B 3A	4
Cleveland Lake	2B 3A	4
Cliff Lake	2B 3A	4
Continent Lake	2B 3A	4
Crater Lake	2B 3A	4
Crescent Lake	2B 3A	4
Daynes Lake	2B 3A	4

b. Box Elder County

	TABLE	
Cutler Reservoir (including portion in Cache County)	2B 3B 3D 4	
Etna Reservoir	3A	4
Lynn Reservoir	3A	4
Mantua Reservoir	2B 3A	4
Willard Bay Reservoir	1C 2A 2B 3B 3D 4	

c. Cache County

	TABLE	
Hyrum Reservoir	2A 2B 3A	4
Newton Reservoir	2B 3A	4
Porcupine Reservoir	2B 3A	4
Pelican Pond	2B 3B	4
Tony Grove Lake	2B 3A	4

d. Carbon County

	TABLE	
Grassy Trail Creek Reservoir	1C 2B 3A	4

Dean Lake	2B 3A	4	Spirit Lake	2B 3A	4
Doll Lake	2B 3A	4	Starvation Reservoir	1C 2A 2B 3A	4
Drift Lake	2B 3A	4	Superior Lake	2B 3A	4
Elbow Lake	2B 3A	4	Swasey Hole Reservoir	2B 3A	4
Farmer's Lake	2B 3A	4	Taylor Lake	2B 3A	4
Fern Lake	2B 3A	4	Thompson Lake	2B 3A	4
Fish Hatchery Lake	2B 3A	4	Timothy Reservoir #1	2B 3A	4
Five Point Reservoir	2B 3A	4	Timothy Reservoir #6	2B 3A	4
Fox Lake Reservoir	2B 3A	4	Timothy Reservoir #7	2B 3A	4
Governor's Lake	2B 3A	4	Twin Pots Reservoir	1C 2B 3A	4
Granddaddy Lake	2B 3A	4	Upper Stillwater Reservoir	1C 2B 3A	4
Hoover Lake	2B 3A	4	X - 24 Lake	2B 3A	4
Island Lake	1C 2B 3A	4	h. Emery County		
Jean Lake	2B 3A	4	TABLE		
Jordan Lake	2B 3A	4	Cleveland Reservoir	2B 3A	4
Kidney Lake	2B 3A	4	Electric Lake	2B 3A	4
Kidney Lake West	2B 3A	4	Huntington Reservoir	2B 3A	4
Lily Lake	2B 3A	4	Huntington North Reservoir	2A 2B 3B	4
Midview Reservoir (Lake Boreham)	2B 3B	4	Joe's Valley Reservoir	2A 2B 3A	4
Milk Reservoir	2B 3A	4	Millsite Reservoir	1C 2A 2B 3A	4
Mirror Lake	2B 3A	4	i. Garfield County		
Mohawk Lake	2B 3A	4	TABLE		
Moon Lake	1C 2A 2B 3A	4	Barney Lake	2B 3A	4
North Star Lake	2B 3A	4	Cyclone Lake	2B 3A	4
Palisade Lake	2B 3A	4	Deer Lake	2B 3A	4
Pine Island Lake	2B 3A	4	Jacob's Valley Reservoir	2B 3C 3D	4
Pinto Lake	2B 3A	4	Lower Bowns Reservoir	2B 3A	4
Pole Creek Lake	2B 3A	4	North Creek Reservoir	2B 3A	4
Potter's Lake	2B 3A	4	Panguitch Lake	2B 3A	4
Powell Lake	2B 3A	4	Pine Lake	2B 3A	4
Pyramid Lake	2A 3A	4	Oak Creek Reservoir (Upper Bowns)	2B 3A	4
Queant Lake	2B 3A	4	Pleasant Lake	2B 3A	4
Rainbow Lake	2B 3A	4	Posey Lake	2B 3A	4
Red Creek Reservoir	2B 3A	4	Purple Lake	2B 3A	4
Rudolph Lake	2B 3A	4	Raft Lake	2B 3A	4
Scout Lake	2A 2B 3A	4	Row Lake #3	2B 3A	4
Spider Lake	2B 3A	4			

Row Lake #7	2B 3A	4
Spectacle Reservoir	2B 3A	4
Tropic Reservoir	2B 3A	4
West Deer Lake	2B 3A	4
Wide Hollow Reservoir	2B 3A	4

j. Iron County

TABLE

Newcastle Reservoir	2B 3A	4
Red Creek Reservoir	2B 3A	4
Yankee Meadow Reservoir	2B 3A	4

k. Juab County

TABLE

Chicken Creek Reservoir	2B	3C 3D	4
Mona Reservoir	2B	3B	4
Sevier Bridge (Yuba) Reservoir	2A 2B	3B	4

l. Kane County

TABLE

Navajo Lake	2B 3A	4
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m. Millard County

TABLE

DMAD Reservoir	2B	3B	4
Fools Creek Reservoir	2B	3C 3D	4
Garrison Reservoir (Pruess Lake)	2B	3B	4
Gunnison Bend Reservoir	2B	3B	4

n. Morgan County

TABLE

East Canyon Reservoir	1C 2A 2B 3A	4	
Lost Creek Reservoir	1C	2B 3A	4

o. Piute County

TABLE

Barney Reservoir	2B 3A	4
Lower Boxcreek Reservoir	2B 3A	4
Manning Meadow Reservoir	2B 3A	4
Otter Creek Reservoir	2B 3A	4

Piute Reservoir	2B 3A	4
Upper Boxcreek Reservoir	2B 3A	4

p. Rich County

TABLE

Bear Lake (Utah portion)	2A 2B 3A	4
Birch Creek Reservoir	2B 3A	4
Little Creek Reservoir	2B 3A	4
Woodruff Creek Reservoir	2B 3A	4

q. Salt Lake County

TABLE

Decker Lake	2B	3B	3D	4
Lake Mary	1C	2B 3A		
Little Dell Reservoir	1C	2B 3A		
Mountain Dell Reservoir	1C	3A		

r. San Juan County

TABLE

Blanding Reservoir #4	1C	2B 3A	4
Dark Canyon Lake	1C	2B 3A	4
Ken's Lake		2B 3A	4
Lake Powell (Utah portion)	1C 2A 2B	3B	4
Lloyd's Lake	1C	2B 3A	4
Monticello Lake		2B 3A	4
Recapture Reservoir		2B 3A	4

s. Sanpete County

TABLE

Duck Fork Reservoir		2B 3A	4
Fairview Lakes	1C	2B 3A	4
Ferron Reservoir		2B 3A	4
Lower Gooseberry Reservoir	1C	2B 3A	4
Gunnison Reservoir		2B	3C 4
Island Lake		2B 3A	4
Miller Flat Reservoir		2B 3A	4
Ninemile Reservoir		2B 3A	4
Palisade Reservoir		2A 2B 3A	4
Rolfson Reservoir		2B	3C 4

Twin Lakes	2B 3A	4	Hoop Lake	2B 3A	4
Willow Lake	2B 3A	4	Island Lake	2B 3A	4
t. Sevier County			Island Reservoir	2B 3A	4
TABLE			Jesson Lake	2B 3A	4
Annabella Reservoir	2B 3A	4	Kamas Lake	2B 3A	4
Big Lake	2B 3A	4	Lily Lake	2B 3A	4
Farnsworth Lake	2B 3A	4	Lost Reservoir	2B 3A	4
Fish Lake	2B 3A	4	Lower Red Castle Lake	2B 3A	4
Forsythe Reservoir	2B 3A	4	Lyman Lake	2A 2B 3A	4
Johnson Valley Reservoir	2B 3A	4	Marsh Lake	2B 3A	4
Koosharem Reservoir	2B 3A	4	Marshall Lake	2B 3A	4
Lost Creek Reservoir	2B 3A	4	McPheters Lake	2B 3A	4
Redmond Lake	2B 3B	4	Meadow Reservoir	2B 3A	4
Rex Reservoir	2B 3A	4	Meeks Cabin Reservoir	2B 3A	4
Salina Reservoir	2B 3A	4	Notch Mountain Reservoir	2B 3A	4
Sheep Valley Reservoir	2B 3A	4	Red Castle Lake	2B 3A	4
u. Summit County			Rockport Reservoir	1C 2A 2B 3A	4
TABLE			Ryder Lake	2B 3A	4
Abes Lake	2B 3A	4	Sand Reservoir	2B 3A	4
Alexander Lake	2B 3A	4	Scow Lake	2B 3A	4
Amethyst Lake	2B 3A	4	Smith Moorehouse Reservoir	1C 2B 3A	4
Beaver Lake	2B 3A	4	Star Lake	2B 3A	4
Beaver Meadow Reservoir	2B 3A	4	Stateline Reservoir	2B 3A	4
Big Elk Reservoir	2B 3A	4	Tamarack Lake	2B 3A	4
Blanchard Lake	2B 3A	4	Trial Lake	1C 2B 3A	4
Bridger Lake	2B 3A	4	Upper Lyman Lake	2B 3A	4
China Lake	2B 3A	4	Upper Red Castle	2B 3A	4
Cliff Lake	2B 3A	4	Wall Lake Reservoir	2B 3A	4
Clyde Lake	2B 3A	4	Washington Reservoir	2B 3A	4
Coffin Lake	2B 3A	4	Whitney Reservoir	2B 3A	4
Cuberant Lake	2B 3A	4	v. Tooele County		
East Red Castle Lake	2B 3A	4	TABLE		
Echo Reservoir	1C 2A 2B 3A	4	Blue Lake	2B 3B	4
Fish Lake	2B 3A	4	Clear Lake	2B 3B	4
Fish Reservoir	2B 3A	4	Grantsville Reservoir	2B 3A	4
Haystack Reservoir #1	2B 3A	4	Horseshoe Lake	2B 3B	4
Henry's Fork Reservoir	2B 3A	4	Kanaka Lake	2B 3B	4

Rush Lake	2B	3B	
Settlement Canyon Reservoir	2B	3A	4
Stansbury Lake	2B	3B	4
Vernon Reservoir	2B	3A	4

w. Uintah County

TABLE

Ashley Twin Lakes (Ashley Creek)	1C	2B	3A	4	
Bottle Hollow Reservoir		2B	3A	4	
Brough Reservoir		2B	3A	4	
Calder Reservoir		2B	3A	4	
Crouse Reservoir		2B	3A	4	
East Park Reservoir		2B	3A	4	
Fish Lake		2B	3A	4	
Goose Lake #2		2B	3A	4	
Matt Warner Reservoir		2B	3A	4	
Oaks Park Reservoir		2B	3A	4	
Paradise Park Reservoir		2B	3A	4	
Pelican Lake		2B	3B	4	
Red Fleet Reservoir	1C	2A	2B	3A	4
Steinaker Reservoir	1C	2A	2B	3A	4
Towave Reservoir		2B	3A	4	
Weaver Reservoir		2B	3A	4	
Whiterocks Lake		2B	3A	4	
Workman Lake		2B	3A	4	

x. Utah County

TABLE

Salem Pond	2A	3A	4	
Silver Flat Lake Reservoir		2B	3A	4
Tibble Fork Reservoir		2B	3A	4
Utah Lake	2B	3B	3D	4

y. Wasatch County

TABLE

Currant Creek Reservoir	1C	2B	3A	4	
Deer Creek Reservoir	1C	2A	2B	3A	4

Jordanelle Reservoir	1C	2A	3A	4
Mill Hollow Reservoir		2B	3A	4
Strawberry Reservoir	1C	2B	3A	4

z. Washington County

TABLE

Baker Dam Reservoir		2B	3A	4	
Gunlock Reservoir	1C	2A	2B	3B	4
Ivins Reservoir		2B	3B	4	
Kolob Reservoir		2B	3A	4	
Lower Enterprise Reservoir		2B	3A	4	
Quail Creek Reservoir	1C	2A	2B	3B	4
Upper Enterprise Reservoir		2B	3A	4	

aa. Wayne County

TABLE

Blind Lake		2B	3A	4
Cook Lake		2B	3A	4
Donkey Reservoir		2B	3A	4
Fish Creek Reservoir		2B	3A	4
Mill Meadow Reservoir		2B	3A	4
Raft Lake		2B	3A	4

bb. Weber County

TABLE

Causey Reservoir		2B	3A	4	
Pineview Reservoir	1C	2A	2B	3A	4

13.13 Great Salt Lake

TABLE

Box Elder, Davis, Salt Lake, Tooele, and Weber County	5
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13.14 Unclassified Waters

All waters not specifically classified are presumptively classified as 2B, 3D.

KEY: water pollution, water quality standards
~~March 17,]2000~~ **19-5**
Notice of Continuation December 12, 1997



**Health, Health Systems Improvement,
Health Facility Licensure
R432-300
Small Health Care Facility - Type N**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22852

FILED: 05/11/2000, 11:36

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This action is necessary to resolve conflicts between this rule and Rule R432-270 (Assisted Living Facilities). This proposed rule also addresses the original intent of the rule as implemented in 1985.

SUMMARY OF THE RULE OR CHANGE: Definitions for "dependent," "licensed health care professional," "semi-dependent," "significant change," and "health care setting" are added to the rule. A pet section, a transfer and discharge section, and an emergency/disaster section are added to be consistent with the Assisted Living rule. "Owner" is changed to "licensee" throughout the rule. The requirement to place trash containers in toilet rooms and bedrooms is added to the rule. The requirement that the licensee have at least two years experience in a health care setting is added to the rule. The requirement to maintain an advanced directive or living will in resident's medical records is added to the rule. The resident acceptance criteria is modified to allow dependent residents only if the licensee has appropriate equipment and staff to assist the resident in case of a facility evacuation. The requirement for the physician's assessment to be completed within five days of admission is added to the rule. The requirement to have daily on-site nurses in the facility during daytime hours of operation is added to the rule. The requirement to include medication administration policies, alzheimer/dementia care, universal precautions, and housekeeping and cleaning procedures in the facility policy and procedure manual is added to the rule. An allowance to use portable screens to provide privacy during treatments is added to the rule. The requirement to implement and document a quarterly quality improvement process is added to the rule. The medication administration section is modified to require medication assessment upon admission and at least every six months thereafter. The requirement to document medication administration on a department approved form is added to the rule. The requirement to dispose of controlled substances in accordance with the Pharmacy Practice Act is added to the rule. The requirement to comply with Rule R392-100 (Utah Department of Health Food Service Sanitation Regulations) is added to the rule. Quarterly consultation from a dietician for residents with special diets is added to the rule. The requirement to keep toxic cleaners and chemicals locked away from resident access is added to the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 1) Standard for Health Care Facilities, NFPA 99 (1996); 2) Rule R392-100, Utah Department of Health Food Service Sanitation Regulations; and 3) Rule R156-17a, Pharmacy Practice Act.

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The state will incur an estimated cost of \$80 to develop a department-approved medication administration form. The state will incur an estimated workload cost of \$274 to print and mail the new rule to providers and interested parties. This estimate is based on a staff workload of 12 hours to draft the rule, plus a total mailing cost of \$30.

❖**LOCAL GOVERNMENTS:** Proposed changes to this rule do not impose an increased workload cost or savings to local government agencies.

❖**OTHER PERSONS:** The estimated aggregate cost to Type N providers to implement and maintain this rule change is \$305,280 annually. This estimate is based on the premise that 7 of the 13 providers will accept dependent residents and must, therefore, hire additional staff at a cost of \$112 per day. In addition, it is estimated that 100% of the residents in Type N facilities require special diets and, therefore, must have quarterly consultation review from a registered dietician at \$25 per visit per resident. Finally, it is estimated that all 13 Type N providers will be required to implement, document, and maintain a quarterly quality improvement process at a cost of \$40 per quarter per facility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The state will incur a compliance cost to publish and distribute the new rule to providers and other interested parties. The state will incur an estimated compliance workload cost of \$80 to develop a department-approved medication administration form. Type N providers who admit dependent residents may incur an additional cost of \$112 per day per additional staff to assist with the evacuation of the dependent resident in case of an emergency. Type N providers who admit residents with special diets will incur an estimated quarterly cost of \$25 per resident per quarterly consultation visit. Type N providers who do not have a quarterly quality improvement process will incur an estimated compliance cost of \$40 per quarter to implement and document the quality improvement process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Patient safety requires adequate supervision. Projected costs are reasonable--Rod L. Betit

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

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West

PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debra Wynkoop at the above address, by phone at (801)
538-6152, by FAX at (801) 538-6325, or by Internet E-mail at
dwynkoop@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE
BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO
LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

**R432. Health, Health Systems Improvement, Health Facility
Licensure.**

R432-300. Small Health Care Facility - Type N.

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R432-300-3. Time for Compliance.

All facilities governed by these rules shall be in full
compliance at the time of ~~[licensure]~~licensing.

R432-300-4. Definitions.

- (1) Refer to common definitions R432-1-3, in addition;
- (2) "Dependent" means a person who meets one or all of the following criteria:
 - (a) requires inpatient hospital or 24 hour continual nursing care that will last longer than 15 calendar days after the day on which the nursing care begins;
 - (b) is unable to evacuate from the facility without the physical assistance of two persons.
- (3) "Health care setting" means a health care facility or agency, either public or private, that is involved in the provision or delivery of nursing care.
- (4) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of a resident.
- (~~2~~)5) "Owner or licensee" means a licensed nurse who resides in the facility and provides daily direct care during daytime hours to residents in the facility as opposed to simply working a duty shift in the facility.
- (6) "Semi-independent" means a person who is:
 - (a) physically disabled, but able to direct his own care; or
 - (b) cognitively impaired or physically disabled, but able to evacuate from the facility with the physical assistance of one person.
- (7) "Significant change" means a major change in a resident's status that is not self-limiting, impacts on more than one area of the resident's health status, and requires interdisciplinary review or revision of the service plan.

(~~3~~)8) "Small Health Care Facility - Type N" means a home or a residence occupied by the ~~[owner]~~licensee, who is a licensed nurse, that provides protected living arrangements plus nursing care and services on a daily basis for two to three individuals unrelated to the ~~[owner of the facility]~~licensee.

.....

R432-300-6. Criteria for Type N Facility.

The licensee ~~[shall]~~must meet the following criteria to obtain a license for a Small Health Care Facility - Type N:

- (1) provide care in a residence where the ~~[owner]~~licensee lives full time;
- (2) meet local zoning requirements to allow the facility to be operated at the given address;
- (3) obtain a certificate of fire clearance annually from the local fire marshal having jurisdiction;
- (4) have a physician assessment and approval for each resident's admission;
- (5) provide daily, licensed nursing care; and
- (6) provide 24-hour direct care staff available on the premises.

R432-300-7. Physical Environment.

- (1) ~~[Each facility]~~The licensee must provide comfortable living accommodations and privacy for residents who live in the facility.
 - (2) Bedrooms may be private or semi-private.
 - (a) Single-bed rooms ~~[shall]~~must have a minimum of 100 square feet of floor space.
 - (b) Multiple-bed rooms ~~[shall]~~must have a minimum of 80 square feet of floor space per bed and ~~[shall be]~~are limited to two beds.
 - (c) Beds shall be placed at least three feet away from each other.
 - (d) ~~[Owner's]~~The licensee's family members or staff shall not share sleeping quarters with residents.
 - (e) Each resident shall have a separate ~~[standard]~~twin size or larger sized bed.
 - (f) No room ordinarily used for other purposes (such as a hall, corridor, unfinished attic, garage, storage area, shed or similar detached building) ~~[shall]~~may be used as a sleeping room for a resident.
 - (g) Each bedroom ~~[shall be provided with]~~must have light and ventilation.
 - (h) Each bedroom ~~[shall]~~must have a window to the outside which opens easily. Windows must have insect screens.
 - (i) Each bedroom ~~[shall]~~must have a closet or space suitable for hanging clothing and personal belongings.
 - (j) ~~[Each resident shall have a reading lamp.]~~Each bedroom and toilet room must have a trash container.
 - (k) The licensee must make available reading lamps in each resident room according to the individual needs of each resident.
 - (3) Toilets and bathrooms ~~[shall]~~must provide privacy, be well-ventilated, and be accessible to and usable by all persons accepted for care.
 - (a) ~~[Grab bars which comply with ADAAG shall be placed around each toilet, tub, and shower.]~~Toilets, tubs, and showers must have ADAAG approved grab bars.

(b) If the licensee admits a resident with disabilities, the bath, shower, sink, and toilet must be equipped for use by persons with disabilities in accordance with ADAAG.

(4) Heating, air conditioning, and ventilating systems must provide comfortable temperatures for the resident.

(a) Heating systems ~~[shall]~~must be capable of maintaining temperatures of 80 degrees F. in areas occupied by residents.

(b) Cooling systems ~~[shall]~~must be capable of maintaining temperatures of 72 degrees F. in areas occupied by residents.

(c) Facilities licensed after July 1, 1998, must comply with ventilation and minimum total air change requirements as outlined in R432-6-22 Table 2, which is adopted and incorporated by reference.[]

~~—(5) The facility must have equipment to provide essential lighting and heating during an emergency. All emergency heating devices must be approved by the local fire jurisdiction.~~

~~(6) Residents [shall] may be housed on the main floor only, unless an outside exit leading to the ground grade level is provided from any upper or lower levels.~~

~~(7) At least one building entrance shall be accessible to persons with physical disabilities.~~

R432-300-8. Administration and Organization.

(1) The licensee is responsible for compliance with Utah law and ~~[licensure]~~licensing requirements, management, operation, and control of the facility.

(2) The licensee is responsible to establish and implement facility policies and procedures. Policies and procedures must reflect current facility practice.[]

~~—(3) The licensee must have experience in administering a health facility or two years experience working in a health care facility.~~

~~(4) The [owner] licensee must be a licensed nurse with at least two years experience working in a health care setting, and must provide nursing coverage on a daily basis during daytime hours of operation.~~

~~—(5) Facilities licensed prior to July 1, 1998, [who] that do not have a licensed nurse[s] residing in the facility, [shall] must provide 24 hour certified nurse aide coverage.~~

~~(6) The licensee must employ sufficient staff to meet the needs of the residents.~~

~~(7) All employees must be 18 years of age, and successfully complete an orientation program in order to provide personal care and demonstrate competency.~~

(a) The licensee ~~[shall]~~must orient employees to the residents' daily routine and train employees to assist the residents in activities of daily living.

(b) ~~[All staff shall]~~Employees must be registered, certified or licensed as required by the Utah Department of Commerce.

(c) Registration, licenses and certificates must be current, filed in the personnel files, and presented to the licensee within 45-days of employment.

~~(8) The licensee [shall] is responsible to establish and implement written policies and procedures for a personnel health program to protect the health and safety of personnel and clients [commensurate with the service offered. The policies shall include an employee health evaluation].~~

(a) Each employee ~~[shall]~~must, upon hire, complete a health evaluation that includes a health inventory.

(b) The health inventory must document the employee's health history of the following:

(i) conditions that predispose the employee to acquiring or transmitting infectious diseases; and

(ii) conditions which may prevent the employee from performing certain assigned duties satisfactorily[?].

(c) Employee skin testing by the Mantoux Method and follow up for tuberculosis shall be ~~[done]~~ in accordance with R388-804, Tuberculosis Control Rule.[]

~~—(i) Skin testing shall be conducted on each employee within two weeks of hire and after suspect exposure to a person with active tuberculosis.~~

~~—(ii) Skin testing shall be exempted for all employees with known positive reaction to skin tests.~~

(d) The licensee must report all~~[AH]~~ infections and communicable diseases reportable by law ~~[shall be reported by the facility]~~ to the local health department in accordance with R386-702-2.

R432-300-9. Facility Records.

(1) The licensee must maintain accurate and complete records ~~that are filed, stored safely, and are easily accessible~~ ~~[Records shall be filed, stored safely, and be easily accessible]~~ to staff and the Department.

(2) Records ~~[shall]~~must be protected against access by unauthorized individuals.

(3) The licensee ~~[shall]~~must maintain personnel records for each employee and retain such records for at least three years following termination of employment. Personnel records must include the following:

(a) an employee application;

(b) the date of employment and initial policies and procedures orientation;

(c) the termination date;

(d) the reason for leaving;

(e) documentation of cardio-pulmonary resuscitation, first aid, and emergency procedures training;

(f) a health inventory;

(g) a food handlers permit[s];

(h) TB skin test documentation;

(i) documentation of criminal background check; and

(j) certifications, registration, and licenses as required.

(4) The licensee must maintain in the facility a separate record for each resident that includes the following:

(a) the resident's name, date of birth, and last address;

(b) the name, address, and telephone number of the person who administers and obtains medications, if this is not facility staff;

(c) the name, address, and telephone number of the individual to be notified in case of accident or death;

(d) the name, address, and telephone number of a physician and dentist to be called in an emergency;

(e) an admission diagnoses and reason for admission;

(f) any known allergies;

(g) the admission agreement;

(h) ~~[the acceptance appraisal]~~ a copy of an advanced directive or living will initiated by the resident;

(i) a physician's assessment;

(j) a resident assessment;

(k) a written plan of care;

(l) physician orders;

(m) daily nurs[es]ing notes including temperature, pulse, respirations, blood pressure, height, and [h]weight notations[-] when indicated or as needed due to a change in the resident's condition;

(n) if entrusted to the facility, a record of the resident's cash resources and valuables; and

(o) incident and accident reports.

(5) Resident records must be retained for at least seven years following discharge.

R432-300-10. Acceptance and Retention of [Residence]Residents.

(1) A Type N Small Health Care facility may accept semi-dependent residents.

(a) The licensee may accept one dependent resident only if the licensee has equipment and additional staff available to assist the dependent resident in the event of a facility emergency evacuation.

(~~h~~)b) The licensee must establish acceptance criteria which includes:

(~~a~~)i) the resident's health needs;

(~~b~~)ii) the residents's ability to perform activities of daily living; and

(~~e~~)iii) the ability of the facility to address the residents needs.

(2) A resident shall not be accepted nor retained by a Type "N" [~~Limited Capacity~~] Small Health Care Facility when:

(a) The resident has active tuberculosis or serious communicable diseases;

(b) The resident requires inpatient hospital care; or

(c) The resident has a mental illness that manifests behavior which is suicidal, assaultive, or harmful to self or others.

(3) The licensee [~~shall~~]must request that the family or responsible person relocate the resident within seven days if the resident requires care which cannot be provided in the Type N facility.]

—(4) ~~If the department determines at the time of inspection that the licensee knowingly and willfully admits or retains residents who do not meet the licensure criteria, then the department may, for a time period specified, require that the resident assessment be conducted by an approved individual who is independent of the facility.]~~

R432-300-11. Transfer or Discharge Requirements.

(1) The licensee may discharge, transfer, or evict a resident for one or more of the following reasons:

(a) The facility is no longer able to meet the resident's needs.

(b) The resident fails to pay for services as required by the admission agreement.

(c) The resident fails to comply with written policies or rules of the facility.

(d) The resident wishes to transfer.

(e) The facility ceases operation.

(2) Prior to transferring or discharging a resident, the licensee must serve a transfer or discharge notice to the resident and the resident's responsible person.

(a) The notice must be either hand-delivered or sent by certified mail.

(b) The notice must be made at least 30 days before the day on which the licensee plans to transfer or discharge the resident, except

that the notice may be made as soon as practicable before transfer or discharge if:

(i) the safety or health of persons in the facility is endangered; or

(ii) an immediate transfer or discharge is required by the resident's urgent medical needs.

(3) The notice of transfer or discharge must:

(a) be in writing with a copy placed in the resident file;

(b) be phrased in a manner and in a language the resident or the resident's responsible person can understand;

(c) detail the reasons for transfer or discharge;

(d) state the effective date of transfer or discharge;

(e) state the location to which the resident will be transferred or discharged;

(f) state that the resident or responsible party may request a conference to discuss the transfer or discharge; and

(g) contain the following information:

(i) for facility residents who are 60 years of age or older, the name, mailing address, and telephone number of the State Long Term Care Ombudsman;

(ii) for facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

(iii) for facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

(4) The licensee must provide sufficient preparation and orientation to a resident to ensure a safe and orderly transfer or discharge from the facility.

(5) The resident or the resident's responsible person may contest a transfer or discharge. If the transfer or discharge is contested, the licensee shall provide an informal conference, except where undue delay might jeopardize the health, safety, or well-being of the resident or others.

(a) The resident or the resident's responsible person must request the conference within five calendar days of the day of receipt of notice of discharge to determine if a satisfactory resolution can be reached.

(b) Participants in the conference shall include the licensee, the resident or the resident's responsible person, and any others requested by the resident or the resident's responsible person.

R432-300-~~h~~12. Personal Physician.

(1) Each resident [~~shall~~]must have a personal physician. [~~and have a~~]The physician's assessment must be completed prior to admission.

(2) The physician's signed assessment shall document:

(a) that the resident is capable of functioning in a [~~limited capacity~~]Type N Small Health Care Facility;

(b) that the resident is free of communicable diseases or any condition which would prevent admission to the facility;

(c) a list of current medications including dosage, time of administration, route, and assistance required;

(d) type of diet and restrictions or special instructions;

(e) any known allergies; and

(f) any physical or mental limitations, or restrictions on activity.

[R432-300-12. Emergency Procedures:

~~The licensee must develop and implement policies and procedures to safely evacuate disabled and bed fast residents in the event of an emergency without impeding the self-evacuation of other residents.~~

IR432-300-13. Nursing Care.

(1) Each Type N facility must provide nursing care services to meet the needs of the residents.

(2) ~~A [E]licensed nurse[s] [shall]must be on-site working directly with residents on a daily basis in accordance with each resident's care plan and individual needs.[a minimum of 24 minutes per patient per day. Chronically ill patients may require a minimum of 45 minutes per patient per day.]~~

(3) ~~[Licensed nurses shall practice nursing]~~Nursing practice must be in accordance with the Utah Nurse Practice Act ~~[Title 58, Chapter 31b]~~Section 58-31b-102.

(4) Licensed nurses ~~[shall]~~have the following responsibilities:

(a) direct the implementation of physician's orders;

(b) ~~develop and implement an individualized care plan for each resident within seven calendar days of admission,~~ and direct the delivery of nursing care, treatments, procedures, and other services to meet the needs of the residents;

(c) review ~~and update at least every six months~~ the health care needs of each resident admitted to the facility and develop resident care plans according to the resident's needs and the physician's orders;

(d) review ~~[the]each~~ resident's medication ~~regimen as needed~~ and immediately after medication changes to ensure accuracy;

(e) ensure that nursing notes describe the care rendered including the resident's response;

(f) supervise staff to assure they perform restorative measures in their daily care of residents;

(g) teach and coordinate ~~[habilitative]resident care~~ and rehabilitative care to promote and maintain optimal physical and mental functioning of the resident; and

(h) plan and conduct documented orientation and in-service programs for staff.

(5) The licensed nurse must develop and maintain a current health services policy and procedure manual that is to be reviewed and updated by the licensed nurse at least annually.

(a) The manual must be accessible to all staff and be available for review by the Department.

(b) The policy and procedure manual must address the following:

(i) bathing;

(ii) positioning;

(iii) enema administration;

(iv) decubitus prevention and care;

(v) bed making;

(vi) isolation procedures;

(vii) ~~[clinitest]blood sugar monitoring~~ procedures;

(viii) telephone orders;

(ix) charting;

(x) rehabilitative nursing;

(xi) diets and feeding residents;~~[and]~~

(xii) oral hygiene and denture care;

~~(xiii) medication administration;~~

~~(xiv) Alzheimer's/dementia care;~~

~~(xv) universal precautions and blood-borne pathogens; and~~

~~(xvi) housekeeping and cleaning procedures.~~

(6) Each resident's care plan ~~[shall]must~~ include measures to prevent and reduce incontinence.

(a) The licensed nurse ~~[shall]must~~ assess each resident to determine the resident's ability to participate in a bowel and bladder management program.

(b) An individualized plan for each incontinent resident shall begin within two weeks of the initial assessment.

(c) The licensed nurse ~~[shall]must~~ document a weekly evaluation of the resident's performance in the bowel/bladder management program.

(d) Fluid intake and output ~~[shall]must~~ be recorded for each resident and evaluated at least weekly~~[-as] when~~ ordered by ~~[the]a~~ physician or nurse.~~]~~

~~—(e) Physician's or nurse's orders shall be re-evaluated periodically.]~~

(7) The licensee must ensure that staff are trained in rehabilitative nursing.

(a) ~~The licensee must provide daily and document [R]rehabilitative nursing services [shall be performed daily]for residents who require such services,[-and shall be documented in the resident's record when provided:~~

~~—(b) Rehabilitative services shall be provided to maintain function or to improve the resident's ability to carry out the activities of daily living.]~~

~~([e]b)~~ Rehabilitative nursing services shall include the following:

(i) turning and positioning of residents as per physician's or nurse's orders;

(ii) assisting residents to ambulate;

(iii) improving resident's range of motion;

(iv) restorative feeding;

(v) bowel and bladder retraining;

(vi) teaching residents self-care skills;

(vii) teaching residents transferring skills; and]

~~—(viii) teaching residents self-administration of medications, as appropriate; and]~~

~~([ix]viii)~~ taking measures to prevent secondary disabilities such as ~~[contractions]contractures~~ and decubitus ulcers.

R432-300-14. General Resident Care Policies.

(1) Each resident ~~[shall]must~~ be treated as an individual with dignity and respect in accordance with Residents' Rights ~~[R]R432-200-12[270-10(b)].~~

(2) The licensee ~~[shall]is responsible to~~ develop and implement resident care policies, ~~[to be reviewed at least annually:~~

~~—(3)]~~ These policies ~~[shall]must~~ address the following:

(a) ~~[Each resident upon admission shall be oriented]~~The licensee must orient each resident upon admission to the facility, services, and staff.~~]~~

~~—(b) Each admission shall comply with R432-300-11.]~~

~~([e]b)~~ Each resident ~~[shall]must~~ receive care to ensure good personal hygiene~~[-This care shall include]including~~ bathing, oral hygiene, shampoo and hair care, shaving or beard trimming, fingernail and toenail care.

(~~(d)~~c) Linens and other items in contact with the resident ~~[shall]must~~ be changed weekly or as the item is soiled.

(~~(e)~~d) ~~[Each resident shall be encouraged and assisted.]The licensee is responsible to encourage and assist each resident to~~ achieve and maintain the highest level of functioning and independence including:

- (i) teaching the resident self-care,
- (ii) assisting residents to adjust to their disabilities and prosthetic devices,
- (iii) directing residents in prescribed therapy exercises[;]; and
- (iv) redirecting residents interests as necessary.

(~~(f)~~e) Each resident ~~[shall]must~~ receive care and treatment to ensure the prevention of ~~[decubiti]decubitus~~ ulcers, ~~[contractions]contractures~~, and deformities.

(~~(g)~~f) Each resident ~~[shall be provided with]must receive~~ good nutrition and adequate fluids for hydration.

(i) All residents ~~[shall]must~~ have ready access to water and drinking glasses.

(ii) Residents unable to feed themselves shall be assisted to eat in a prompt, orderly manner.

(iii) Residents who require assistance with eating or drinking ~~must[shall]~~ be provided with ~~[adapted]adaptive~~ equipment,~~[to assist in eating and drinking].~~

(~~(h)~~g) Each resident has the right to visual privacy~~[Visual privacy shall be provided for each resident]~~ during treatments and personal care. Visual privacy may be provided by privacy curtains or portable screens.

(~~(i)~~h) Facility staff must answer ~~[E]call lights or [signals (where required)]monitoring devices [shall be answered.]~~ promptly.

(~~(4)~~3) The ~~[owner shall]licensee~~ must notify the resident's responsible person and physician of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the Type N facility license. This notification ~~[shall]must~~ be documented in the resident's record.

(~~(5)~~4) The licensee is responsible to assist residents in making~~[Each resident shall receive assistance to make]~~ arrangements for medical and dental care including transportation to and from the medical or dental facility.

(~~(6)~~5) The licensee must document and make available for Department review every accident or incident causing injury to a resident or employee. The documentation must include appropriate corrective action.

(6) The licensee is responsible to document and implement a quality improvement process that at least quarterly identifies problems, implements corrective actions, and evaluates the effectiveness of the corrective actions.

R432-300-15. Medications.

(1) A licensed health care professional must upon admission and at least every six months thereafter assess each resident to determine what level and type of assistance is required for medication administration. The level and type of assistance provided ~~[shall]must~~ be documented on a Department approved form in each~~[the]~~ resident's service plan.

(2) ~~[The]Each~~ resident's medication program must be administered by means of one of the methods as described in (a) through (c) in this section.~~[program shall include one or all of the following:]~~

(a) The resident is able to self-administer medications.

(i) Residents who have been assessed to be able to self-administer medications may keep prescription medications in their rooms.

(ii) If more than one resident resides in a unit, the ~~[facility]licensee~~ must assess each ~~[person's]resident's~~ ability to safely have medications in the unit. If safety is a factor, the resident ~~[shall]must~~ keep ~~[his-]medications~~ in a locked container in the unit.

(b) The resident requires assistance from facility staff to administer medications. Facility staff may assist residents who self-medicate by:

(i) reminding the resident to take the medication;

(ii) opening medication containers;

(iii) reading the instructions on container labels;

(iv) checking the dosage against the label of the container;

(v) reassuring the resident that the dosage is correct;

(vi) observing that the~~[a]~~ resident takes the medication; and

(vii) reminding the resident or the resident's responsible person when the prescription needs to be refilled.

(viii) Facility staff must document any staff assistance with medication administration including the type of medication and when it was taken by the resident.

(c) The resident's family or designated responsible person assists the resident with medication administration. Family members or a designated responsible person may set up medications in a package which identifies the medication and time to administer. If ~~[a]family members~~ or a designated responsible person~~[significant other]~~ assists with medication administration, they must sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document the type of medication, the time administered, and the amount taken by the resident.~~[that the medication has been administered. Facility staff may assist the resident to self-medicate by:~~

~~— (i) reminding residents to take medications; and~~

~~— (ii) opening the container at the resident's request.~~

~~— (d) Unlicensed assistive personnel may assist with medication administration under the supervision of the facility's registered nurse:~~

~~— (i) The facility's registered nurse may delegate the task of assisting with medication administration to unlicensed assistive personnel in accordance with the Nurse Practice Act R156-31-603.~~

~~— (ii) The registered nurse who delegates the assisting with medication administration must verify and evaluate the practitioner's orders, perform a nursing assessment, and determine whether unlicensed assistive personnel can safely perform the assisting with administration of medications.~~

~~— (iii) The medications must be administered according to a plan of care developed by the registered nurse.~~

~~— (iv) The registered nurse shall provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.~~

~~— (v) The delegating nurse or another registered nurse shall be readily available either in person or by telecommunication.~~

~~— (e) The resident may have the facility's licensed nurse administer medications.~~

~~— (i) The care plan shall document instructions for medication administration.~~

~~— (ii) All medications shall be prescribed in writing for the resident by the resident's licensed practitioner.]~~

(3) ~~The licensee or facility licensed nurse must review all resident medications at least every six months.~~

~~—(a)— Medication records shall must include the following information:~~

- ~~(i)a~~ the resident's name;
- ~~(ii)b~~ the name of the prescribing practitioner;
- ~~(iii)c~~ the name of the medication, including prescribed dosage;
- ~~(iv)d~~ the times and dates administered;
- ~~(v)e~~ the method of administration;
- ~~(vi)f~~ signatures of personnel ~~staff or responsible persons~~ administering the medication; and
- ~~(vii)g~~ the review date.

~~(b)4~~ Any change in the dosage or schedule of medication administration ~~shall be made~~ must be ordered by the resident's licensed practitioner and be documented in the medication record. All facility staff or persons assisting with medication administration must ~~personnel shall~~ be notified of the medication change.

~~(c)5~~ The licensee must have available in the facility a current pharmacological reference book with information on ~~keep on file a list of~~ possible reactions and precautions to any medications taken by a resident. ~~that facility staff assist the resident to administer.~~

(6) The resident's family and licensed practitioner shall must be notified ~~when~~ if medications errors occur.

(7) Medications shall must be stored in a locked central storage area to prevent unauthorized access.

(a) If medication is stored in a central location, ~~the~~ residents shall have timely access to the medication.

(b) Medications that require refrigeration shall must be stored separately from food items and at temperatures between 36 - 46 degrees F.

~~(c)8~~ The administration, storage, and handling of oxygen must comply with the requirements of the 1996 edition of NFPA 99, which is adopted and incorporated by reference.

~~(8)9~~ Facility policies must address the disposal of unused, outdated, or recalled medications.

(a) The licensee must return a resident's medication to the resident or to the resident's responsible person upon discharge.

(b) ~~The licensee~~ A licensed health care professional must document the return to the resident or the resident's responsible person of medication stored in a central storage.

(c) Disposal of controlled substances must comply with the Pharmacy Practice Act, which is adopted and incorporated by reference.

R432-300-16. First Aid.

(1) The licensee must ensure that ~~There shall be~~ at least one staff person is on duty at all times who has training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation, and emergency procedures to ensure that each resident receives prompt first aid as needed.

~~—(2)—~~ First aid training refers to any basic first aid course approved by the American Red Cross or Utah Emergency Medical Training Council.

~~(3)2~~ The licensee must ensure that a first aid kit is available at a specified location in the facility.

~~(4)3~~ The licensee must ensure that a current edition of a basic first aid manual approved by the American Red Cross, the

American Medical Association, or a state or federal health agency is available at a specified location in the facility.

~~(5)4~~ Each facility must have an OSHA approved clean[-]up kit for blood borne pathogens.

R432-300-17. Activity Program.

(1) The ~~facility shall~~ licensee must provide activities for the residents to encourage independent functioning.

(2) The licensee must complete a resident interest survey and, with the resident's involvement, develop a monthly activity calendar.

(3) The activity program shall must include the residents' needs and interests to include:

- (a) socialization activities;
- (b) independent activities of daily living; and
- (c) physical activities;

(4) ~~The~~ A resident may participate in community activities away from the facility. ~~These activities may include:~~

- ~~—(a)— attendance at a place of worship;~~
- ~~—(b)— service activities for the community;~~
- ~~—(c)— concerts, tours, and plays; and~~
- ~~—(d)— senior citizen groups, sport leagues, and service clubs.]~~

R432-300-18. Food Service.

~~(1) The facility must have adequate space and equipment for the following:~~

- ~~—(a)— resident dining;~~
- ~~—(b)— at least three days supply of food items to complete the established menus; and~~
- ~~—(c)— space for meal planning and preparation.~~

~~(2) Menus shall be planned and followed to meet the residents' nutritional needs using the four basic food groups on a daily basis.~~

~~—(a)— A different menu shall be followed for each day of the week.~~

~~—(b)— At least three meals or their equivalent shall be served daily.~~

~~—(c)— There shall be no more than a 14-hour span between the evening meal and breakfast unless a substantial snack is provided.~~

~~—(d)— Bedtime snacks of nourishing quality and quantity shall be offered routinely to all residents whose diets permit.~~

~~—(3)— Food shall be palatable and attractively served.~~

~~—(4)— If the licensee accepts residents who require special diets, the diets shall be provided to residents as ordered by the resident's physician. If the licensee is unable to provide the required diet, the resident, physician, and responsible person shall be notified so arrangements can be made to meet the resident's needs including discharge or transfer to another facility.~~

~~—(5)— Facility food service shall be maintained in accordance with the Utah Department of Health Food Service Sanitation rules, R392-100.](1) The licensee must provide three meals a day plus snacks, seven days a week, to all residents.~~

(a) The licensee must maintain onsite a one-week supply of nonperishable food and a three day supply of perishable food as required to prepare the planned menus.

(b) Meals must be served with no more than a 14 hour interval between the evening meal and breakfast, unless a nutritious snack is available in the evening.

(c) The facility food service must comply with the following:

(i) All food must be of good quality and be prepared by methods that conserve nutritive value, flavor, and appearance.

(ii) All food served to residents must be palatable, attractively served, and delivered to the resident at the appropriate temperature.

(iii) Powdered milk may be used as a beverage only upon the resident's request. It may be used in cooking and baking at any time.

(2) A different menu must be planned and followed for each day of the week.

(a) All menus must be approved and signed by a certified dietitian.

(b) Cycle menus shall cover a minimum of three weeks.

(c) The current week's menu shall be posted for residents' viewing.

(d) Substitutions to the menu that are actually served to the residents must be recorded and retained for three months for review by the Department.

(3) Meals must be served in a designated dining area suitable for that purpose or in resident rooms upon request by the resident.

(4) Residents shall be encouraged to eat their meals in the dining room with other residents.

(5) The licensee must make available for review inspection reports by the local health department.

(6) If the licensee admits residents requiring therapeutic or special diets, an approved dietary manual must be available for reference when preparing meals. Dietitian consultation must be provided at least quarterly and documented for residents requiring therapeutic diets.

(7) While on duty in food service, the cook and other kitchen staff shall not be assigned concurrent duties outside the food service area.

(8) All personnel who prepare or serve food must have a current Food Handler's Permit.

(9) Food service must comply with the Utah Department of Health Food Service Sanitation Regulations, R392-100, which is adopted and incorporated by reference.

R432-300-19. Housekeeping and Maintenance Services.

(1) The licensee must provide ~~[H]~~housekeeping and maintenance services ~~[must be adequate]~~ to maintain a safe, clean, sanitary, and healthful environment.

(2) Entrances, exits, steps, and outside walkways ~~[shall]~~ must be maintained and kept free of ice, snow, and other hazards.

(3) The licensee must implement a cleaning schedule to ensure that ~~[F]~~furniture, bedding, linens, and equipment ~~[shall be]~~ are cleaned periodically and before use by another resident.

(4) The licensee must control odors~~[Odors shall be controlled]~~ by maintaining cleanliness and proper ventilation. Deodorizers ~~[shall]~~ may not be used to cover odors caused by poor housekeeping or unsanitary conditions.

(5) The licensee must provide laundry services to meet the needs of the residents.

(6) The licensee must ensure that all cleaning agents, bleaches, pesticides, or other poisonous, dangerous or flammable materials are stored in a locked area to prevent unauthorized access.

~~(5) A facility may keep household pets providing the pets are kept clean, disease free, and not allowed in food preparation and serving areas.]~~

R432-300-20. Pets.

(1) The licensee may allow residents to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.

(2) Pets must be kept clean and disease-free.

(3) The pets' environment must be kept clean.

(4) Small pets such as birds and hamsters must be kept in appropriate enclosures.

(5) Pets that display aggressive behavior are not permitted in the facility.

(6) Pets that are kept at the facility or are frequent visitors must have current vaccinations.

(7) Upon approval of the administrator, family members may bring residents' pets to visit.

(8) Each facility with birds must have procedures which prevent the transmission of psittacosis.

(9) Pets are not permitted in central food preparation, storage, or dining areas or in any area where their presence would create a significant health or safety risk to others.

R432-300-21. Disaster and Emergency Preparedness.

(1) The licensee is responsible for the safety and well-being of residents in the event of an emergency or disaster.

(2) The licensee is responsible to develop and coordinate plans with state and local emergency disaster authorities to respond to potential emergencies and disasters. The plan shall outline the protection or evacuation of all residents, and include arrangements for staff response or provisions of additional staff to ensure the safety of any resident with physical or mental limitations.

(a) Emergencies and disasters include fire, severe weather, missing residents, death of a resident, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty.

(b) The emergency and disaster response plan must be in writing and distributed or made available to all facility staff and residents to assure prompt and efficient implementation.

(c) The licensee must review and update the plan as necessary to conform with local emergency plans. The plan shall be available for review by the Department.

(3) The emergency and disaster response plan must address the following:

(a) the names of the person in charge and persons with decision-making authority;

(b) the names of persons who shall be notified in an emergency in order of priority;

(c) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;

(d) instructions on how to contain a fire and how to use the facility fire extinguishing equipment;

(e) assignment of personnel to specific tasks during an emergency;

(f) the procedure to evacuate and transport residents and staff to a safe place within the facility or to other prearranged locations including specialized training to assist a dependent resident;

(g) instructions on how to recruit additional help, supplies, and equipment to meet the residents' needs after an emergency or disaster;

Human Resource Management,
Administration
R477-1
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22839
FILED: 05/11/2000, 11:26
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The
changes to this rule amend current definitions and add new
definitions to reflect changes in federal law and to clarify
current rule.

SUMMARY OF THE RULE OR CHANGE: a) Subsection R477-1-
1(26) (Compensatory Time): this definition is added at the
request of agencies to clarify the application of the Fair Labor
Standards Act and Section 67-19-6.7 (Overtime policies for
state employees); b) Subsection R477-1-1(27) (Constant
Review): this definition is amended to coincide with the
addition of Subsection R477-1-1(29) (Corrective Action).
Input received from agencies and others suggested that we
need to define the concept of corrective action; c) Subsection
R477-1-1(36) (DHRM Approved Recruitment and Selection
System): the department is in a transition process from one
selection system to another this year. This is an interim
definition which will be used in rules that are proposed this
year to move forward with the transition; d) Subsection
R477-1-1(39) (Discrimination): amendments to this definition
are consistent with new EEOC (Equal Employment Opportunity
Commission) guidelines and case law in the area of unlawful
discrimination and harassment; e) Subsection R477-1-1(53)
(Full Time Equivalent (FTE)): this definition is added to
establish statewide consistency in the use of the term "FTE";
f) Subsection R477-1-1(58) (Hiring List): amendments to this
definition reflect guidelines for the new selection system; g)
Subsection R477-1-1(59) (Hostile Work Environment):
amendments to this definition are consistent with new EEOC
guidelines and case law in the area of unlawful discrimination
and harassment; h) Subsection R477-1-1(90) (Protected
Activity): a new definition used to help implement new EEOC
guidelines and case law in the area of unlawful discrimination
and harassment; i) Subsection R477-1-1(94)
(Reassignment): a new definition replacing definitions for
Involuntary reassignment (R477-1-1(62)) and voluntary
reassignment (R477-1-1(111)). This is needed to implement
policy changes imposed on the state by the findings of the
Court of Appeals in Draughn v. Department of Financial
Institutions et al.; j) Subsection R477-1-1(99) (Retaliation):
a new definition used to help implement new EEOC
guidelines and case law in the area of unlawful discrimination
and harassment; k) Subsection R477-1-1(104) (Safety
Sensitive Position): additional language will allow agencies
to conduct alcohol and substance abuse testing on
employees who have access to firearms such as evidence

- (h) delivery of essential care and services to facility occupants
by alternate means;
(i) delivery of essential care and services when additional
persons are housed in the facility during an emergency; and
(j) delivery of essential care and services to facility occupants
when personnel are reduced by an emergency.
(4) The facility must maintain safe ambient air temperatures
within the facility.
(a) Emergency heating must have the approval of the local fire
department.
(b) Ambient air temperatures of 58 degrees F. or below may
constitute an imminent danger to the health and safety of the
residents in the facility. The person in charge shall take immediate
action in the best interests of the residents.
(c) The licensee must develop, and be capable of
implementing, contingency plans regarding excessively high
ambient air temperatures within the facility that may exacerbate the
medical condition of residents.
(5) The licensee must ensure that staff and residents receive
instruction and training in accordance with the plans to respond
appropriately in an emergency. The licensee must:
(a) annually review the procedures with existing staff and
residents and conduct unannounced drills using those procedures;
(b) hold simulated disaster drills semi-annually;
(c) hold simulated fire drills quarterly on each shift for staff
and residents in accordance with Rule R710-3; and
(d) document all drills, including date, participants, problems
encountered, and the ability of each resident to evacuate.
(6) The licensee must be in charge during an emergency. If
not on the premises, the licensee must make every effort to report
to the facility, relieve subordinates and take charge.
(7) The licensee must provide in-house equipment and
supplies required in an emergency including emergency lighting,
heating equipment, food, potable water, extra blankets, first aid kit,
and radio.
(8) The licensee must post the following information in
prominent locations throughout the facility:
(a) The name of the person in charge and names and telephone
numbers of emergency medical personnel, agencies, and appropriate
communication and emergency transport systems; and
(b) evacuation routes including the location of exits and fire
extinguishers

R432-300-[20]22. Penalties.

Any person who violates any provision of this rule may be
subject to the penalties enumerated in 26-21-11 and R432-3-6 [or
be assessed a penalty not to exceed the sum of \$5,000 or be
punished for violation of a class B misdemeanor for the first
violation and for any subsequent similar violation within two
years]and be punished for violation of a class A misdemeanor as
provided in Section [26-23-6]26-21-16.

KEY: health facilities

[January 11, 1999]2000

Notice of Continuation December 15, 1997

26-21-5

26-21-16

technicians and on non-POST certified employees whose job requires the carrying of firearms such as predatory animal hunters; l) Subsection R477-1-1(108) (Sexual Harassment): amendments to this definition are consistent with new EEOC guidelines and case law in the area of unlawful discrimination and harassment; m) Subsection R477-1-1(109) (Tangible Employment Action): a new definition used to help implement new EEOC guidelines and case law in the area of unlawful discrimination and harassment; n) Subsection R477-1-1(114) (Unlawful Harassment): a new definition used to help implement new EEOC guidelines and case law in the area of unlawful discrimination and harassment. The definition for Utah Skill Match (previously R477-1-1(109)) is no longer needed as the department implements the new selection system. All other amendments to this section are technical corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: These are amendments, additions or deletions of technical terms used in the writing of the DHRM (Department of Human Resource Management) rules. Costs associated with these changes will be addressed with the filings in the rules where the terms are used.

❖LOCAL GOVERNMENTS: No impact, this rule only affects the agencies of the executive branch of government.

❖OTHER PERSONS: No impact, this rule only affects the agencies of the executive branch of government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None, this rule has no effect on any other person outside the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees.

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

Human Resource Management
Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple,
Legislation and Planning Coordinator

R477. Human Resource Management, Administration.

R477-1. Definitions.

R477-1-1. Definitions.

The following definitions apply throughout these rules unless otherwise indicated within the text of each rule.

(1) Abandonment of Position: A discretionary act of termination resulting from an employee's unexcused absence from work or failure to come to work for three consecutive days when the employee is capable, but does not properly notify his supervisor.

(2) Active Duty: Full-time active military ~~and~~or reserve duty; a term used for veteran's preference adjustments. It does not include active or inactive duty for training or initial active duty for training.

(3) Actual Hours Worked: Time spent performing duties and responsibilities associated with the employee's job assignments. This time is calculated in increments of 15 minutes or more for purposes of overtime accrual, and shall not include "on-call," holiday leave, or any other leave time taken off during the work period.

(4) Administrative Leave: Leave with pay granted to an employee at management discretion that is not charged against the employee's leave accounts.

(5) Administrative Adjustment: A DHRM approved change of a position from one job to another job or salary range change for administrative purposes that is not based on a change of duties and responsibilities.

(6) Administrative Salary Decrease: A salary decrease of one or more pay steps based on non-disciplinary administrative reasons determined by an agency executive director or commissioner.

(7) Administrative Salary Increase: A salary increase of one or more pay steps based on special circumstances determined by an agency executive director or commissioner.

(8) Agency: Any department, division, institution, office, commission, board, committee, or other entity of state government.

(9) Agency Head: The chief executive officer of each agency or their designated appointee.

(10) Agency Management: The agency head and all other officers or employees who have responsibility and authority to establish, implement, and manage agency policies and programs.

(11) Appeal: A formal request to a higher level review for consideration of an unacceptable grievance decision.

(12) Appointing Authority: The officer, board, commission, person or group of persons authorized to make appointments in their agencies.

(13) Assignment: Appointment of an employee to a position.

(14) "At will" Employee: An individual appointed to work for no specified period of time or one who has not acquired career service status and may be terminated at any time without just cause.

(15) Bumping: A procedure that may be applied in a reduction-in-force action (RIF). It allows employees with higher retention points to bump other employees with lower retention points who are in the same categories of work identified in the work force adjustment plan, as long as employees meet the eligibility criteria outlined in interchangeability of skills.

(16) Career Exempt Employee: An employee appointed to a position exempt from career service in state employment and who serves at the pleasure of the appointing authority.

(17) Career Exempt Position: A position in state service exempted by law from provisions of competitive career service, as prescribed in 67-19-15 and in R477-2-1(1).

(18) Career Mobility: A time-limited assignment of an employee to another position of equal or higher salary for purposes of professional growth or fulfillment of specific organizational needs.

(19) Career Service Employee: An employee who has successfully completed a probationary period in a career service position.

(20) Career Service Status: Status granted to employees who successfully complete a probationary period for competitive career service positions.

(21) Category of Work: Jobs, work units, or other definable categories of work within departments, divisions, institutions, offices, commissions, boards or committees that are designated by the agency head as the Category of Work to be eliminated through a reduction-in-force. These are subject to review by the Executive Director, DHRM.

(22) Certifying: The act of verifying the qualifications and availability of individuals on the hiring list. The number of individuals certified shall be based on standards and procedures established by the Department of Human Resource Management.

(23) Change of Workload: A change in the work requirements or a need to eliminate or create particular positions in an agency caused by legislative action, financial circumstances, or administrative reorganization.

(24) Classification Grievance: The approved procedure by which a career service employee may grieve a formal DHRM decision regarding the classification of the employee's position.

(25) Classified Service: Positions that are subject to the classification and compensation provisions stipulated in Section 67-19-12 of the Utah Code Annotated.

(26) Compensatory Time: Time off that is provided to an employee in lieu of monetary overtime compensation.

~~(26)~~(27) Constant Review: A period of formal ~~frequency~~ review of an employee, not to exceed six months, resulting from substandard performance or ~~unacceptable~~ behavior, as defined by Utah law and contained in these rules. Removal from constant review requires a formal evaluation.

~~(27)~~(28) Contractor: An individual who is contracted for service, is not supervised by a state supervisor, but is responsible for providing a specified service for a designated fee within a specified time. The contractor shall be responsible for paying all taxes and FICA payments, and shall not accrue benefits.

(29) Corrective Action: A written administrative action to address substandard performance or behavior of an employee as described in R477-10-2. Corrective action includes a period of constant review.

~~(28)~~(30) Demeaning Behavior: ~~Sex-based~~Any behavior which lowers the status, dignity or standing of any other individual.

~~(29)~~(31) Demotion: A disciplinary action resulting in a salary reduction on the current salary range or the movement of an incumbent from one position to another position having a lower salary range, including a reduction in salary. If this action is taken for a limited time period it shall only be within the current salary range.

~~(30)~~(32) Department: The Department of Human Resource Management.

~~(31)~~(33) Derisive Behavior: Any behavior which insults, taunts, or otherwise belittles or shows contempt for another individual.

~~(32)~~(34) Designated Hiring Rule: A rule promulgated by DHRM that defines which individuals on a certification are eligible for appointment to a career service position.

~~(33)~~(35) DHRM: The Department of Human Resource Management.

(36) DHRM Approved Recruitment and Selection System: The state's recruitment and selection system, which includes:

(a) continuous recruitment of all positions;

(b) a centralized and automated computer database of resumes and related information administered by the Department of Human Resource Management;

(c) decentralized access to the database based on delegation agreements.

~~(34)~~(37) Disability: Disability shall have the same definition found in the Americans With Disabilities Act (ADA) of 1990, 42 USC 12101[;] (1994)[~~edition~~]; Equal Employment Opportunity Commission regulation, 29 CFR 1630 (1993)[~~edition~~]; including exclusions and modifications.

~~(35)~~(38) Disciplinary Action: Action taken by management under the rules outlined in R477-11.

~~(36)~~(39) Discrimination: Unlawful action against an employee or applicant based on race, religion~~age, disability~~, national origin, color, sex, age, disability, protected activity under the anti-discrimination statutes, political~~or religious~~ affiliation, ~~race, sex,~~ military status or affiliation, or any other non-merit factor, as specified by law.

~~(37)~~(40) Dismissal: A separation from state employment for cause.

~~(38)~~(41) Drug-Free Workplace Act: A 1988 congressional act, 34 CFR 85[;] (1993)[~~edition~~], requiring a drug-free workplace certification by state agencies that receive federal grants or contracts.

~~(39)~~(42) Employee Personnel Files: For purposes of Titles 67-18 and 67-19, the files maintained by DHRM and agencies as required by R477-2-[6]5. This does not include employee information maintained by supervisors.

~~(40)~~(43) Employment Eligibility Certification: A requirement of the Immigration Reform and Control Act of 1986, 8 USC 1324[;] (1988)[~~edition, as amended~~], that employers verify the identity and eligibility of individuals for employment in the United States.

~~(41)~~(44) "Escalator" Principle: Under USERRA, returning veterans are entitled to return back onto their seniority escalator at the point they would have occupied had they not left state employment.

~~[(42)]~~(45) Equal Employment Opportunity (EEO): Non-discrimination in all facets of employment by eliminating patterns and practices of illegal discrimination.

~~[(43)]~~(46) Excess Hours: A category of compensable hours separate and apart from compensatory or overtime hours that accrue at straight time only when an employee's hours actually worked, plus additional hours paid but not worked, exceed an employee's normal work period.

~~[(44)]~~(47) Executive Director: The executive director of the Department of Human Resource Management.

~~[(45)]~~(48) Fair Employment Opportunity and Practice: Assures fair treatment of applicants and employees in all aspects of human resource administration without regard to age, disability, national origin, political or religious affiliation, race, sex, or any non-merit factor.

~~[(46)]~~(49) Fitness For Duty Evaluation: Evaluation, assessment or study by a licensed professional to determine if an individual is able to meet the performance or conduct standards required by the position held, or is a direct threat to the safety of self or others.

~~[(47)]~~(50) FLSA: Fair Labor Standards Act. The federal statute that governs overtime. See 29 USC 201~~[-1993 edition et seq.]~~ (1996).

~~[(48)]~~(51) FLSA Exempt: Employees who are exempt from the Fair Labor Standards Act.

~~[(49)]~~(52) FLSA Non-Exempt: Employees who are not exempt from the Fair Labor Standards Act.

(53) Full Time Equivalent (FTE): The budgetary equivalent of one full time position filled full time for one year.

~~[(50)]~~(54) Furlough: A temporary leave of absence from duty without pay for budgetary reasons or lack of work.

~~[(51)]~~(55) Grievance: A career service employee's claim or charge of the existence of injustice or oppression, including dismissal from employment resulting from an act, occurrence, omission, condition, discriminatory practice or unfair employment practice not including position classification or schedule assignment.

~~[(52)]~~(56) Grievance Procedures: The statutory process of grievances and appeals as set forth in Sections 67-19a-101 through 67-19a-408 and the rules promulgated by the Career Service Review Board.

~~[(53)]~~(57) Gross Compensation: Employee's total earnings, taxable and untaxable, as shown on the employee's paycheck stub.

~~[(54)]~~(58) Hiring List: A list ~~[of names]~~ of qualified and interested applicants who [have successfully met the examination requirements for appointment to the] are eligible to be considered for appointment or conditional appointment to a specific position.

~~[(55)]~~(59) Hostile Work Environment: A work environment or work related situation where an individual suffers physical or emotional stress due to the unwelcome behavior of another individual which is motivated by race, religion, national origin, color, sex, age, disability or protected activity under the anti-discrimination statutes.

~~[(56)]~~(60) HRE: Human Resource Enterprise; the state human resource management information system.

~~[(57)]~~(61) Immediate Supervisor: The employee or officer who exercises direct authority over an employee and who appraises the employee's performance.

~~[(58)]~~(62) Incompetence: Inadequacy or unsuitability in performance of assigned duties and responsibilities.

~~[(59)]~~(63) Inefficiency: Wastefulness of government resources including time, energy, money, or staff resources or failure to maintain the required level of performance.

~~[(60)]~~(64) Interchangeability of Skills: Employees are considered to have interchangeable skills only for those classes of positions they have previously held successfully in Utah state government employment or for those classes of positions which they have successfully supervised and for which they satisfy job requirements.

~~[(61)]~~(65) Intern: An individual in a college degree program assigned to work in an activity where on-the-job training is accepted.[]

~~[(62)]~~ ~~Involuntary Reassignment: Management initiated movement of an employee from his current position to a position of an equal or lower salary range, or to a different work location or organization unit for administrative, corrective action or other reasons not included in the definition of demotion or reclassification.~~]

~~[(63)]~~(66) Job: A group of positions similar in duties performed, in degree of supervision exercised or required, in requirements of training, experience, or skill and other characteristics. The same, salary range and test standards are applied to each position in the group.

~~[(64)]~~(67) Job Series: Two or more jobs in the same functional area having the same job class title, but distinguished and defined by increasingly difficult levels of duties and responsibilities and requirements.

~~[(65)]~~(68) Job Proficiency Rating: An average of the last three annual performance evaluation ratings used in reduction in force proceedings.

~~[(66)]~~(69) Job Requirements: Skill requirements defined a the job level.

~~[(67)]~~(70) Job Description: A document containing the duties, distinguishing characteristics, knowledge, skills, and other requirements for a job.

~~[(68)]~~(71) Job Identification Number: A unique number assigned to a job by DHRM.

~~[(69)]~~(72) Legislative Salary Adjustment: A legislatively approved salary increase for a specific category of employees based on criteria determined by the Legislature.

~~[(70)]~~(73) Malfeasance: Intentional wrongdoing, deliberate violation of law or standard, or mismanagement of responsibilities.

~~[(71)]~~(74) Market Comparability Adjustment: Legislatively approved reallocation of a salary range for a job based on a compensation survey conducted by DHRM.

~~[(72)]~~(75) Merit Increase: A legislatively approved and funded salary increase for employees to recognize and reward successful performance.

~~[(73)]~~(76) Misfeasance: Performance of a lawful action in an illegal or improper manner.

~~[(74)]~~(77) Nonfeasance: Omission or failure to do what ought to be done.

~~[(75)]~~(78) Performance Evaluation: A formal, periodic evaluation of an employee's work performance.

~~[(76)]~~(79) Performance Evaluation Date: The date when an employee's performance evaluation shall be conducted. An evaluation shall be conducted at least once during the probationary

period and no less than once annually thereafter consistent with the common review date.

~~(77)~~(80) Performance Management: The ongoing process of communication between the supervisor and the employee which defines work standards and expectations, and assesses performance leading to a formal annual performance evaluation.

~~(78)~~(81) Performance Plan: A written summary of the standards and expectations required for the successful performance of each job duty or task. These standards normally include completion dates and qualitative and quantitative levels of performance expectations.

~~(79)~~(82) Performance Standard: Specific, measurable, observable and attainable objectives that represent the level of performance to which an employee and supervisor are committed during an evaluation period.

~~(80)~~(83) Personnel Adjudicatory Proceedings: The informal appeals procedure contained in Title 63, Chapter 46b, for all human resource policies and practices not covered by the state employees grievance procedure promulgated by the Career Service Review Board, or the classification appeals procedure.

~~(81)~~(84) Position: A [~~n~~employees] unique set of duties and responsibilities identified by DHRM authorized job and position management numbers.

~~(82)~~(85) Position [~~m~~]Management Report: A document that lists an agency's authorized positions including job identification numbers, salaries, and schedules. The list includes occupied or vacant positions and full or part-time positions.

~~(83)~~(86) Position Sharing: A situation where two employees share the duties and responsibilities of one full-time career service position. Salary, retirement service credits and leave benefits for position sharing employees are pro-rated according to the number of hours worked. To be eligible for benefits, position sharing employees must work at least 50% of a full-time equivalent.

~~(84)~~(87) Probationary Period: A period of time considered part of the selection process, identified at the job level, the purpose of which is to allow management to evaluate an employee's ability to perform assigned duties and responsibilities and to determine if career service status should be granted.

~~(85)~~(88) Productivity Step Adjustment: A management authorized salary increase of one to four steps. Management and employees agree to the adjustment for employees who accept an increased workload resulting from FTE reductions and agency base budget reduction.

~~(86)~~(89) Promotion: A management initiated action moving an employee from a position in one job to a position in another job having a higher maximum salary step.

(90) Protected Activity: Opposition to discrimination or participation in proceedings covered by the anti-discrimination statutes. Harassment based on protected activity can constitute unlawful retaliation.

~~(87)~~(91) Reappointment: Return to work of an employee from the reappointment register. Accrued annual leave, converted sick leave, compensatory time and excess hours in their former position were cashed out at termination.

~~(88)~~(92) Reappointment Register: A register of career service employees who have been separated in a reduction in force because of inadequate funds, change of workload or lack of work. It also includes career service employees who accepted exempt positions without a break in service and who were not retained,

unless discharged for cause, and those employees who by the Career Service Review Board's decision are placed on the reappointment register.

~~(89)~~(93) Reasonable Suspicion: Knowledge sufficient to induce an ordinary, reasonable and prudent person to arrive at a conclusion of thought or belief based on factual, non-subjective and substantiated observations or reported circumstances. Factual situations verified through personal visual observation of behavior or actions, or substantiated by a reliable witness.

(94) Reassignment: Movement of an employee from his current position to a position of an equal or lower salary range for administrative, corrective action or other reasons not included in the definition of demotion or reclassification.

~~(90)~~(95) Reclassification: A DHRM approved reallocation of a position from one job to another job to reflect management initiated changes in duties and responsibilities as determined through a DHRM classification review.

~~(91)~~(96) Reduction in Force: (RIF) Abolishment of positions resulting in the termination of staff. RIFs can occur due to inadequate funds, a change of workload, or a lack of work.

~~(92)~~(97) Reemployment: Return to work of an employee who terminated state employment to join the uniformed services covered under USERRA. Accrued annual leave, converted sick leave, compensatory time and excess hours may have been cashed out at termination.

~~(93)~~(98) Rehire: Return to work of a former career service employee who terminated state employment. Accrued annual leave, converted sick leave, compensatory time and excess hours in their former position were cashed out at termination.

~~(94)~~(99) [~~Reprisal~~]Retaliation: [~~An act of management retaliation taken against an employee~~]An adverse employment action taken against an employee who has engaged in a protected act. The adverse action must have a causal link.

~~(95)~~(100) Requisition: An electronic document used for Utah Skill Match search and tracking purposes that includes specific information for a particular position.

~~(96)~~(101) Return from LWOP: A return to work from any leave without pay status. Accrued annual leave, converted sick leave, compensatory time and excess hours may have been cashed out before the leave without pay period began.

~~(97)~~(102) Ridiculing Behavior: Any behavior specifically performed to cause humiliation or to mock, taunt or tease another individual.

~~(98)~~(103) RIF'd Employee: An employee who is placed on the reappointment register as a result of a reduction in force.

~~(99)~~(104) Safety Sensitive Position: A position approved by DHRM that includes the performance of functions:

- (a) directly related to law enforcement; or
- (b) involving direct access or having control over direct access to controlled substance; or
- (c) directly impacting the safety or welfare of the general public.
- (d) which require an employee to carry or have access to firearms.

~~(100)~~(105) Salary Range: The segment of an approved pay plan assigned to a job.

~~(101)~~(106) Schedule: The determination of whether a position meets criteria stipulated in the Utah Code Annotated to be career service (Schedule B) or career service exempt (Schedule A).

~~(102)~~(107) Serious Health Condition: An illness, injury, impairment, physical or mental condition that involves:

(a) In-patient care in a hospital, hospice, or residential medical care facility;

(b) Continuing treatment by a health care provider.

~~(103)~~(108) Sexual Harassment:

(a) ~~[Any behavior or conduct]~~A form of unlawful discrimination of a sexual nature which is unwelcome and pervasive, demeaning, ridiculing, derisive or coercive and results in a hostile, abusive or intimidating work environment.

(i) Level One: sex role stereotyping

(ii) Level Two: targeted gender harassment/discrimination

(iii) Level Three: targeted or individual harassment

(iv) Level Four: criminal touching of another's body parts or taking indecent liberties with another.

(b) Any quid pro quo behavior which ~~[offers job advancement, enhancement or other tangible job benefits in return for sexual favors]~~requires an employee to submit to sexual conduct in return for increased employment benefits or under threat of adverse employment repercussions.

(109) Tangible Employment Action: Any significant change in employment status e.g. hiring, firing, promotion, failure to promote, demotion, undesirable assignment, a decision causing a significant change in benefits, compensation decisions, and work assignment. Tangible employment action does not include insignificant changes in employment status such as a change in job title without a change in salary, benefits or duties.

~~(104)~~(110) Temporary Transitional Assignment: An assignment on a temporary basis to a position or duties of lesser responsibility and salary range to accommodate an injury or illness or to provide a temporary reasonable accommodation.

~~(105)~~(111) Transfer: Voluntary assignment of an employee within an agency or between agencies from one position to another position with the same maximum salary step and for which the employee qualifies, including a change of work location or organizational unit.

~~(106)~~(112) Underfill: DHRM authorization for an agency to fill a position at a lower salary range within the same job series.

~~(107)~~(113) Uniformed Services: The United States Army, Navy, Marine Corps, Air Force, Coast Guard; Reserve units of the Army, Navy, Marine Corps, Air Force, or Coast Guard; Army National Guard or Air National Guard; Commissioned Corps of Public Health Service, or any other category of persons designated by the President in time of war or emergency. Service in Uniformed Services includes: voluntary or involuntary duty, including active duty; active duty for training; initial active duty for training; inactive duty training; full-time National Guard duty; absence from work for an examination to determine fitness for any of the above types of duty.

(114) Unlawful Harassment: Any behavior or conduct of an unlawful nature based on race, religion, national origin, color, sex, age, disability or protected activity under the anti-discrimination statutes that is unwelcome, pervasive, demeaning, derisive or coercive and results in a hostile, abusive or intimidating work environment or tangible employment action.

~~(108)~~(115) USERRA: Uniformed Services Employment and Reemployment Rights Act of 1994 (P.L. 103-353), requires state governments to re-employ eligible veterans who left state employment to enter the uniformed services and who return to work

within a specified time period after military discharge. Employees covered under USERRA are in a leave without pay status from their state position.[]

~~(109) Utah Skill Match: Utah Skill Match is the state's recruitment and selection system, which includes:~~

~~(a) continuous recruitment of all positions;~~

~~(b) a centralized and automated computer database of resumes and related information administered by the Department of Human Resource Management;~~

~~(c) decentralized access to the database based on delegation agreements.[]~~

~~(110)~~(116) Veteran: An individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized. Individuals must have been separated or retired under honorable conditions.[]

~~(111) Voluntary Reassignment: Employee initiated movement from a position in one job to a position in another job having a lower maximum salary step.[]~~

~~(112)~~(117) Volunteer: Any person who donates services to the state or its subdivisions without pay or other compensation except actual and reasonable expenses incurred, as approved by the supervising agency.

~~(113)~~(118) Volunteer Experience Credit: Credit given in meeting job requirements to participants who gain experience through unpaid or uncompensated volunteer work with the state, its subdivisions or other public and private organizations.

KEY: personnel management, rules and procedures, definitions*

~~[June 26, 1999]~~2000

67-19-6

Notice of Continuation July 1, 1997

◆ ————— ◆

Human Resource Management, Administration **R477-2** Administration

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22840

FILED: 05/11/2000, 11:26

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Clarification of federal mandates for equal employment opportunity and to make technical corrections.

SUMMARY OF THE RULE OR CHANGE: a) Section R477-2-2 (Mission of Department of Human Resource Management): this section is removed because it does not meet the definition of a rule. It will instead be included in transmittal

documents with the rules as they are sent to interested parties; b) Sections R477-2-3 (Fair Employment Practice) and R477-2-4 (Grievance Procedure for Discrimination). Amendments to these sections replace outdated information and clarify requirements and procedures in the area of employment related discrimination; c) Subsection R477-2-5(7) (Records): two amendments to this rule make it clear that undercover law enforcement personnel shall receive special protection in the maintenance of their records and that the final disposition of disciplinary proceedings against an employee are public record.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-2-204(5), and Sections 67-19-6 and 67-19-6.4

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: No cost impact is anticipated. This rule does not require additional administrative resources to implement.
 - ❖LOCAL GOVERNMENTS: No impact--this rule only affects the executive branch of state government.
 - ❖OTHER PERSONS: No impact--this rule only affects the executive branch of state government.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None--only agencies of the executive branch of state government are affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM (Department of Human Resource Management) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. In this case, there is no such impact.

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

Human Resource Management
Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

**R477. Human Resource Management, Administration.
R477-2. Administration.**

.....

~~[R477-2-2. Mission of Department of Human Resource Management.~~

- ~~— (1) We value our employees and the public trust. We are committed to leadership that achieves an effective workforce by:

 - ~~— (a) Providing competitive benefits and compensation;~~
 - ~~— (b) Recruiting and selecting the best qualified applicants;~~
 - ~~— (c) Creating an environment for continuous quality improvement, training, and technical assistance in all aspects of human resource management.~~~~
- ~~— (2) We are committed to:

 - ~~— (a) Honoring, sustaining, and upholding the laws governing human resource management, found in Section 67-19-1~~
 - ~~— (b) Establishing consistent statewide human resource policies, rules, standards and procedures~~
 - ~~— (c) Monitoring agency compliance with human resource policies, rules, standards and procedures~~
 - ~~— (d) Providing technical assistance and human resource management support to agencies~~
 - ~~— (e) Training, educating, and recognizing employees~~
 - ~~— (f) Final approval of all agency personnel actions.]~~~~

R477-2-[3]2. Compliance Responsibility.

Agencies shall manage their own human resources in compliance with these rules. Agencies are authorized to correct any administrative errors.

(1) The Executive Director, DHRM, may authorize exceptions to provisions of these rules when one or more of the following criteria are satisfied:

- (a) Applying the rule prevents the achievement of legitimate government objectives;
- (b) Applying the rule impinges on the legal rights of an employee;

(2) Agency personnel records, practices, policies and procedures, employment and actions, shall comply with these rules and are subject to compliance audits by the DHRM.

(3) In cases of noncompliance with the State Personnel Management Act, Title 67, Chapter 19, and these rules, the Executive Director, DHRM, may find the responsible agency official to be subject to the penalties prescribed by Section 67-19-18(1) pertaining to misfeasance, malfeasance or nonfeasance in office.

R477-2-[4]3. Fair Employment Practice.

All state personnel actions must provide equal employment opportunity for all individuals.

(1) Employment actions including appointment, tenure or term, condition or privilege of employment shall be based on the ability to perform the essential duties, functions, and responsibilities assigned to a particular position.

(2) Employment actions shall not be based on race, religion, national origin, color, sex, age,~~[race, creed or religion, color,]~~ disability, protected activity under the anti-discrimination statutes,~~[sex, national origin, ancestry,]~~ political affiliation, military status or affiliation or any other non-job related factor, nor shall any person be subjected to ~~[sexual]~~unlawful harassment by a state employee.

(3) Any employee who alleges that they have been illegally discriminated against, may submit a claim to the agency head.

(a) If the employee does not agree with the decision of the agency head, the employee may file a complaint with the Utah Anti-Discrimination and Labor Division.

(b) No state official shall impede any employee from the timely filing of a discrimination complaint in accordance with state and federal requirements.

(4) Employees are protected from employment discrimination under the following laws:

(a) The Age Discrimination in Employment Act of 1967, 29 USC 621, as implemented by 29 CFR 1625~~[-, July 1,]~~(1994)~~[edition as amended]~~. This act prohibits discrimination on the basis of age for individuals forty years and over.

(b) The Vocational Rehabilitation Act of 1973, 29 USC 701, as implemented by 34 CFR 361~~[-](1994)~~~~[edition as amended]~~. This act prohibits discrimination on the basis of disability status under any program or activity that receives federal financial assistance. Employers with federal contracts or subcontracts greater than \$10,000.00 must have an affirmative action plan to accommodate qualified individuals with disabilities for employment and advancement. All of an employer's operations and facilities must comply with Section 503 as long as any of the operations or facilities are included in federal contract work. Section 504 incorporates the employment provisions of Title I of the Americans With Disabilities Act of 1990.

(c) The Equal Pay Act of 1963, 29 USC 206(d), as implemented by 29 CFR 1620~~[-, July 1,]~~(1994)~~[edition]~~. This act prohibits discrimination on the basis of sex.

(d) Title VII of the Civil Rights Act of 1964 as amended, 42 USC 2000e. This act prohibits discrimination on the basis of sex, race, color, national origin, religion, or disability.

(e) The Americans with Disabilities Act of 1990, 42 USC 12201. This act prohibits discrimination against qualified individuals with disabilities in recruitment, selection, benefits and all other aspects of employment.~~[It is the policy of the state that:~~

~~(i) A qualified individual with a disability who seeks employment and satisfies the requisite skill, experience, education, and other job-related requirements of the employment position, and who, with or without reasonable accommodation, can perform the essential functions of such position, will not be discriminated against.~~

~~(ii) Employees with disabilities who are unable to perform essential job duties because of impairments will be provided reasonable accommodations to perform essential job duties.]~~

(f) Uniformed Services Employment and Reemployment Act of 1994, 38 USC 4301 (USERRA). This act requires a state to reemploy eligible veterans who left state employment for military service and return to work within specified time periods defined by USERRA.

R477-2-[5]4. Grievance Procedure for Discrimination.

The following rules outline the grievance procedure and the specific requirements of the major laws:

(1) Age Discrimination in Employment Act of 1967.

(a) An aggrieved individual may bypass the state's grievance procedure and file directly with the Equal Employment Opportunity Commission (EEOC) or the Utah Anti-Discrimination and Labor Division (UALD).

~~[(a)](b)~~ Employees shall report the alleged discriminatory act within one of the following time periods:

(i) 180 days after the occurrence to EEOC, or

(ii) 300 days after the occurrence to EEOC if the matter has been presented to ~~[an appropriate state agency]~~UALD for proceedings under an applicable state law, or

(iii) to the EEOC 30 days after the individual receives notice of termination of any state proceedings.~~[~~

~~(b) As a prerequisite to bringing any action, the individual may notify the Equal Employment Opportunity Commission of the intent to sue at least 60 days before filing the action. The Equal Employment Opportunity Commission will represent the individual in the processing of actions.]~~

(c) The Utah Anti-Discrimination and Labor Division of the Labor Commission is authorized by the Equal Employment Opportunity Commission to act on charges of employment discrimination. Employees must file charges within thirty days following an act of discrimination.

(2) Section 503 of The Rehabilitation Act of 1973, as implemented by 34 CFR 361~~[-](1993)~~~~[edition, as amended]~~.

~~[(a) Employers with federal contracts or subcontracts greater than \$10,000.00 must implement affirmative action programs to accommodate individuals with disabilities.~~

~~(b) All of an employer's operations and facilities must comply with Section 503 as long as any of the operations or facilities are included in federal contract work. Agencies that meet the conditions outlined shall implement affirmative action programs to accommodate individuals with disabilities, and for employing and advancing qualified individuals with disabilities:](a) An aggrieved individual may bypass the state's grievance mechanism and file a complaint with the granting federal agency or the Office of Federal Contract Compliance Programs (OFCCP) within 180 days of the discriminatory event.~~

~~(b) If dissatisfied with the outcome of the state's grievance mechanism, an individual may also file a complaint with the OFCCP within 180 days of the discriminatory event.~~

(3) Section 504 of the Rehabilitation Act of 1973~~[as amended, prohibits discrimination under any program or activity that receives federal financial assistance].~~

~~[(a) Section 504 incorporates the employment provisions of Title I of the Americans With Disabilities Act of 1990. However, Section 504 does not require affirmative action:](a) An aggrieved individual may bypass the state's grievance mechanism and file a complaint with the granting federal agency. If unsatisfied with the outcome of the state's grievance mechanism, an individual may also file a complaint with EEOC. A charge of discrimination should be filed within 180 days of the discriminatory event.~~

(b) Under the 1978 amendments to the Rehabilitation Act, the procedures for enforcing Section 504 are the same as for Title VII of the Civil Rights Act of 1964.~~[~~

~~(c) An aggrieved individual may bypass the state's grievance mechanism and file an administrative complaint with the granting federal agency. If unsatisfied with the outcome of the state's grievance mechanism, an individual may also file an administrative complaint. A charge of discrimination should be filed within 180 days of the discriminatory event.~~

~~(d) Remedies for violations of this law include the cutoff of federal funding to the grant recipient.]~~

(4) The Equal Pay Act of 1963 - The enforcement provisions of the Fair Labor Standards Act apply for an equal pay claim. The following rules apply:

(a) Sex discrimination in the payment of unequal wage rates is a continuous violation, and employees have a right to sue each payday that the discrimination persists.

(b) Employees are not required to exhaust any administrative procedures prior to filing an action.

(c) Employees alleging an equal pay claim may file directly with the Equal Employment Opportunity Commission.

(d) Employees do not have the right to file a court action when the Equal Employment Opportunity Commission initiates a court proceeding on the employee's behalf to either enjoin an employer or to obtain recovery of an employee's unpaid wages.

(e) Employees must file suit within two years from the last date of harm, unless the employer committed a willful violation of the law, in which case, they have three years.

(5) Title VII of the Civil Rights Act of 1964[~~as amended~~].

~~(a) [Prior to bringing a suit under Title VII, the Equal Employment Opportunity Commission must.]An aggrieved individual may bypass the state's grievance mechanism and file directly with the EEOC.]~~

~~(i) Inform the agency of the alleged discrimination in employment;~~

~~(ii) Investigate the charge;~~

~~(iii) Determine that there is reasonable cause to believe the discrimination occurred;~~

~~(iv) Attempt to conciliate;~~

~~(v) Give notice to the alleged discriminator of termination of conciliation efforts.]~~

~~(b) [The Equal Employment Opportunity Commission is required by statute to allow an authorized state or local agency sixty days to act on a specific charge.]Time lines for filing a complaint are the same as for the Age Discrimination Act in R477-2-4.(1).]~~

~~(c) The state agency must have the authority to grant or prohibit the discriminatory practices or to substitute civil proceedings.~~

~~(d) Within 180 days of filing a charge with the Equal Employment Opportunity Commission, employees may file a court action privately.]~~

(6) Americans with Disabilities Act (ADA) of 1990[~~Title II of the ADA and Department of Justice regulations provide that No qualified individual with a disability shall, by reason of disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity.~~

~~(a) Title I of the ADA and EEOC regulations apply to recruitment, selection, benefits and all other aspects of employment.]~~

(a) An aggrieved individual may bypass the state's grievance procedure and file directly with the EEOC or with the Utah Anti-Discrimination and Labor Division.

(b) [Under this law, employees with disabilities who are otherwise qualified shall receive the following:

~~(i) Equal opportunities, not merely equal treatment, for qualified individuals with disabilities;~~

~~(ii) Ensured access to equal employment opportunities based on merit;~~

~~(iii) Environmental accommodations and the reasonable accommodation for essential functions of the job, unless it imposes an undue hardship.][Time lines for filing a complaint are the same as for the Age Discrimination Act in R477-2-4.(1).]~~

~~(c) The ADA does not establish quotas, nor favor individuals with disabilities over those without disabilities.~~

~~(d) Title I of the ADA is enforced by the Equal Employment Opportunity Commission (EEOC) and Title II is enforced by the Department of Justice (DOJ), under the same procedures used to enforce Title VI and VII of the Civil Rights Act of 1964. The EEOC and DOJ receive and investigate charges of discrimination and through conciliation seek to resolve any discrimination found and obtain full relief for the affected individuals.~~

~~(e) If conciliation is unsuccessful, the EEOC may file a suit or issue a "right to sue" letter to the person who filed the charge.~~

~~(f) An aggrieved individual may bypass the state's grievance procedure and file directly with the appropriate federal agency, or with the Utah Anti-Discrimination and Labor Division.~~

~~(g) The discrimination charge must be filed within 180 days of the discriminatory event.]~~

(7) Uniformed Service Employment and Re-employment Act of 1994 (USERRA).

(a) State statutes of limitations shall not apply to any proceedings under USERRA.

(b) An action may be initiated only by a person claiming rights or benefits, not by an employer.

(c) The United States Department of Labor, Veterans Employment and Training Service is authorized to act on charges of employment discrimination under USERRA.

(i) Prior to filing an action with the Veterans Employment and Training Service, an individual shall exhaust state administrative procedures.

(ii) If unsatisfied with the outcome of the State's grievance mechanism, an individual may file an administrative complaint.

(d) A person who receives notice from the Veterans Employment and Training Service of an unsuccessful attempt to resolve a complaint may request that the complaint be referred to the Attorney General of the United States. The U.S. Attorney General is entitled to appear on behalf of, act as attorney for, and commence action for relief in an appropriate U.S. District Court.

(e) An individual may commence an action for relief if that person:

(i) has chosen not to file a complaint through the Veterans Employment and Training Service;

(ii) has chosen not to request that the complaint be referred to the U.S. Attorney General;

(iii) has been refused representation by the U.S. Attorney General.

R477-2-[6]5. Records.

(1) DHRM shall maintain a computerized file for each employee that contains the following, as appropriate:

(a) Performance ratings;

(b) Records of actions affecting employee salary, current classification, title and salary range, salary history, and other personal data, status or standing.

(2) Agencies shall maintain the following records in each employee's personnel file:

(a) Applications for employment, Employment Eligibility Certification record, Form I-9, and other documents required by Immigration and Naturalization Service (INS) Regulations, under the Immigration Reform and Control Act of 1986, employee signed overtime agreement, personnel action records, notices of corrective or disciplinary actions, new employee orientation form, benefits notification forms, performance evaluation records, termination records.

(b) References to or copies of transcripts of academic, professional, or training certification or preparation.

(c) Copies of items recorded in the DHRM computerized file and other materials required by agency management to be placed in the personnel file. The agency personnel file shall be considered a supplement to the DHRM computerized file and shall be subject to the rules governing personnel files.

(d) Leave and time records.

(e) Copies of any documents affecting the employee's conduct, status or salary. The agency shall inform employees of any changes in their records based on conduct, status or salary no later than when changes are entered into the file.

(3) Employees have the right to review their personnel file, upon request, in DHRM or the agency, as governed by law and as provided through agency policy.

(a) Employees may correct, amend, or challenge any information in the DHRM computerized or agency personnel file, through the following process:

(i) The employee shall request in writing that changes occur.

(ii) The employing agency shall be given an opportunity to respond.

(iii) Disputes over information that are not resolved between the employing agency and the employee, shall be decided in writing by the Executive Director, DHRM. DHRM shall maintain a record of the employee's letter; the agency's response; and the DHRM Executive Director's decision.

(4) When a disciplinary action is rescinded or disapproved upon appeal, forms, documents and records pertaining to the case shall be removed from the personnel file.

(a) When the record in question is on microfilm, a seal will be placed on the record and a suitable notice placed on the carton or envelope. This notice shall indicate the limits of the sealed section and the authority for the action.

(5) Upon employee termination, DHRM and agencies shall retain computerized records for thirty years. Agency hard copy records shall be retained by the agency for a minimum of two years, then transferred to the State Record Center by State Archives Division to be retained for ~~28~~65 years.

(6) Information classified as private in both DHRM and agency personnel and payroll files shall be available only to the following people:

(a) the employee;

(b) users authorized by law determined in writing by the DHRM Executive Director to have a legitimate "need-to-know";

(c) individuals who have the employee's written consent. A record of persons reviewing personnel files shall be maintained together with the reasons for access to the files.

(7) Utah is an open records state, according to Chapter 2, Title 63, the Government Records Access and Management Act. The following information concerning current or former state employees, volunteers, independent contractors, and members of advisory boards or commissions shall be given to the public upon written request where appropriate with the exception of undercover law enforcement personnel:

(a) the employee's name [~~(*)~~ ~~except for undercover law enforcement personnel~~];

(b) gross compensation;

(c) salary range;

(d) contract fees;

(e) the nature of employer-paid benefits;

(f) the basis for and the amount of any compensation in addition to salary, including expense reimbursement;

(g) job title;

(h) performance plan;

(i) education and training background as it relates to qualifying the individual for the position;

(j) previous work experience as it relates to qualifying the individual for the position;

(k) date of first and last employment in state government;

(l) the final disposition of any appeal action by the Career Service Review Board;

(m) the final disposition of any disciplinary action:

~~(*)~~(n) work location;

~~(*)~~(o) a work telephone number;

~~(*)~~(p) city and county of residence, excluding street address;

~~(*)~~(q) honors and awards as they relate to state government employment;

~~(*)~~(r) number of hours worked per pay period;

~~(*)~~(s) gender;

~~(*)~~(t) other records as approved by the State Records Committee.

(8) When an employee transfers from one state agency to another, the former agency shall transfer the employee's original file to the new agency. The file shall contain a record of all actions that have affected the employee's status and standing.

(9) The record the Department and agency hold including other private, protected or controlled records referenced in the agency personnel file shall be considered the official record during any disciplinary proceedings. An employee may request a copy of any documentary evidence used for disciplinary purposes in any formal hearing regardless of the documents source, prior to such use. This shall not apply to documentary evidence used for rebuttal.

(10) Employee medical information obtained orally or documented in separate confidential files is considered private or controlled information. Communication must adhere to the Government Records Access and Management Act, Section 63-2-101. Employees who violate confidentiality are subject to state disciplinary procedures and may be personally liable for slander or libel.

(11) In compliance with the Government Records Access and Management Act, only information classified as "public" or

"private" which can be determined to be related to and necessary for the disposition of a long term disability or unemployment insurance determination shall be approved for release on a need to know basis. The agency human resource manager or authorized manager in DHRM shall make the determination.

(12) Employees may verbally request the release of information for personal use; or authorize in writing the release of their performance records for use by an outside agent based on a need to know authorization. "Private" data shall only be released, except to the employee, after a written request has been evaluated and approved.

R477-2-[7]6. Release of Information in a Reference Inquiry.

Reference checks or inquiries made regarding current or former public employees, volunteers, independent contractors, and members of advisory boards or commissions can be released if the information falls under a category outlined in R477-2-[6]5(7), or if the subject of the record has signed and provided a reference release form for information authorized under Title 63, Chapter 2.

(1) The employment record is the property of Utah State Government with all rights reserved to utilize, disseminate or dispose of in accordance with the Government Records Access and Management Act.

(2) Additional information may be provided if authorized by law.

R477-2-[8]7. Employment Eligibility Certification (Immigration Reform and Control Act - 1986).

(1) All career and non-career employees appointed on and after November 7, 1986, as a new hire, rehire, interdepartmental transfer or through reciprocity with or assimilation from another career service jurisdiction must provide verifiable documentation of their identity and eligibility for employment in the United States as required under the Immigration Reform and Control Act of 1986.

(2) Agency hiring officials ~~will be~~are responsible for verifying the identity and employment eligibility of these employees, by completing all sections of the Employment Eligibility Certification Form I-9 in conformance with Immigration and Naturalization Service (INS) Regulations. The I-9 form shall be maintained in the agency personnel file.

R477-2-[9]8. Disclosure by Public Officers Supervising a Relative.

It is unlawful for a public officer to appoint, directly supervise, or to make salary or performance recommendations for relatives except as prescribed in the Nepotism Act, Section 52-3-1.

(1) A public officer supervising a relative shall make a complete written disclosure of the relationship to the chief administrative officer of the agency or institution, in accordance with Section 52-3-1.

R477-2-[10]9. Employee Liability.

An employee who becomes aware of any occurrence which may give rise to a law suit, who receives notice of claim, or is sued because of an incident related to his employment, shall give immediate notice to his supervisor and to the Department of Administrative Services, Office of Risk Management.

(1) In most cases, under provisions of the Governmental Immunity Act (GIA), Sections 63-30-36, 63-30-37, employees shall

receive defense and indemnification unless the case involves fraud, malice or the use of alcohol or drugs by the employee.

(2) If a law suit results against an employee, the GIA stipulates that the employee must request a defense from his agency head in writing within ten calendar days.

R477-2-[11]10. Quality Service Award.

When requested by the Director, agencies shall assign employees to serve on the Utah Quality Award Evaluation Panel according to criteria established by section 67-19-[1]6.4 and DHRM.

KEY: administrative responsibility, confidentiality of information, fair employment practices, public information
~~[June 26, 1999]~~2000 **63-2-204(5)**
Notice of Continuation July 1, 1997 **67-19-6**
67-19-6.4



Human Resource Management,
Administration
R477-4
Classification

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22842

FILED: 05/11/2000, 11:28

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE:
Clarification of DHRM's responsibilities for classification.

SUMMARY OF THE RULE OR CHANGE: a) Section R477-4-2 (Job Description): new language adds information which must be included on a job description and clarifies that DHRM (Department of Human Resource Management) must approve information included on the official job description; b) Section R477-4-3 (Position Classification Review): nonsubstantive change moves language from one subsection to another.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No cost impact is anticipated. This rule is a clarification of DHRM responsibility and does not require additional administrative resources.

❖LOCAL GOVERNMENTS: No impact--this rule only affects the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this rule. Its only effect is on the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. In this case, there is no anticipated effect.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Human Resource Management Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.

R477-4. Classification.

R477-4-1. Job Classification Methods.

The Executive Director, DHRM, shall prescribe the procedures and methods for classifying all positions not exempted by law from the classification plan. The Executive Director, DHRM, may authorize exceptions to provisions of the following rule, consistent with R477-2-[3]2(1).

R477-4-2. Job Description.

DHRM shall maintain job descriptions, as appropriate, for all jobs in the classified plan.

- (1) Job descriptions shall contain:
 - (a) Job title
 - (b) Distinguishing characteristics
 - (c) A description of tasks commonly associated with most positions in the job
 - (d) Statements of required knowledge, skills, and other requirements
 - (e) FLSA status and other administrative information as approved by DHRM.

R477-4-3. Position Classification Review.

(1) A classification review of a position may be conducted under the following circumstances:

- (a) As part of a scheduled study.
- (b) At the request of the agency, with the approval of the Executive Director, DHRM.
 - (i) ~~DHRM shall determine if there are significant changes in the duties of a position to warrant a review.~~
 - (c) As part of a classification grievance review.

(2) DHRM shall determine if there are significant changes in the duties of a position to warrant a review.

([2]3) When an agency is reorganized or a position redesigned, no classification reviews shall be conducted during a three months settling period unless otherwise determined necessary by DHRM.

([3]4) The Executive Director, DHRM, or designee shall make final classification decisions unless overturned by a hearing officer or court.

.....

KEY: administrative procedure, grievances, job descriptions, position classifications
~~[June 26, 1999]2000~~ **67-19-6**
Notice of Continuation July 1, 1997



Human Resource Management,
Administration
R477-5
Filling Positions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 22843

FILED: 05/11/2000, 11:28

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To make nonsubstantive amendments for terms that will be used in the new selection system; implement the policy changes imposed on the state by the Utah Court of Appeals in *Draughn v. Department of Financial Institutions et al.*; and implement provisions of H.B. 140, Reorganization of Veteran-Related Programs, 2000 General Session, giving veteran preference to spouses of veterans.

(DAR Note: H.B. 140 is found at 2000 Utah Laws 134, and will be effective July 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: a) Subsection R477-5-4(2) (Order of Selection for Career Service Positions):

additional language is intended to make it clear that the prescribed order of selection must be followed for all vacant positions; b) Section R477-5-6 (Transfer and Reassignment): this is the first place in the DHRM rules where the imposition resulting from the case of *Draughn v. Department of Financial Institutions et al.*, is effective. The basic policy change is to remove all reference to the terms "voluntary reassignment" and "involuntary reassignment." New language here defines the use of this new term for the purpose of filling positions; c) Section R477-5-7 (Involuntary Reassignment): this section is eliminated because it is no longer appropriate in light of the *Draughn* case; d) Section R477-5-10 (Hiring Lists): amended language reflects the changes to the definition for hiring list in Subsection R477-1-1(58). This amendment clarifies what must be on the official hiring list. Amendments in Subsections R477-5-4(4) and R477-5-4(5) implement the requirements of H.B. 140, 2000 General Session; e) Section R477-5-11 (Time Limited Exempt Positions): stricken language eliminates the ability to employ temporary employees and place them on schedule TE. This had been a troublesome practice for the HR (human resources) system because this designation was difficult to monitor and thus open to misuse. Agencies still have a variety of categories for their temporary employees that are more clearly defined; f) Section R477-5-15 (Career Mobility Programs): stricken language removes the requirement for DHRM to review each career mobility agreement. This requirement is cumbersome and produces no added value or protection for employees. Stricken language in Subsection R477-5-11(3) is redundant of language in Subsection R477-5-11(2). All other amendments in this rule are for the purpose of temporarily changing the name of the selection system while DHRM switches to the new system or other minor technical adjustments.

(DAR Note: The proposed amendment to R477-1 is found under DAR No. 22838 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No cost impact is anticipated. No additional administrative resources will be needed to implement this rule. Agencies are already operating under the restrictions of the *Draughn* case.

❖LOCAL GOVERNMENTS: No impact--this rule only affects agencies of the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects agencies of the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No one is affected by this rule outside the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government.

There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. In this case, there is no such effect.

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

Human Resource Management
Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

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THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.

R477-5. Filling Positions.

R477-5-1. Authorization to Fill a Position.

Agencies shall have sufficient funds to fill positions that are listed in the Position Management Report. The Executive Director, DHRM, may authorize exceptions to provisions of this rule, consistent with R477-2-[3]2(1).

~~[Utah Skill Match]~~The DHRM approved recruitment and selection system is the state's recruitment and selection system for career service positions. Agencies shall use ~~[Utah Skill Match]~~the DHRM approved recruitment and selection system unless an alternate system has been pre-approved by the Department of Human Resource Management.

R477-5-2. Selecting Non-Career Service Positions.

(1) Agencies and managers may use any process to select employees for exempt positions which complies with state and federal law and regulations.

R477-5-3. Career Service (Schedule B) Positions.

(1) Selection of career service employees shall be governed by the following:

- (a) DHRM standards and procedures;
- (b) Career service principles;
- (c) Equal employment opportunity principles;
- (d) Utah Code governing nepotism found in Section 52-3-1.
- (e) Reasonable accommodation for qualified applicants covered under the Americans With Disabilities Act.

(2) DHRM shall take affirmative action to ensure that members of legally protected classes have the opportunity to apply and be considered for available positions in state government.

R477-5-4. Order of Selection for Career Service Positions.

(1) Prior to implementing the steps for order of selection, agencies may administer the following personnel actions:

- (a) Reemployment of a veteran eligible under USERRA;
- (b) ~~Voluntary reassignment~~ Reassignment or transfer for the purposes of reasonable accommodation under the Americans with Disabilities Act;
- (c) Fill positions as a result of return to work from long term disability or workers compensation at the same or lesser salary range;
- (d) ~~Voluntary or involuntary reassignments~~ Reassignments made in order to avoid a reduction in force, or for reorganization or bumping purposes;
- (e) ~~Voluntary reassignments, involuntary reassignments,~~ Reassignments, career exchange assignments or other movement of qualified career service employees at the same or lesser salary range to better utilize skills or assist management in meeting the organization's mission;
- (f) Reclassification.

(2) Agencies may carry out all the following steps for recruitment and selection of vacant career service positions concurrently. Appointing authorities may make appointments according to the following order of selection which applies to all vacant career service positions:

(a) First, agencies shall make appointments from the statewide reappointment register with the names of employees who meet the job qualifications and who apply for the position. See R477-12-3(7) for additional reinstatement criteria.

(b) Second, agencies may make appointments within an agency through promotion of a qualified career service employee, or across agency lines through transfer or promotion of qualified career service employees, career exchange assignments to a higher salary range, conversions from schedule A to schedule B as authorized by R477-6-1.(3), or rehire of qualified former career service employees at agency discretion.

(c) Third, agencies may make appointments from a list of qualified applicants certified as eligible for appointment to the position, or from another competitive process pre-approved by the Executive Director, DHRM.

R477-5-5. Recruitment Within Agencies.

(1) Agencies shall provide information about internal job opportunities to their employees. Agencies shall develop a consistent, internal recruitment strategy for job families and shall communicate this strategy to their employees.

(a) For agency recruitments when ~~Utah Skill Match~~ the DHRM approved recruitment and selection system is not used, vacancies shall be announced for a minimum of 5 days within an agency, an organizational unit or work group. Each vacancy announcement shall include an opening and closing date.

(b) When ~~Utah Skill Match~~ the DHRM approved recruitment and selection system is used, agencies are required to provide their employees information about the ~~Utah Skill Match~~ DHRM approved recruitment and selection system system.

(c) Recruitment is not required for personnel actions outlined in R477-5-4.(1).

(d) Appointment of employees from the statewide reappointment register must comply with the order of selection specified in R477-5-4.

R477-5-6. Transfer and~~Voluntary~~ Reassignment.

(1) Positions may be filled by reassigning an employee without a reduction in pay within the agency or across agencies with approval of the respective agency heads for administrative reasons such as budget constraints, corrective action pursuant to R477-10-2, or the need to move persons to positions that better utilize their skills.

(~~1~~)² The agency that receives a transfer or ~~voluntary~~ reassignment of an employee shall verify his career status and that the employee meets the job requirements for the position.

(a) An employee with a disability who is otherwise qualified may be eligible for transfer or ~~voluntary~~ reassignment to a vacant position within the agency as a reasonable accommodation measure, unless it creates an undue hardship on the agency.

(~~2~~)³ Payroll actions involving transfer or ~~voluntary~~ reassignment shall only be allowed at the beginning of a payroll period.

(~~3~~)⁴ Agencies receiving a transfer or ~~voluntary~~ reassignment of an employee shall accept all of that employee's previously accrued sick, annual, and converted sick leave on the official leave records.

(~~4~~)⁵ A career service employee assimilated from another career service jurisdiction shall accrue leave at the same rate as a career service employee with the same seniority.

~~R477-5-7. Involuntary Reassignment:~~

~~(1) Positions may be filled by involuntarily reassigning an employee without a reduction in pay within the agency or across agencies with approval of the respective agency heads for administrative reasons such as budget constraints, corrective action pursuant to R477-10-2, or the need to move persons to positions that better utilize their skills.~~

~~(a) The employee shall be placed on the appropriate longevity step if their salary exceeds the maximum of the new salary range.~~

~~(2) Involuntary reassignments which involve a change in work location shall not be permitted if this requires the employee to commute or relocate 50 miles or more, one way, beyond his current one way commute, unless:~~

~~(a) The policy is communicated to the employee at employment;~~

~~(b) The agency will either pay to move the employee consistent with R25-6-8 and Department of Administrative Services, Division of Finance Policy 05-04.03, or reimburse commuting expenses up to the cost of a move.~~

~~R477-5-8~~ ⁵⁻⁷. Rehire.

(1) A former career service employee may be eligible for rehire to any career service position for which he is qualified.

(a) A rehired employee must compete through the ~~Utah Skill Match System~~ DHRM approved recruitment and selection system and must serve a new probationary period, as designated in the official job description.

(i) The annual leave accrual rate for an employee rehired on or after July 1, 1995 shall be based on all State employment in which the employee was eligible to accrue leave.

(ii) An employee who is rehired within 12 months of separation to a position which receives sick leave benefits shall have his previously accrued sick leave credit reinstated.

(b) A Rehired employee may be offered any salary within the regular salary range for the position.

(2) Career Service exempt employees cannot be rehired to career service positions, except as prescribed by Section 67-19-17.

R477-[5-9]5-8. Public Recruitment and Recruitment Across Agencies.

(1) Recruitment shall comply with federal and state laws and DHRM rules and procedures.

(a) Recruitment shall include the following:

(i) job information about available positions;

(ii) information about the ~~[Utah Skill Match]~~DHRM approved recruitment and selection system;

(iii) documented communication regarding examination methods and opening and closing dates, if applicable;

(iv) a strategy for affirmative action, if applicable.

(2) Job information for career service positions shall be announced publicly for a minimum of 5 days if a ~~[Utah Skill Match search]~~DHRM approved recruitment and selection system does not produce a sufficient pool of qualified applicants.

R477-[5-10]5-9. Examinations.

(1) Examinations shall be designed to measure and predict success of individuals on the job. Appointment to career service positions shall be made through open, competitive selection.

(2) The Executive Director, DHRM, shall establish the standards for the development, approval and implementation of examinations. Examinations shall include the following:

(a) A documented job analysis;

(b) An initial, unbiased screening of the individual's qualifications;

(c) Security of examinations and ratings;

(d) Timely notification of individuals seeking positions;

(e) Elimination from further consideration of individuals who abuse the process;

(f) Unbiased evaluation and results;

(g) Reasonable accommodation for qualified individuals with disabilities.

(3) When examinations utilizing ratings of training and experience are administered, agencies may establish maximum years of credit for training and experience for the purpose of rating qualified applicants. Separate maximums may be set for years of training and years of experience. These maximums shall be included in the agency's recruitment notice.

(4) The Executive Director, DHRM, may enter into delegation agreements with agencies to develop and administer examination instruments, subject to periodic administrative audits by DHRM.

R477-[5-11]5-10. Hiring Lists.

(1) The hiring list shall include the names of qualified and interested applicants who ~~[have successfully completed all applicable examination(s) and are eligible for appointment or conditional appointment]~~are eligible to be considered for appointment or conditional appointment to a specific position.

(a) Hiring lists shall be constructed using ~~[Utah Skill Match]~~the DHRM approved recruitment and selection system or another competitive process pre-approved by DHRM. All competitive processes shall be based on job-related criteria.

(b) All applicants included on a hiring list shall be examined with the same examination or examinations.

(c) An individual shall be considered an applicant when he is determined to be both qualified for and interested in a particular position identified through a specific requisition.

(2) An applicant may be removed from further consideration when he, without valid reason, does not pursue appointment to a position.

(3) An individual who falsifies any information in the job application, examination or evaluation processes may be disqualified from further consideration prior to hire, or disciplined if already hired.

(4) Five percent of the total possible score shall be added to the rating or an appropriate adjustment shall be made on the hiring list for any applicant claiming veterans preference who:

(a) has served more than 180 consecutive days of active duty in and honorably discharged or released from the armed forces of the United States; or

(b) is the spouse or unremarried surviving spouse of any veteran.

(5) Ten percent of the total possible score shall be added to the rating or an appropriate adjustment shall be made on the hiring list for any applicant claiming veterans preference who:

(a) Was honorably discharged or released from active duty with a disability incurred in the line of duty or is a recipient of a Purple Heart, whether or not that person completed 180 days of active duty.

(b) Is the spouse or unremarried surviving spouse of any disabled veteran.

(6) The Executive Director, DHRM may enter into delegation agreements with agencies to develop and maintain hiring lists, and certify eligible applicants to their appointing authorities, subject to periodic administrative audits by DHRM.

(7) Selection of intra-departmental RIF employees shall be made in order of their retention points.

(a) The employee with the highest retention points shall be reappointed first, provided that the employee:

(i) Meets job requirements; and

(ii) Previously attained the position level comparable to the vacancy.

(8) When more than one RIF employee is certified by DHRM, the appointment shall be made from the most qualified.

(9) The appointing authority shall demonstrate and document that equal consideration was given to all applicants whose final score or rating is equal to or greater than that of the applicant hired.

(10) The appointing authority shall ensure that any employee hired meets the job requirements as outlined in the official job description.

R477-[5-12]5-11. Time-Limited Exempt Positions.

The Executive Director, DHRM, may approve the creation and filling of non-career service positions for temporary, emergency, seasonal, intermittent or other special and justified agency needs. These appointments shall be "at will," as described below. See Section 67-19-15 for description of positions exempt from career service employment.

(1) Time-limited, temporary or seasonal non-career appointments, such as schedules AJ[-] and AL[-~~and TE~~;-] may be

made without competitive examination, provided job requirements are met.

(a) The following appointments are temporary, and may not receive benefits:

(i) AJ appointments for positions which are half-time or more shall last no longer than 1560 working hours in any 12 consecutive month period.

~~(ii) TE appointments shall last no longer than 520 working hours in the same assignment.~~

(b) Appointments under schedules AE, AI and AL shall be non-career positions. AE~~[-employees shall receive benefits.]~~, AI and AL employees may receive benefits on a negotiable basis.

(i) Schedule AL appointments shall work on time-limited projects for a maximum of two years or on projects with time limited funding.

(ii) Only schedule A appointments made from a hiring list as prescribed by R477-5-~~10~~~~(1)~~ may be considered for conversion to career service.

(2) Appointments to fill an employee's position who is on approved leave-without-pay shall only be made temporarily. A notice of appointment shall be signed by the parties.

R477-~~5-13~~5-12. Job Sharing.

Agency management may establish a job sharing program as a means of increasing opportunities for career part-time employment. In the absence of an agency program, individual employees may request approval for job sharing status through agency management.

R477-~~5-14~~5-13. Internships and Cooperative Education.

Interns or students in a practicum program may be appointed with or without competitive selection. Intern appointments shall be to temporary, career service exempt positions.

R477-~~5-15~~5-14. Reorganization.

(1) When a department or agency is reorganized, but an employee's position does not change substantially, he shall not be required to compete for his current position. However, a reduction in the number of positions in a certain class shall be treated as a reduction-in-force.

R477-~~5-16~~5-15. Career Mobility Programs.

Employees and agencies are encouraged to promote career mobility programs.

(1) Agencies may provide career mobility assignments inside or outside state government to qualified employees. Career mobility programs are designed to develop agencies' resources and to enhance the employee's career growth.

(a) Agencies shall establish policies ~~[subject to review and approval by the Executive Director, DHRM,]~~ governing career mobility programs.

(b) An eligible employee, the agency or supervisor may initiate a career mobility.

(c) Interested participants shall meet the job requirements of the career mobility position.

(2) Agencies shall develop and use written career mobility contract agreements between employees and supervisors to outline all program provisions and requirements. The career mobility shall be both voluntary and mutually acceptable.

(a) Programs shall conform to equal employment opportunities and practices.

(b) Participating employees shall retain all rights, privileges, entitlements, tenure and benefits from their previous position while on career mobility.

(c) If a reduction in force affects a position vacated by a participating employee, the participating employee shall be treated the same as other RIF employees.

~~[(3) Career mobility programs require written contracts between both employees and agency management.~~

~~(4)~~(3) If a career mobility assignment does not become permanent at its conclusion, employees shall return to their previous position or a similar position. They shall receive the same salary rate they would have received without the career mobility assignment.

(a) Employees who have not attained career service status prior to the career mobility program cannot permanently fill a career service position until they have obtained career service status through a competitive process.

R477-~~5-17~~5-16. Assimilation.

(1) Employees assimilated by the state from another career service system shall receive career service status after completing a probationary period if they were originally selected through a competitive examination process judged by the Executive Director, DHRM, to be equivalent to the process used in the state career service.

(a) Assimilation agreements shall specify whether there are employees eligible for reemployment under USERRA in positions affected by the agreement.

R477-~~5-18~~5-17. Underfill.

(1) Underfill shall only be used in circumstances that meet the following conditions:

(a) The position is in the same classification series, as reflected on the position management report. Positions shall be underfilled only until the employee satisfactorily meets the job requirements of the next higher level position as determined by management

(b) There must be discernible and documented differences~~[in job tasks, duties, responsibilities, qualifications, knowledge, skills and abilities]~~ between levels in career ladders.

KEY: employment, fair employment practices, hiring practices
[~~June 26, 1999~~2000 **67-19-6**

Notice of Continuation July 1, 1997



Human Resource Management,
Administration

R477-6

Employee Status and Probation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22844

FILED: 05/11/2000, 11:31

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: New language in this rule clarifies the probationary status of an employee who has a break in service.

SUMMARY OF THE RULE OR CHANGE: Subsection R477-6-1(3) (Career Service Status) and Section R477-6-2 (Probationary Period): new language requires an employee who has experienced a break in service to serve a new probationary period when he returns to state employment. Employees who have no break in service shall not serve another probationary period even though they move from a schedule B career service position to a schedule A exempt position and back to schedule B again.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6 and Subsection 67-19-16(5)(b)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No cost impact is anticipated with this change. This is simply a clarification of current practice.

❖LOCAL GOVERNMENTS: No impact--this rule only affects the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance requirement for persons outside the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM (Department of Human Resource Management) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. In this case, there is no such effect.

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

Human Resource Management
Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.**R477-6. Employee Status and Probation.****R477-6-1. Career Service Status.**

(1) Only employees who are appointed through a ~~pre-~~ approved competitive process shall be eligible for appointment to a career service position.

(2) Employees shall complete a probationary period in a competitive career service position prior to receiving career service status.

(3) Exempt employees may only convert to career service status under the following conditions:

(a) They previously held career service status ~~[-or]~~ with no break in service between exempt status and the previous career service position.

(b) They were hired from a hiring list as prescribed by R477-5-~~[+]~~10-(1), and completed a probationary period.

R477-6-2. Probationary Period.

The probationary period allows agency management to evaluate an employee's ability to perform the duties, and responsibilities, skills and other related requirements of the assigned career service position. The probationary period shall be considered part of the selection process.

(1) Employees shall receive full and fair opportunity to demonstrate competence in the job in a career position. As a minimum, a performance plan shall be established and the employee shall receive feedback on performance in relation to that plan.

(a) At the end of the probationary period, employees shall receive performance evaluations. Evaluations shall be entered into HRE as the performance evaluation which reflects successful or unsuccessful completion of probation.

(2) Each career position shall be assigned a probationary period consistent with its job.

(a) The probationary period may not be extended except for periods of leave without pay or workers compensation leave.

(b) The probationary period may not be reduced after appointment.

(c) An employee who has completed a probationary period and obtained career service status shall not be required to serve a new probationary period unless there is a break in service.

(3) Employees in career service positions who work at least 50 percent of the time or more shall acquire career service status after working the same amount of elapsed time in hours as a full-time employee would work with the same probationary period.

(4) Probationary periods may be interrupted by military service covered under USERRA.

(5) An employee serving probation in a competitive career service position may be ~~[transferred]~~transferred, ~~[-voluntarily reassigned, involuntarily]~~ reassigned or promoted to another

competitive career service position. Each new appointment shall include a new probationary period unless the agency determines that the required duties or knowledge, skills, and abilities of the old and new position are similar enough not to warrant a new probationary period. If an agency determines that a new probationary period is needed, it shall be the full probationary period defined in the job description.

(6) A reemployed veteran shall be required to complete the remainder of the probationary period if it was not completed in his pre-service employment.

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R477-6-4. Policy Exceptions.

The Executive Director, DHRM, may authorize exceptions to the provisions of this rule, consistent with R477-2-[3]2(1).

KEY: employment, personnel management, state employees
~~[June 26, 1999]~~2000 67-19-6
Notice of Continuation July 1, 1997 67-19-16(5)(b)

◆ ----- ◆
**Human Resource Management,
Administration
R477-7
Compensation**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22845
FILED: 05/11/2000, 11:32
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Amendments to this rule implement the provisions imposed on the state by the Utah Court of Appeals in *Draughn v. Department of Financial Institutions et al.*, and make some minor adjustments in the state compensation policies.

SUMMARY OF THE RULE OR CHANGE: a) Section R477-7-4 (Salary): the stricken language in Subsection R477-7-4(3)(b) has proven to be overly restrictive for agencies in the administration of their internal promotion policies and excessively punitive to employees. Beginning in Subsection R477-7-4(4), and continuing through Subsection R477-7-4(6), are changes related to the case of *Draughn v. Department of Financial Institutions et al.* All references to the terms "voluntary" and "involuntary" reassignment are removed and reference is only to the reassignment of employees; b) Section R477-7-5 (Incentive Awards): language is stricken which requires DHRM (Department of Human Resource Management) to approve all department

incentive award policies. This requirement is seen as restrictive and redundant. This section contains parameters for agencies policy that can be easily monitored for violations; c) Sections R477-7-8 (State Paid Life Insurance) and R477-7-9 (Severance Benefit): amendments to these two sections are designed to clarify the department's responsibility under Section 67-19-15.1 (Implementation of exempt status for Schedule AD and AR employees), and to avoid possible legal liability stemming from the different treatment of employees in other schedules who are in substantially the same position.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6 and Subsection 67-19-15.1(4)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is a possible cost impact of \$8,000 to \$10,000 per year with the amendments to Sections R477-7-8 and R477-7-9. DHRM estimates that these changes may add from sixty to seventy more employees who are eligible for the life insurance benefit.

❖LOCAL GOVERNMENTS: No impact--this rule only affects agencies of the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects agencies of the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs or affected persons outside the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. In this case, the effect will be negligible.

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

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.
R477-7. Compensation.

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R477-7-4. Salary.

(1) Merit increases - The following are applicable if merit increases are authorized and funded by the legislature:

(a) Employees, who are not on a longevity step, who receive a successful or higher rating on their performance evaluations and who have been in a paid status by the state for at least six months shall receive a maximum merit increase of one salary step at the beginning of the first pay period of the new fiscal year.

(b) Employees designated as schedule AJ are not eligible for a merit step increase. Merit increases for employees in schedule AL, AM, or AS are not mandatory unless they are receiving benefits, and the increase is approved in agency policy.

(2) Highest Level Performer

(a) Employees designated by the agency as a highest level performer consistent with subsection R477-10-1(2) shall receive, as determined by the agency head, either:

- (i) a salary step increase, or;
- (ii) a bonus; or
- (iii) administrative leave; or
- (iv) other appropriate recognition as determined by the agency.

(b) Employees on a longevity step are not eligible for a salary step increase but may receive a bonus, administrative leave or other appropriate recognition as determined by the agency.

(3) Promotions and Reclassifications

(a) Employees promoted or reclassified to a position with a salary range exceeding the employee's current salary range maximum by one salary step shall receive a salary increase of a minimum of one salary step and a maximum of four salary steps. Employees who are promoted or reclassified to a position with a salary range exceeding the employee's current salary range maximum by two or more salary steps shall receive a salary increase of a minimum of two salary steps and a maximum of four salary steps.

(i) Employees, with the exception of those in longevity, may not be placed higher than the highest salary step or lower than the beginning salary step in the new salary range.

(ii) Employees who remain in longevity status after a promotion or reclassification shall retain their salary by being placed on the corresponding longevity step.

(b) To be eligible for a promotion, an employee shall:

- (i) meet the job requirements/skills specified in the job description and position specific criteria as determined by the agency for the position unless the promotion is to a career service exempt position;[
- (ii) have received a successful or higher performance rating within the 12 month period preceding the promotion;
- (iii) not be currently in a period of constant review;
- (iv) have successfully completed a period of constant review during the past twelve months, if applicable;]

(c) Employees who have their positions reclassified to a job with a lower salary range shall retain their current salary. The employee shall be placed on the corresponding longevity step if their salary exceeds the maximum of the new salary range.

(4) Longevity

(a) An employee shall receive a longevity increase of 2.75 percent when:

(i) They have been in state service for eight years or more. They may accrue years of service in more than one agency, and such service is not required to be continuous.

(ii) They have been at the maximum salary step in the current salary range for at least one year and received a performance appraisal rating of successful or higher within the 12 month period preceding the longevity increase.

(b) Employees on a longevity step shall be eligible for the same across-the-board pay plan adjustments authorized for all other employee pay plans.

(c) Employees on a longevity step shall only be eligible for additional step increases every three years. To be eligible, employees must receive a performance appraisal rating of successful or higher within the 12 month period preceding the longevity increase.

(d) Employees on a longevity step who are [~~involuntarily reassigned or~~]reclassified to a lower salary range, shall retain their salary.

(e) Employees on a longevity step who are promoted or reclassified to a higher salary range shall only receive an increase if their current salary step is less than the highest salary step of their new range.

(f) Agency heads or time-limited exempt employees identified in R477-5-~~[12]~~11 are not eligible for the longevity program.

(5) Administrative Adjustment

(a) Employees who have had their position allocated by DHRM from one job to another job or salary range for administrative purposes, shall not receive an adjustment in salary.

(b) Implementation of new job descriptions as an administrative adjustment shall not result in a salary increase unless the employee is below the minimum step of the new range.

(6) [~~Voluntary~~]Reassignment

(a) [~~Employees who voluntarily accept a position with a salary range maximum one salary step lower than their current position shall be placed at the salary step within the new salary range corresponding to a salary decrease of one salary step]~~Management may adjust the salary of an employee to one or more lower steps when the employee is reassigned to a position with a salary range with a lower maximum step.[

— (b) ~~Employees who voluntarily accept a position with a salary range maximum two or more salary steps lower than their current salary range, shall be placed at the salary step within the new salary range corresponding to a salary decrease of two salary steps.~~

— (c) ~~Employees who voluntarily accept a position in a lower salary range, shall not receive a new salary lower than the lowest salary step, or higher than the highest salary step of the new salary range.]~~

(7) Transfer

Employees who transfer from one position to another position with the same salary range may not be offered salary increases effective the same date as the transfer.

(8) Demotions

Employees demoted consistent with R477-11-2 shall receive a salary reduction of one or more salary steps as determined by the agency head or designee. The agency head or designee may move an employee to a position with a lower salary range concurrent with the salary reduction.

(9) Payroll actions

Payroll actions shall be effective on the first day of a payroll period[~~closest to the salary action;~~] with the exception of new hires, rehires, and terminations.

(10) Productivity step adjustment

Agency management may establish policies to reward employees who assume additional workloads which result from the elimination of a position for at least one year with a salary increase of up to four salary steps. Employees at the top salary step of their salary range or in longevity shall be given a one time lump sum bonus award of 2.75% of their annual salary.

(a) To implement this program, agencies shall apply the following criteria:

(i) Either the employees or management can make the suggestion;

(ii) Employees and management agree;

(iii) The agency head approves;

(iv) A written program policy achieves increased productivity through labor/management collaboration;

(v) The agency human resource representative approves;

(vi) The position will be abolished from the position authorization plan for a minimum of one year;

(vii) Staff receives additional duties which are substantially above a normal full workload;

(viii) The same or higher level of service or productivity is achieved without accruing additional overtime hours;

(ix) The total dollar increase, including benefits, awarded to the workgroup as a result of the additional salary steps does not exceed 50 percent of the savings generated by eliminating the position;

(11) Administrative Salary Increase

The executive director or commissioner authorizes and approves Administrative Salary increases under the following parameters:

(a) Employees shall receive one or more steps up to the maximum of their salary range.

(b) Administrative Salary increases shall only be granted when the agency has sufficient funding within their annualized base budgets for the fiscal year in which the adjustment is given.

(c) Justifications for Administrative Salary Increases shall be

--

(i) In writing;

(ii) Approved by the executive director or commissioner;

(iii) Supported by issues such as: special agency conditions or problems, equity issues, or other unique situations or considerations in the agency.

(d) The executive director or commissioner is the final authority for salary actions authorized within these guidelines. The executive director or commissioner or designee shall answer any challenge or grievance resulting from an Administrative Salary Increase.

(e) Administrative salary increases may be given during the probationary period. These increases alone do not constitute

successful completion of probation or the granting of career service status.

(12) Administrative Salary Decrease

The executive director or commissioner authorizes and approves administrative salary decreases for non-disciplinary reasons according to the following:

(a) Employees shall receive a one or more step decrease not to exceed the minimum of their salary range.

(b) Justification for administrative salary decreases shall be:

(i) in writing;

(ii) approved by the executive director or commissioner;

(iii) supported by issues such as; previous written agreements between the agency and employees to include career mobility; reasonable accommodation, special agency conditions or problems, equity issues, or other unique situations or considerations in the agency.

(c) The executive director or commissioner is the final authority for salary actions within these guidelines. The executive director or commissioner or designee shall answer any challenge or grievance resulting from an administrative salary decrease.

R477-7-5. Incentive Awards.

Only agencies with a written and published incentive award policy[~~approved by DHRM~~] may reward employees with cash incentive awards, non-cash incentive awards and bonuses. Policies shall be consistent with standards established in these rules and with DAS Division of Finance rules and procedures.

(1) Agencies may reward employees or groups of employees who propose workable cost saving measures and other worthy acts with a cash incentive award.

(a) Individual awards shall not exceed \$2,000 per occurrence and \$4,000 in a fiscal year.

(b) Awards of \$100 or more must be documented, evaluated, and approved by the agency. A copy shall also be maintained in the agency's individual employee file. These incentive awards are subject to post audit by DHRM.

(2) Non-Cash Incentive Awards

Agency heads may recognize employees or groups of employees with non-cash incentive awards.

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

(b) Non-cash incentive awards may not include cash equivalents such as gift certificates or tickets for admission.

(3) Bonus Awards

Agency heads may authorize bonus awards for individual or group productivity accomplishments. Each award shall not exceed \$2,000. Awards are subject to post audit by DHRM.

R477-7-6. Employee Benefits.

(1) Agencies shall explain all benefits provided by the state to new hires or rehires within five working days of the hire date.

(2) Agency payroll or human resource staff shall submit personnel action forms to the appropriate agency levels within ten days of hire date.

(3) Employees must elect to enroll in the life, health and dental plans within 60 days of the hire date to avoid having to provide proof of insurability. Agencies shall submit the enrollment forms to Group insurance within three days of the date entered on the enrollment card.

(4) Flex Benefits

(a) The annual open enrollment period will be held each November for the following FLEX plan year. Exceptions to this rule are as follows:

(i) New employees wishing to participate in the FLEX benefits program shall enroll within the first 60 days of their employment. Coverage becomes effective on their employment date.

(ii) Employees who have a change in family status, such as marriage, divorce, or birth of a child, may enroll or make changes within 60 days of such event. Proper documentation, such as marriage license, divorce decree, or birth certificate, plus a completed FLEX family status change form must be received by the PEHP FLEX Plan Department within 60 days of the change in family status.

(b) Employees must re-enroll each year to participate in the FLEX benefits program.

(c) An employee's designated FLEX payroll deduction shall not be changed during the course of a year unless there is a change in family status.

(d) To be eligible for reimbursement, employees must submit eligible FLEX claims accompanied by documentation to the PEHP FLEX Office no later than the first Thursday of each pay period.

(e) The claim submission deadline for any plan year shall be 90 days following the end of the calendar year. To be eligible for reimbursement, the FLEX claim must be received at the PEHP FLEX Plan Department by close of business on the established plan year deadline.

(5) Employees working less than 40 hours per pay period are ineligible for benefits. Employees working 40 hours, except those identified in R477-5-[12]1, or more per pay period shall be eligible for leave benefits on a pro-rated basis.

(6) Re-employed veterans under USERRA shall be entitled to the same employee benefits given to other continuously employed eligible employees to include seniority based increased pension and leave accrual.

.....

R477-7-8. [~~Employees on Schedule AB, AD, AR and AS.~~State Paid Life Insurance.

(1) A benefits eligible career service exempt employee on schedule AA, AB, AD, and AR[~~and AS~~] shall be provided the following benefits:

(a) [~~Severance pay as defined in R477-7-9;~~

~~—~~(b) State paid term life insurance coverage if determined eligible by the Group Insurance Office to participate in the Term Life Program Public Employees Health Plan:

(i) Salaries less than \$50,000 shall receive \$125,000 of term life insurance;

(ii) Salaries between \$50,000 and \$60,000 shall receive \$150,000 of term life insurance;

(iii) Salaries more than \$60,000 shall receive \$200,000 of term life insurance.

(2) Employees on schedule AC, AK, AM and AS may be provided these benefits at the discretion of the appointing authority.

R477-7-9. Severance Benefit[~~for Employees on Schedules AB, AD, AR and AS.~~].

(1) A benefits eligible career service exempt employee on schedule AB, AD[;] and AR [~~and AS~~] who is [~~involuntarily~~] terminated from state service shall receive a severance benefit equal to one week of pay for each year of consecutive exempt service accrued after January 1, 1993 except as provided in R477-7-9(3).

(2) A benefits eligible career service exempt employee on schedule AB, AD[;] and AR [~~and AS~~] who [~~voluntarily~~] accepts reassignment to a position with a lower salary range, without a break in service, shall receive a severance benefit equal to the difference between his current hourly rate of pay and his new hourly rate multiplied by the number of accrued annual leave, converted sick leave and excess hours.

(3) A severance benefit shall not be paid to employees:

(a) whose statutory term has expired without reappointment;

(b) who are retiring from state service or are voluntarily separating

from the executive branch;

(c) who are eligible for retirement; or

(d) who are discharged for cause.

(4) Employees on schedule AC, AK, AM and AS may be provided the same severance benefit at the discretion of the appointing authority.

.....

KEY: salaries, employee benefit plans*, insurance, personnel management

[June 26, 1999]2000

67-19-6

Notice of Continuation July 1, 1997

67-19-15.1(4)



**Human Resource Management,
Administration**

R477-8

Working Conditions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22846

FILED: 05/11/2000, 11:32

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Multiple purposes are associated with these amendments, including: clarification and strengthening of management responsibility for accumulation and use of overtime and compensatory time; the implementation of S.B. 121 (Dr. Martin Luther King Jr. Day); clarification of the rules governing converted sick leave; the implementation of a policy requiring retirees to

participate equally with employees on health insurance premiums; and implementation of a policy allowing employees to supplement LTD (long-term disability) benefits with accrued leave.

(DAR Note: S.B. 121 is found at 2000 Utah Laws 306, and was effective May 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: a) Section R477-8-6 (Overtime): amendments to this rule require management approval for an employee to work overtime or accrue compensatory time and allow management to compel the use of compensatory time under prescribed conditions; b) Subsection R477-8-7(1) (Holiday Leave): amendments implement S.B. 121 (Dr. Martin Luther King Jr. Day); c) Subsection R477-8-7(3)(f) (Annual Leave): a nonsubstantive change rearranging wording for clarification purposes; d) Subsection R477-8-7(5) (Converted Sick Leave): amendments to this section are designed to clarify the policy for converting sick leave. Retirees who use converted sick leave to purchase the health insurance benefit are required to pay the same premium participation rate as employees; e) Subsection R477-8-7(6) (Retirement Benefit): amendments to this section implement the policy that requires retirees to pay the same premium participation rates as employees. This policy will apply for retirees who are receiving the five free years specified in Subsection 67-19-14(2)(a)(ii), or are using accrued sick leave hours to purchase the insurance as specified in Subsection 67-19-14(2)(c)(i); f) Subsection R477-8-7(7)(a)(i) (Workers Compensation Leave): additional wording clarifies what is meant by the term gross salary when calculating the amount of accrued leave for which an employee may apply to supplement the workers compensation benefit; g) Subsection R477-8-7(8) (Long Term Disability Leave): amendments implement a new policy allowing employees who are receiving an LTD benefit to supplement the benefit with accrued leave similar to the workers compensation policy. The total of LTD benefit and leave may not exceed the employee's gross salary; h) Section R477-8-14 (Change in Work Location): this language is moved without amendment from Subsection R477-5-7(2).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-13-2, 67-19-6, 67-19-6.7, and 67-19-12.5

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 29 CFR 500 to 899 (1996)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No cost impact is anticipated even though there are some significant policy issues with these amendments.

❖LOCAL GOVERNMENTS: No impact--this rule only affects the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no other persons affected outside the executive branch of state government and thus no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. This rule change will not affect agency budgets.

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

Human Resource Management
Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.

R477-8. Working Conditions.

R477-8-1. Agency Policies and Exemptions.

(1) Each agency shall write its own policies for work schedules, overtime, leave, and other working conditions consistent with these rules.

(2) The Executive Director, DHRM, may authorize exceptions to this rule, consistent with R477-2-[3]2(1).

R477-8-2. Work Period.

(1) Tasks shall be assigned and wages paid in return for work completed. During the state's standard work week, each employee is responsible for fulfilling the essential functions of his job.

(a) The state's standard work week begins Saturday and ends the following Friday.

(b) State offices are typically open Monday through Friday from 8 a.m. to 5 p.m. Agencies may adopt extended business hours to enhance service to the public, consistent with overtime provisions of ~~the rules~~ R477-8-6.

(c) Employees may negotiate for flexible starting and quitting times with their immediate supervisor as long as scheduling is consistent with overtime provisions of the rules R477-8-6.

(d) Agencies may implement alternative work schedules approved by the Director.

(e) Employees are required to be at work on time. Employees who are late regardless of the reason, including inclement weather, shall make up the lost time by using accrued leave, leave without pay or, with management approval, adjust their work schedule.

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R477-8-6. Overtime.

The state's policy for overtime is adopted and incorporated from the Fair Labor Standards Act, 29 CFR Parts 500 to 899[~~1991 edition~~](1996).

(1) Management may direct an employee to work overtime. Each agency shall develop internal rules and procedures to ensure overtime usage is efficient and economical. These policies and procedures shall include:

- (a) Prior supervisory approval for all overtime worked;
- (b) Recordkeeping guidelines for all overtime worked;
- (c) Verification that there are sufficient funds in the budget to compensate for overtime worked.

(2) Overtime compensation standards are identified for each job title in HRE as either FLSA non-exempt, or FLSA exempt.

(a) Employees may appeal their FLSA designation to their agency human resource office and DHRM concurrently. Further appeals must be filed directly with the United States Department of Labor, Wage and Hour Division. The provisions of Sections 67-19-31 and 67-19a-301 and Title 63, Chapter 46b shall not apply for FLSA appeals purposes.

(3) FLSA non-exempt employees may not work more than 40 hours a week without management approval. They shall receive~~shall be eligible for~~ overtime when they actually work more than 40 hours a week. Leave and holiday time taken within the work period shall not count as hours worked when calculating overtime accruing. Hours worked over two or more weeks shall not be averaged out with the exception of certain types of law enforcement, fire protection, and correctional employees.

(a) ~~FLSA~~ ~~[N]~~non-exempt employees shall sign a prior overtime agreement authorizing management to compensate them for overtime worked by actual payment or time off at time and one-half.

(b) ~~FLSA~~ ~~[N]~~non-exempt employees may receive compensatory time for overtime, up to a maximum of 80 hours. Only with prior approval of the Executive Director, may compensatory time accrue up to 240 hours for regular employees or up to 480 hours for peace/correctional officers, emergency or seasonal employees. Once employees reach the maximum, they shall be paid for additional overtime on the pay day for the period in which it was earned.

(4) FLSA exempt employees may not work more than 80 hours in a pay period without management approval. They shall accrue~~shall be eligible for overtime~~ compensatory time when they actually work more than 80 hours in a work period. Leave and holiday time taken within the work period ~~shall~~ may not count as hours worked when calculating overtime compensatory time. Each agency shall compensate FLSA exempt employees who work overtime by giving them time off. For each hour of overtime worked, an FLSA exempt employee shall ~~receive~~ accrue an hour ~~off~~ of compensatory time. Compensatory hours earned in excess of a base of 80 shall be paid down to 80.

(a) Agencies shall establish in written policy a uniform overtime year and communicate it to employees. If an agency fails to establish a uniform overtime year, the Executive Director and the Director of Finance, Department of Administrative Services, will determine the date for the agency at the end of one of the following pay periods: Five, Ten, Fifteen, Twenty, or the last pay period of the calendar year.

(b) Any ~~overtime~~ compensatory time earned by FLSA exempt employees is not an entitlement, a benefit, nor a vested right.

(c) Any ~~overtime~~ compensatory time earned by FLSA exempt employees shall lapse at the end of an agency's annual overtime year.

(d) Any compensatory ~~overtime~~ time earned by FLSA exempt employees shall lapse when they transfer to another agency, terminate, retire or otherwise do not return to work before the end of the overtime year.

(e) The agency director may approve overtime for division and deputy directors, but overtime shall not be compensated with actual payment.

(5) Law enforcement/correctional officers

(a) To be considered for overtime compensation under this rule, a law enforcement or correctional officer must meet the following criteria:

- (i) be a uniformed or plainclothes sworn officer;
- (ii) be empowered by statute or local ordinance to enforce laws designed to maintain public peace and order, to protect life and property from accident or willful injury, and to prevent and detect crimes; and
- (iii) have the power to arrest.

(b) Law enforcement or correctional officers designated FLSA non-exempt and covered under this rule shall accrue overtime when they work more than 171 hours in 28 consecutive days. An agency may select a work period of 86 hours within a 14-day period for law enforcement employees, but all changes shall conform to the following:

- (i) The Fair Labor Standards Act, Section 207(k);
- (ii) The State's payroll period;
- (iii) The approval of the Executive Director.

(c) Fire protection employees shall accrue overtime when they work more than 212 hours in 28 consecutive days.

(d) The work period selection becomes permanent when scheduled and may not be changed to evade overtime compensation rules.

(6) Compensatory Time

(a) ~~Employees and agency~~ Agency management shall arrange for an employee's use of compensatory time as soon as possible without unduly disrupting agency operations or endanger public health, safety or property.

(b) Compensatory time balances are paid down to zero when FLSA non-exempt employees transfer from one agency to a different agency.

(7) Time Reporting

(a) FLSA non-exempt employees must complete and sign a State approved biweekly time sheet. Time sheets developed by the agency shall have the same elements of the State approved time sheet and be approved by the Department of Administrative Services, Division of Finance.

(b) FLSA exempt employees who work more than 80 hours in a work period must record their total hours worked, and/or the compensatory time used on their biweekly time sheet. All hours must be recorded in order to claim overtime. Completion of the time sheet is at agency discretion when no overtime is worked during the work period.

(8) Hours Worked: FLSA non-exempt employees shall be compensated for all hours they are permitted to work. Hours worked shall be accounted for as long as the state permits employees to work on its behalf, regardless of the reason for the work. Employees who work unauthorized overtime may be subject to disciplinary actions.

(a) All time that FLSA non-exempt employees are required to wait for an assignment while on duty, before reporting to duty, or before performing their activities is counted towards hours worked.

(b) Time spent waiting after being relieved from duty is not counted as hours worked if one or more of the following conditions apply:

- (i) The employee arrives voluntarily before their scheduled shift and waits before starting duties;
- (ii) The employee is completely relieved from duty and allowed to leave the job;
- (iii) The employee is relieved until a definite specified time;
- (iv) The relief period is long enough for the employee to use as the employee sees fit.

(c) On-call time: Employees required by agency management to be available for on-call work shall be compensated for on-call time at a rate of 1 hour for every 12 hours the employee is on-call.

(i) Time is considered "on-call time" when the employee has freedom of movement in personal matters as long as he/she is available for call to duty.

(ii) An employee must be directed by his supervisor, either verbally or in writing, that he is on call for a specified time period. Carrying a beeper or cell phone shall not constitute on call time without a specific directive from a supervisor.

(iii) The employee shall record the hours spent in on call status on his time sheet in order to be paid.

(d) Stand-by time: Employees restricted to "stand-by" at a specified location ready for work must be paid full time or overtime, as appropriate. Workers must be paid for stand-by time if they are required to stand by their posts ready for duty, even during lunch periods, equipment breakdowns, or other temporary work shut-downs.

(e) The meal periods of guards, police, and other public safety or correctional officers and firefighters who are on duty more than 24 consecutive hours must be counted as working time, unless an express agreement excludes the time.

(f) Commuting and Travel Time:

(i) Normal commuting time from home to work and back shall not count towards hours worked.

(ii) Time employees spend traveling from one job site to another during the normal work schedule shall count towards hours worked.

(iii) Time employees spend traveling on a special one day assignment shall count towards hours worked except meal time and ordinary home to work travel.

(iv) Travel that keeps an employee away from home overnight does not count towards hours worked if it is time spent outside of

regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

(g) Excess Hours: Employees may use excess hours the same way as annual leave.

(i) Agency management shall approve excess hours before the work is performed.

(ii) Agency management may deny the use of any leave time, other than holiday leave, that results in an employee accruing excess hours.

~~(i)iii~~ Employees on schedule AB may not accumulate more than 80 excess hours.

~~(ii)iv~~ Agency management may pay out excess hours under one of the following:

(A) Paid off automatically in the same pay period accrued;

(B) All hours accrued ~~after~~ above 40 ~~hours are paid off~~;

(C) All hours accrued ~~after~~ above 80 ~~hours are paid off~~;

(D) Employees on schedule AB shall only be paid for excess hours at retirement or termination.

R477-8-7. Leave.

All employees who regularly work 40 hours or more per pay period, except Schedule AJ or other temporary workers, are eligible for leave benefits. Employees receive leave benefits in proportion to the number of hours they are scheduled to work. Employees shall use leave in no less than quarter hour increments.

(1) Holiday Leave

(a) The following dates are designated legal holidays:

(i) New Years Day -- January 1

(ii) ~~Human Rights Day~~ Dr. Martin Luther King Jr. Day -- third Monday of January

(iii) ~~Presidents' Day~~ Washington and Lincoln Day -- third Monday of February

(iv) Memorial Day -- last Monday of May

(v) Independence Day -- July 4

(vi) Pioneer Day -- July 24

(vii) Labor Day -- first Monday of September

(viii) Columbus Day -- second Monday of October

(ix) Veterans' Day -- November 11

(x) Thanksgiving Day -- fourth Thursday of November

(xi) Christmas Day -- December 25

(xii) The Governor may also designate any other day a legal holiday.

(b) If a holiday falls on a Sunday, the following Monday shall be observed as a holiday. If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday.

(c) If an employee is required to work on an observed holiday, the employee shall receive appropriate holiday leave, or shall receive compensation for the excess hours worked.

(d) The following employees are eligible to receive holiday leave:

(i) Full-time employees shall accrue eight hours of paid holiday leave on holidays;

(ii) Part-time career service employees and partners in a job-shared position who work 40 hours or more per pay period shall receive holiday leave in proportion to the hours they normally work in a pay period;

(iii) Employees working flex-time, as defined in R477-8-2, shall receive a maximum of 88 hours of holiday leave in each calendar year. If the holiday falls on a regularly scheduled day off,

flex-time employees shall receive an equivalent work day off, not to exceed eight hours or shall receive compensation for the excess hours at the later date.

(e) In order to receive paid holiday leave, an employee must be in a paid status ~~[before and after the holiday]~~ in the pay period in which the holiday falls as provided in R477-8-7(1)(a).

(2) Conditions of leave

(a) Eligible employees who work 40 or more hours per pay period shall accrue annual and sick leave in proportion to the time worked. They shall also receive funeral, holiday, and paid military leave in proportion to the time worked. Employees excluded from these are "at will" employees identified in R477-5-~~[12]~~11.

(b) Seasonal, temporary, or part-time employees working less than 40 hours per pay period are not eligible for paid leave.

(c) Accrual rates for sick and annual leave are determined on the Annual and Sick Leave Accrual table available through DHRM.

(d) ~~[No]~~ An employee may not receive annual, sick, excess or holiday leave before he has accrued it.

(e) Employees transferring from one agency of State service to another are entitled to transfer all accrued annual, sick, and converted sick leave to the new agency.

(f) Employees on paid leave shall continue to accrue annual and sick leave.

(g) Employees terminating or retiring from State service shall be cashed out in a lump sum for all annual leave and converted sick leave effective through the last day actually worked. Leave cannot be accrued after the last day worked. No leave-on-leave may accrue or be paid on the cashed out annual leave.

(h) ~~[No e]~~ Contributions to benefits may not be paid on cashed out leave, other than FICA tax, except as it applies to converted sick leave in R477-8-7(5)(b) and the ~~[Early]~~ Retirement ~~[Incentive Program] Benefit [outlined] in R477-8-~~[7](5)(b)~~(6).~~

(3) Annual Leave

(a) Employees eligible for annual leave shall accrue leave based on the following years of State service:

(i) Zero through five years -- four hours per pay period.

(ii) Beginning of sixth year through ten years -- five hours per pay period.

(iii) Beginning of eleventh year through twenty years -- six hours per pay period.

(iv) Beginning of the twenty first year or more - seven hours per pay period.

(b) The accrual rate for employees hired on or after July 1, 1995 shall be based on all State employment in which the employee was eligible to accrue leave.

(c) Eligible employees may begin to use annual leave time after completing the equivalent of two full pay periods of employment.

(d) Agency management shall allow every employee the option to use annual leave each year for at least the amount accrued in the year. However, annual leave granted shall be approved in advance by management.

(e) Any unused accrued annual leave time in excess of 320 hours shall be forfeited at the beginning of the first full pay period of each calendar year.

(f) Department deputy directors and division directors appointed to career service exempt status positions shall be eligible for the maximum annual leave accrual rate upon their date of hire ~~but shall not be eligible for any transfer of leave from other~~

jurisdictions. Annual leave shall accrue at six hours per pay period for the tenure of employment in exempt positions. ~~Other provisions of leave shall apply as defined in R477-8-7(3)].~~

(i) They shall not be eligible for any transfer of leave from other jurisdictions.

(ii) Other provisions of leave shall apply as defined in R477-8-7(3).

(4) Sick Leave

(a) Employees shall accrue sick leave with pay at the rate of four hours each pay period. Sick leave shall accrue without limit.

(b) Employees may begin to use accrued sick leave after completing the equivalent of at least two full pay periods of employment.

(c) Sick leave shall be granted for preventive health and dental care, maternity/paternity and adoption care, or for absence from duty because of illness, injury or temporary disability of a spouse or dependents living in the employee's home. Exceptions may be granted for other unique medical situations.

(d) Employees shall arrange for a telephone report to supervisors at the beginning of the scheduled work day they are absent because of illness or injury. Management may require reports for serious illnesses or injuries.

(e) Any application for a grant of sick leave to cover an absence which exceeds four successive working days shall be supported by administratively acceptable evidence such as a medical certificate. If there is reason to believe that an employee is abusing sick leave, a supervisor may require an employee to produce a doctor's certificate of illness regardless of the number of days on sick leave.

(f) Any absence for illness beyond the accrued sick leave credit may continue under the following provisions: an approved leave-without-pay status, not to exceed 12 months, an approved Family Medical Leave Status, or in an annual or other accrued leave status.

(g) After filing a termination notice, employees must support sick leave requests with a doctor's certificate.

(h) Employees separating from State service may not receive compensation for accrued unused sick leave unless they are retiring. However, employees who are rehired within 12 months of separation to a position which receives sick leave benefits shall have their previously accrued unused sick leave credit reinstated.

(i) Employees who are rehired within 12 months of separation to a position which receives sick leave benefits shall have their previously accrued unused sick leave credit reinstated.

(ii) Employees who retire from state service and are then rehired may not reinstate their unused sick leave credit.

(5) Converted Sick Leave

As an incentive to reduce sick leave abuse, employees may convert a portion of unused sick leave to converted sick leave.

(a) ~~[To be eligible for converted sick leave, an employee must have an accumulated balance of 144 hours of unused sick leave at the end of the last pay period of the calendar year]~~ An employee is eligible to convert sick leave when, at the start of the first pay period of a calendar year, he has a balance of 144 hours of unused sick leave.

(i) ~~[Forty hours are eligible for conversion in a calendar year and will be converted to converted sick leave unless the employee designates otherwise]~~ After the minimum requirement of 144 hours is met in any previous calendar year, all hours in excess of 64 in the

current calendar year shall be converted to converted sick leave at the end of the last pay period unless the employee designates otherwise.

(ii) ~~The number of hours used in a calendar year shall be deducted from the 40 hours eligible for conversion~~Forty hours of sick leave are eligible for conversion each year. The number converted shall be the difference between the 40 eligible and any actually used during the calendar year.

(iii) The maximum hours of converted sick leave an employee may accrue is 320.

(b) Converted sick leave may be used as annual leave, regular sick leave, or as paid-up health and life insurance at the time of retirement for employees under age 65. If an employee is 65 years of age or older at the time of retirement, converted sick leave may be used to purchase a medicare supplement.

(i) Payment for health and life insurance is the responsibility of the employing agency.

(ii) ~~Eight~~The purchase rate shall be eight hours of converted sick leave ~~equals~~for the state paid portion~~amount~~ of the premium for one month's coverage for health and life insurance.

(iii) The participation rate on premium payments for health and life insurance shall be the same as the participation rate for current employees on the same plan.

(6) Retirement [~~incentive~~]Benefit

Employees may be offered a retirement [~~incentive~~]benefit program, according to Section 67-19-14(2).

(a) This program is optional for each department. However, any decision whether or not to participate shall be agency-wide and shall be consistent through an entire fiscal year.

(i) If an agency decides to withdraw for the next fiscal year after initially deciding to participate~~in early retirement~~, the agency must notify all employees at least 60 days before the new fiscal year begins.

(ii) The employing department shall provide the same health and life insurance ~~coverage~~benefits as provided to current employees for five years or until the employee reaches the age eligible for Medicare, whichever comes first.

(A) Health insurance provided shall be the same coverage carried by the employee at the time of retirement, i.e., family, two-party, or single. If the employee has no health coverage in place upon retirement, none shall be offered or provided.

(B) Life insurance provided shall be the minimum authorized coverage provided for all State employees.

(C) The participation rate on premium payments shall be the same as the participation rate for current employees on the same plan.

(b) Employee participation in any part of this incentive program shall be voluntary, but the decision to participate shall be made at retirement.

(c) An employee may elect to receive a cash payment, or transfer to an approved 401(k) or 457(k)account, up to 25 percent of his accrued unused sick leave at his current rate of pay.

(d) After the election for cash out is made, the employee may use remaining accrued sick leave above 480 hours to purchase health insurance, life insurance and Medicare supplement for himself and health insurance and Medicare supplement for a spouse.

(i) The employee must ~~maintain~~have a minimum balance of 480 hours in his accrued sick leave account after the cash out in

R477-8-7(6)(c) in order to participate in this part of the incentive program.

(ii) The employee may purchase PEHP~~Preferred Care~~ health insurance, or a state approved~~cost equivalent~~ program, and life insurance coverage for himself until he reaches the age eligible for Medicare.

(A) Health insurance shall be the same coverage carried by the employee at the time of retirement, i.e., family, two-party, or single.

(B) Life insurance provided shall be the minimum authorized coverage provided for all State employees.

(C) The purchase rate shall be eight hours of sick leave for the state paid portion of one month's premium.

(D) The participation rate on premium payments shall be the same as the participation rate for current employees on the same plan.

(iii) After the employee reaches the age eligible for Medicare, he may purchase PEHP Preferred Care health insurance, or a state approved cost equivalent program for a spouse until the spouse reaches the age eligible for Medicare.

(A) The purchase rate shall be eight hours of sick leave for one month's premium.

(iv) When the employee reaches the age eligible for Medicare, he may purchase a high option Medicare supplement policy for himself at the rate of eight hours of sick leave for one month's premium.

(v) When the spouse reaches the age eligible for Medicare, the employee may purchase a high option Medicare supplement policy for the spouse at the rate of eight hours of sick leave for one month's premium.

(7) Workers Compensation Leave

(a) An employee may use accrued leave benefits to supplement the workers compensation benefit.

(i) The combination of leave benefit and workers compensation benefit shall not exceed the employees gross salary. Leave benefits shall only be used in increments of one hour in making up any difference.

(ii) The use of accrued leave to supplement the worker compensation benefit shall be terminated if:

(A) the employee is declared medically stable by licensed medical authority; or

(B) the workers compensation fund terminates the benefit; or

(C) the employee has been absent from work for one year; or

(D) the employee refuses to accept appropriate employment offered by the state; or

(E) the employee receives Long Term Disability or Social Security Disability benefits.

(iii) The employee shall refund to the state any accrued leave paid which exceeds the employees gross salary for the period for which the benefit was received.

(b) Employees will continue to accrue state paid benefits while receiving a workers compensation time loss benefit for up to one year.

(c) Employees who file fraudulent workers compensation claims shall be disciplined according to the provisions of R477-11.

(8) Long Term Disability Leave

(a) Employees who are determined eligible for the Long Term Disability Program (LTD) shall be granted up to one year of medical leave, if warranted by a medical condition.

(i) The one year medical leave begins on the last day the employee worked due to the disability. During this period and until LTD benefits begin, employees may use any accrued leave. Annual leave may be used after the employee uses all available sick and converted sick leave.

(ii) If the employee is unable to return to work and has not used all available annual leave, he shall be paid for the annual leave when the termination action is processed.

(iii) Employees determined eligible for Long Term Disability benefits, after a three month waiting period, will be eligible for health insurance benefits beginning two months after the last day worked. The health insurance benefit will continue for up to twenty-two months or until they are eligible for medicare/ medicaid, whichever occurs first.

(iv) Conditions for return from leave without pay shall include:

(A) If an employee is able to return to normal duties within one year of the last day worked, the agency shall place the employee in his previously held position or similar position in a comparable salary range.

(B) If an employee is unable to perform the essential functions of the job because of a permanent disability, the obligation to place the employee in the same position shall be set aside. The employing unit shall place the employee in the best available, vacant position for which he is qualified, if able to perform the job with or without reasonable accommodation. If the employing unit does not have an available position, the agency shall then attempt to place the individual. The new position shall be consistent with the employee's qualifications and capabilities.

(I) For the first year, every effort shall be made to find a position as close to the salary range and function as the original position.

(II) The agency Executive Director may extend the timeline for return to work beyond one year if the employee's illness or injury resulted in disability prohibiting the employee from performing the essential functions of the job, as defined by ADA.

(b) An employee may use accrued leave benefits to supplement the long term disability benefit.

(i) The combination of leave benefit and long term disability benefit shall not exceed the employees gross salary. Leave benefits shall only be used in increments of one hour in making up any difference.

(ii) The use of accrued leave to supplement the long term disability benefit shall be terminated if:

(A) the employee is declared medically stable by licensed medical authority; or

(B) The Public Employee Health Plan terminates the benefit;

or
(C) the employee has been absent from work for one year; or
(D) the employee refuses to accept appropriate employment offered by the state; or

(E) the employee receives Social Security Disability benefits.

(iii) The employee shall refund to the state any accrued leave paid which exceeds the employees gross salary for the period for which the benefit was received.

(c) Employees will continue to accrue state paid benefits while receiving a long term disability benefit for up to one year.

(d) Employees who file fraudulent long term disability claims shall be disciplined according to the provisions of R477-11.

(18)9) Funeral Leave

Employees may receive a maximum of twenty four hours funeral leave per occurrence with pay at management's discretion to attend the funeral of a member of the immediate family. Funeral leave may not be charged against accrued sick or annual leave.

(a) The "immediate family" means-- wife, husband, children, daughter-in-law, son-in-law, parents, grandchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparents, spouse's grandparents, step-children, and step-parents, brothers and sisters of the employee.

(9)10) Military Leave

One day of military leave is the equivalent of 8 hours.

(a) Employees who are members of the National Guard or Military Reserves are entitled to military leave not to exceed fifteen days per calendar year without loss of pay, annual leave or sick leave. Employees shall be on official military orders and may not claim salary for non-working days spent in military training or for traditional weekend training.

(b) Officers and employees of the state shall be granted military leave without pay for the period of active service or duty, including travel time, Section 39-3-1.

(c) Employees are required to give notice of active military service as soon as they are notified.

(d) Upon termination from active military service, under honorable conditions, employees shall be placed in their original position or one of like seniority, status and pay. The cumulative length of time allowed for re-employment may not exceed five years. Employees are entitled to re-employment rights and benefits including increased pension and leave accrual. Persons entering military leave may elect to have payment for annual leave deferred. In order to be reemployed, employees shall present evidence of military service and leave without pay status, and:

(i) For service less than thirty-one days, return at the beginning of the next regularly scheduled work period on the first full day after release from service taking into account safe travel home plus an eight-hour rest period, or:

(ii) For service of more than thirty-one days but less than 181 days, submit an application for reemployment within fourteen days of release from service, or

(iii) For service of more than 180 days, submit an application for reemployment within ninety days of release from service.

(10)11) Leave of Absence Without Pay

Employees may be granted continuous leave of absence without pay for up to 12 months. Employees shall apply in writing to agency management for approval. If absence is due to FMLA, workers compensation or long-term disability, R477-8-9 or R477-8-7(7) applies.

(a) Medical leave without pay may be granted for no more than twelve months. Medical leave may be approved if a registered health practitioner certifies that an employee is temporarily disabled.

(b) Agency management may approve leave without pay for employees even though annual or sick leave balances exist. Employees may take up to ten consecutive working days of leave without pay without affecting the leave accrual rate.

(i) Employees who receive no compensation for a complete pay period shall be responsible for payment of state provided benefit premiums, unless they are covered by the provisions under the federal Family and Medical Leave Act, in R477-8-9.

(c) Employees who return to work on or before the expiration of leave without pay, shall be placed in a position with comparable pay and seniority to their previously held position, provided the same or comparable level of duties can be performed with or without reasonable accommodation. The employee shall also be entitled to previously accrued annual and sick leave.

(d) Leave without pay for non-disability reasons may be granted only when there is an expectation that the employee will return to work.

(e) Health insurance benefits shall continue for employees on leave without pay because of work-related injuries or illnesses. Except as provided under the family and medical leave provisions, employees on leave without pay must personally continue the premiums to receive health insurance benefits.]

~~—(f) Employees who are determined eligible for the Long Term Disability Program (LTD) shall be granted up to one year of medical leave, if warranted by a medical condition.~~

~~—(i) The one year medical leave begins on the last day the employee worked due to the disability. During this period and until LTD benefits begin, employees shall use sick and converted sick leave. Annual leave may be used after the employee uses all available sick and converted sick leave.~~

~~—(ii) If the employee is unable to return to work and has not used all available annual leave, he shall be paid for the annual leave when the termination action is processed.~~

~~—(iii) Employees determined eligible for Long Term Disability benefits, after a three month waiting period, will be eligible for health insurance benefits beginning two months after the last day worked. The health insurance benefit will continue for up to twenty-two months or until they are eligible for medicare/ medicaid, whichever occurs first.~~

~~—(iv) Conditions for return from leave without pay shall include:~~

~~—(A) If an employee is able to return to normal duties within one year of the last day worked, the agency shall place the employee in his previously held position or similar position in a comparable salary range.~~

~~—(B) If an employee is unable to perform the essential functions of the job because of a permanent disability, the obligation to place the employee in the same position shall be set aside. The employing unit shall place the employee in the best available, vacant position for which he is qualified, if able to perform the job with or without reasonable accommodation. If the employing unit does not have an available position, the agency shall then attempt to place the individual. The new position shall be consistent with the employee's qualifications and capabilities.~~

~~—(I) For the first year, every effort shall be made to find a position as close to the salary range and function as the original position.~~

~~—(H) The agency Executive Director may extend the timeline for return to work beyond one year if the employee's injury resulted in disability prohibiting the employee from performing the essential functions of the job, as defined by ADA.]~~

~~([11]12) Jury Leave~~

(a) Employees are entitled to a leave of absence with full pay when, in obedience to a subpoena or direction by proper authority, they are required to:

(i) Appear as a witness as part of their position for the federal government, the State of Utah, or a political subdivision of the state, or

(ii) Serve as a witness in a grievance hearing as provided in Section 67-19-31 and Title 67, Chapter 19a.

(iii) Serve on a jury

(b) Employees choosing to use annual leave while on jury duty shall be entitled to keep jurors fees; otherwise, jurors fees received shall be returned to agency payroll clerks for deposit with the State Treasurer. The fees shall be deposited as a refund of expenditure in the low org. where the salary is recorded.

(c) Employees who are absent in order to litigate in matters unrelated to their position shall take leave as annual or as leave without pay.

~~([12]13) Administrative Leave~~

(a) Administrative leave may be granted consistent with agency policy for the following reasons:

(i) corrective action;

(ii) personal decision-making prior to discipline;

(iii) suspension with pay-- during removal from job site-- pending hearing on charges;

(iv) during management decision situations that benefit the organization;

(v) incentive awards in lieu of cash;

(vi) when no work is available due to unavoidable conditions or influences;

(vii) removal from adverse or hostile work environment situations pending management corrective action;

(viii) educational assistance;

(ix) employee assistance and fitness for duty evaluations.

(b) Agency head or designee may grant paid administrative leave for no more than ten consecutive working days per occurrence. Other conditions of administrative leave are:

(i) Administrative leave in excess of 10 consecutive working days per occurrence may be granted by written approval of the agency head.

(ii) Administrative leave taken must be documented in the employee's leave record.

~~([13]14) Disaster Relief Volunteer Leave~~

(a) An employee may be granted an aggregate of 15 working days or 120 work hours in any 12 month period to participate in disaster relief services for the American Red Cross. To request this leave an employee must be a certified disaster relief volunteer; and file a written request with the employing agency. The request shall include:

(i) a copy of a written request for the employee's services from an official of the American Red Cross;

(ii) the anticipated duration of the absence;

(iii) the type of service the employee is to provide for the American Red Cross; and

(iv) the nature and location of the disaster where the employee's services will be provided.

~~([14]15) Furlough~~

(a) Agency management may furlough employees as a means of saving salary costs in lieu of or in addition to a reduction in force. ~~[See R477-12-3(3).]~~ Furlough plans are subject to the approval of the agency head and the following conditions:

- (i) Employees accrue annual and sick leave.
- (ii) Full payment of all fringe benefits continue at agency's expense.
- (iii) Employees shall return to their positions.
- (iv) Furlough is applied equitably, e.g., to all persons in a given class, all program staff, or all staff in an organization.

R477-8-8. Leave Bank.

With the approval of the agency director, agencies may establish a leave bank program as follows:

- (1) Only annual leave, excess hours and converted sick leave hours may be donated to a leave bank.
 - (a) Employees shall not receive donated leave until they use all of their individually accrued leave.
 - (b) Only employees of agencies with approved leave bank programs may donate annual leave, excess hours and converted sick leave hours to another agency with a leave bank program, if mutually agreed on by both agencies.
 - (c) Leave shall be accrued if an employee is on sick leave donated from an approved leave bank program.

R477-8-9. Family and Medical Leave.

(1) This rule conforms with the federal Family and Medical Leave Act, 29 USC 2601. Employees eligible under this rule shall continue to receive medical insurance benefits provided the employee was entitled to medical insurance benefits prior to the commencement of FMLA leave.

(a) Agency management shall authorize up to twelve weeks of leave each calendar year to employees for any of the following reasons:

- (i) birth of a child,
- (ii) adoption of a child,
- (iii) placement of a foster child,
- (iv) a serious health condition of the employee, or
- (v) care of a spouse, dependent child or parent with a serious medical condition.

(2) To be eligible for the twelve weeks of family medical leave, the employee must be--

- (a) Employed by the state for at least 12 months, and
- (b) Employed by the state for a minimum of 1250 compensable work hours as determined under FMLA during the 12-month period immediately preceding the commencement of leave.

(3) Employees (or an appropriate spokesperson) shall submit a leave request

- (a) Thirty days in advance for foreseeable needs; or
 - (b) As soon as possible in emergencies.
- (4) Agency Responsibility
- (a) Agency management shall be responsible for:
 - (i) documenting employee leave requests which qualify as FMLA leave; and
 - (ii) designating any qualifying leave taken by employees as FMLA leave. All leave requests which qualify as FMLA leave shall be designated as such and shall be subject to all provisions of this rule. No other leave shall be granted until the employee has exhausted his 12-week entitlement under FMLA.; and
 - (iii) notifying employees in writing of the designation within two business days, or as soon as a determination can be made that the leave request qualifies as FMLA leave if the agency does not initially have sufficient information to make a determination.

(b) Written notification to employees shall include the following information:

- (i) that the leave will be counted against the employee's annual FMLA entitlement;
- (ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so;
- (iii) a statement explaining that the employee will be required to exhaust unused annual, converted, and/or sick leave, before going into a LWOP status;
- (iv) any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments, and the possible consequences of failure to make such payments on a timely basis;
- (v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment;
- (vi) the employee's rights to restoration to the same or an equivalent job upon return from leave; and
- (vii) the employee's potential liability for payment of health insurance premiums paid by the employer during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave.

(c) Agencies may designate FMLA leave after the fact only:

- (i) if the reason for leave was previously unknown, provided the reason for leave is made within two business days after the employee's return to work; or
- (ii) the agency has preliminarily designated the leave as FMLA leave and is awaiting medical certification.

(d) Agencies shall allow employees at least 15 calendar days to provide medical certification if FMLA leave is not foreseeable.

(e) Agencies shall inform Group Insurance that an employee is approved for FMLA leave.

(5) An employee shall be required to use accrued annual and converted sick leave and excess hours prior to the use of leave without pay for the family and medical leave period. Employees shall be required to use accrued sick leave only in situations considered eligible under R477-8-7(4)(c). Employees who take family and medical leave in a leave without pay status must comply with R477-8-7([+0]1).

(a) Employees may choose to use compensatory time for an FMLA reason. Any period of leave paid from the employee's accrued compensatory time account may not be counted against the employee's FMLA leave entitlement.

(6) Employees shall be eligible to return to work under R477-8-7([+0]1).

(a) If an employee fails to return to work after unpaid FMLA leave has ended, an agency may recover, with certain exceptions, the health insurance premiums paid by the agency on the employee's behalf. An employee is considered to have returned to work if he or she returns for at least 30 calendar days.

(b) Exceptions to this provision include:

(i) FLSA exempt and Schedule AB, AD and AR employees who have been denied restoration upon expiration of their leave time;

(ii) Employees whose circumstances change unexpectedly beyond their control during the leave period and he or she cannot return to work at the end of twelve weeks.

(7) For maternity and child placement leave, time must be taken in no less than 8 hour increments.

(8) Leave taken for purposes of childbirth, adoption, placement for adoption or foster care shall not be taken intermittently unless the employee and employer mutually agree.

(9) Leave required for certified medical reasons may be taken intermittently.

(10) Leave taken for a serious health condition covered under workers' compensation may be counted towards an employee's FMLA entitlement. Use of accrued~~Accrued~~ paid leave shall not be required~~substituted~~ for FMLA leave at the same time the employee is collecting a workers' compensation benefit.

(11) Medical records created for purposes of FMLA and the Americans with Disabilities Act must be maintained in accordance with confidentiality requirements of R477-2-5(6).

.....

R477-8-14. Change in Work Location.

(1) A change in work location shall not be permitted if this requires the employee to commute or relocate 50 miles or more, one way, beyond his current one way commute, unless:

(a) The policy is communicated to the employee at employment;

(b) The agency shall either pay to move the employee consistent with R25-6-8 and Department of Administrative Services, Division of Finance Policy 05-04.03, or reimburse commuting expenses up to the cost of a move.

KEY: compensatory time, disability insurance, leave, vacations
[July 19, 1999]2000 63-13-2
Notice of Continuation July 1, 1997 67-19-6
67-19-6.7
67-19-12.5



Human Resource Management,
Administration
R477-9
Employee Conduct

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 22847
FILED: 05/11/2000, 11:33
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify an employee's responsibility if outside employment appears to conflict with Title 67, Chapter 16 (Employee Ethics Act), and to make technical corrections.

SUMMARY OF THE RULE OR CHANGE: a) Subsection R477-9-2(1)(d) (Outside Employment): amendments simplify the requirement for employees to report apparent conflicts between outside employment and the employee ethics act; b) Section R477-9-4 (Political Activity): language stricken from Subsection R477-9-2(6)(a) is redundant of language in Section R477-11-1. All other amendments are technical and nonsubstantive.

(DAR Note: A proposed amendment to R477-11 in under DAR No. 22849 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no cost impact because employees are already required to report conflicts. This amendment merely clarifies that responsibility.

❖LOCAL GOVERNMENTS: No impact--this rule only affects agencies of the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects agencies of the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No person is affected outside the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM (Department of Human Resource Management) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act," Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. This rule change will not affect agency budgets.

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

Human Resource Management
Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.**R477-9. Employee Conduct.****R477-9-1. Standards of Conduct.**

Employees shall comply with the standards of conduct established in these rules and the policies and rules established by their agency management.

(1) Employees shall apply themselves to and shall fulfill their assigned duties during the full time for which they are compensated.

(a) Employees shall --

(i) Comply with the standards established in their individual performance plans;

(ii) Maintain an acceptable level of performance and conduct on all other verbal and written job expectations;

(iii) Report conditions and circumstances, including controlled substances or alcohol impairment, that may prevent them from performing their job effectively and safely.

(iv) Inform their supervisor of any unclear instructions or procedures.

(2) Employees shall make prudent and frugal use of state funds, equipment, buildings, and supplies.

(3) Employees who report for duty or attempt to perform the duties of their positions while under the influence of alcohol or nonprescribed controlled substances, shall be subject to corrective actions or discipline in accordance with R477-10-2, R477-11 and R477-1[5]4.

(a) The agency may decline to defend and indemnify employees found violating this rule, in accordance with 63-30-36 section (c)(ii) of the Utah Governmental Immunity Act.

(4) Employees shall not drive a state vehicle, or any other vehicle, on state time while under the influence of alcohol or controlled substances.

(a) Employees who violate this rule shall be subject to corrective action or discipline pursuant to R477-10-2, R477-11 and [15]R477-14.

(b) The agency may decline to defend or indemnify employees who violate this rule, according to section 63-30-36(3)(c)(i) of the Utah Governmental Immunity Act.

(5) Employees shall not carry firearms in any facility owned or operated by the state, or in any state vehicle, or at any time or any place while on state business.

(a) This rule shall not apply to sworn officers as defined by Section [77-1a-1]53-13-103, or employees whose assigned duties require them to use a firearm.

(b) Employees who violate this rule shall be subject to disciplinary action pursuant to R477-11.

R477-9-2. Outside Employment.

(1) State employment shall be the principal vocation for full-time employees governed by these rules. An employee may engage in outside employment under the following conditions:

(a) Outside employment must not interfere with an employees' efficient performance in his state position.

(b) Outside employment must not conflict with the interests of the agency or the State of Utah.

(c) Outside employment must not give reasons for criticism or suspicion of conflicting interests or duties.

(d) Employees shall notify agency management in writing [and request approval to participate in outside employment] if the [==

~~(i) Outside employment negatively affects performance in the primary employment, or~~

~~(ii) Outside]outside employment has the potential or appears to conflict with Title 67, Chapter 16 Employee Ethics Act.~~

(e) Agency management may deny employees permission to engage in outside employment or to receive payment if they determine the outside activity causes a real or potential conflict of interest.

(i) Employees may grieve this decision.

(ii) Failure to notify the employer and to gain approval for outside employment is grounds for disciplinary action if the secondary employment is found to be a conflict of interest.

R477-9-3. Conflict of Interest.

(1) An employee may receive honoraria or paid expenses for activities outside of state employment under the following conditions:

(a) Outside activities must not interfere with our employees' efficient performance in his state position.

(b) Outside activities must not conflict with the interests of the agency or the State of Utah.

(c) Outside activities must not give reasons for criticism or suspicion of conflicting interests or duties.

(2) An employee shall not use his state position or any influence, power, authority or confidential information he receives in that position, or state time, equipment, property, or supplies for private gain.

(3) An employee shall not receive outside compensation for performing state duties, except for the following:

(a) Awards for meritorious public contribution.

(b) Honoraria or expenses paid for papers, speeches, or appearances on an employee's own time with the approval of agency management, which are not compensated by the state or prohibited by rule.

(c) Usual social amenities, ceremonial gifts, or [insubstantial]non-substantial advertising gifts.

(4) An employee shall declare a potential conflict of interest when he is required to do or decide something that could be interpreted as a conflict of interest. Agency management shall then excuse the employee from making decisions or taking actions that may cause a conflict of interest.

R477-9-4. Political Activity.

State career service employees may voluntarily participate in political activity according to the provisions in this rule or other federal laws. The following rules apply to career service employees in all salary ranges and positions.

(1) Any state career service employee elected to any partisan or full-time non-partisan political office shall be granted a leave of absence without pay while being monetarily compensated for service in political office. Employees shall not receive annual leave while serving in a political office.

(2) During work time, no career service employee may engage in any political activity. No person shall solicit political contributions from employees of the executive branch during hours

of employment. However, state employees may voluntarily contribute to any party or any candidate.

(3) Decisions regarding employment, promotion, demotion or dismissal or any other human resource actions shall not be based on partisan political activity.

(4) Regardless of other provisions in these rules, no member of the Utah State Highway Patrol may use official authority or influence to interfere with an election or to affect election results. No person may induce or attempt to induce any member of the Utah State Highway Patrol to participate in any prohibited activity.

(5) This rule shall not apply to employees who are restricted or prevented from engaging in political activity through the provisions of the federal Hatch Act. To determine whether an employee shall adhere to the federal Hatch Act, employees may contact DHRM or the employing agency's Human Resource office for guidelines.

(6) Violations of law governing political activity shall be reported in writing to the Executive Director. The Executive Director, DHRM, shall investigate the validity of any allegation and assess the extent to which any activity was knowingly and willfully conducted in violation of law. [

~~(a) Employees found in violation of these rules may be disciplined according to R477-11. Agency heads shall consult with the Executive Director, DHRM, before any action is taken.]~~

R477-9-5. Employee Indebtedness to the State.

(1) Employees indebted to the state because of an action or performance in their official duties may have a portion of their pay that exceeds the minimum federal wage withheld. Overtime pay shall not be withheld.

(a) The following three conditions must be met before withholding of pay may occur:

(i) The debt must be a legitimately owed amount which can be validated through physical documentation or other evidence.

(ii) The employee must know about and, in most cases, acknowledge the debt. As much as possible, the employee should provide written authorization to withhold the pay.

(iii) Employees must be notified of this rule which allows the state to withhold pay.

(b) Employees terminating from state service will have pay withheld from the last paycheck.

(c) Employees going on leave without pay for more than two pay periods may have pay withheld from their last paycheck.

(d) The state may withhold an employee's pay to satisfy the following specific obligations:

(i) Travel advances where travel and reimbursement for the travel has already occurred;

(ii) State [~~American Express or other state~~] credit card obligations where the state's share of the obligation has been reimbursed to the employee but not paid to the credit card company by the employee;

(iii) Evidence that the employee negligently caused loss or damage of state property;

(iv) Payroll advance obligations that are signed by the employee and that the Division of Finance authorizes;

(v) Misappropriation of state assets for unauthorized personal use or for personal financial gain. This includes reparation for employee theft of state property or use of state property for personal financial gain or benefit;

(vi) Overpayment of pay determined by evidence that an employee did not work the hours for which they received pay or was not eligible for the benefits received and paid for by the state.

(g) Excessive reimbursement of funds from flexible reimbursement accounts.

(h) Other obligations that satisfy the requirements of R477-9-4.(1) above.

(3) This rule does not apply to state employee obligations to other state agencies where the obligation was not caused by their actions or performance as an employee.

R477-9-6. Policy Exceptions.

The Executive Director, DHRM, may authorize exceptions to the provisions of this rule, consistent with R477-2-[3]2[:](1).

KEY: conflict of interest, government ethics, Hatch Act, personnel management

~~[June 26, 1999]~~2000

67-19-6

Notice of Continuation July 1, 1997



Human Resource Management,
Administration

R477-10

Employee Development

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22848

FILED: 05/11/2000, 11:34

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Adjustments need to be made in the corrective action policy to accommodate the policy imposed by the Utah Court of Appeals in *Draughn v. Department of Financial Institutions et al.*

SUMMARY OF THE RULE OR CHANGE: Section R477-10-2 (Corrective Actions): the terms "voluntary" and "involuntary" reassignment are stricken and replaced with the term "reassignment." The use of these terms are no longer appropriate in light of the case of *Draughn v. Department of Financial Institutions et al.* The term reassignment is strictly defined in Subsection R477-1-1. All other amendments are technical and nonsubstantive.

(DAR Note: The proposed amendment to R477-1 is found under DAR No. 22838 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment is a simple administrative adjustment and will require no additional resources to implement.

❖LOCAL GOVERNMENTS: No impact--this rule only affects agencies of the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects agencies of the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No other person outside the executive branch of state government is affected by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM (Department of Human Resource Management) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. This rule change will not affect agency budgets.

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

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2120 State Office Building
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Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.

R477-10. Employee Development.

R477-10-1. Performance Evaluation.

Agency management shall develop an employee performance management system consistent with these rules and subject to approval by the Executive Director, DHRM. The Executive Director, DHRM, may authorize exceptions to provisions of this rule consistent with R477-2-[3]2. For this rule, the word employee refers to career service employees, unless otherwise indicated.

(1) An acceptable performance management system shall satisfy the following criteria:

(a) Performance standards and expectations for each employee shall be specifically written in a performance plan by August 30 of each fiscal year.

(b) Managers or supervisors provide employees with regular 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.

(d) Each employee shall have the right to include written comment with his performance evaluation.

(e) Agency management shall select a performance management rating system or a combination of systems by August 30 to be effective for the entire fiscal year. The rating system shall be one or more of the following:

TABLE		
SYSTEM	# RATING	POINTS
1	Pass	2
	Fail	0
2	Exceptional	3
	Successful	2
	Unsuccessful	0
3	Exceptional	3
	Highly Successful	2.5
	Successful	2
	Unsuccessful	0
4	Exceptional	3
	Highly Successful	2.5
	Successful	2
	Marginal	1
	Unsuccessful	0

(2) In addition to the above ratings, agency management may establish a rating category for highest level performers under the following conditions:

(a) Each employee who receives this rating shall receive a performance rating of 4.

(b) Agencies shall devise and publish the criteria they will use to select the highest level performers by August 30 of each year. Selection criteria for non-supervisory employees shall be comparable to the Utah Code 67-19c-101(3)(c). Selection criteria for supervisory/management employees shall be comparable to "The Manager of the Year Award."

(3) Each state employee shall receive a performance evaluation effective on or before the beginning of the first pay period of each fiscal year.

(a) Probationary employees shall receive a performance evaluation at the end of their probationary period and again prior to the beginning of the first pay period of the fiscal year.

(4) 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.

(a) The evaluation form shall include a space for employees' comments. The employee shall check a space indicating either agreement or disagreement with the evaluation. The employee may comment in writing, either in the space provided or on a separate attachment.

R477-10-2. Corrective Actions.

When an employee's performance does not meet established standards due to failure to maintain skills, incompetency, or inefficiency, agency management shall take appropriate, documented, and clearly labeled corrective action in accordance with the following rules:

(1) The supervisor shall discuss the substandard performance with the employee to discover the reasons for poor performance and to develop an appropriate written corrective action plan. The employee shall sign the written corrective action plan to certify that he has reviewed it. Refusal to sign the corrective action shall constitute insubordination subject to discipline.

(a) Corrective actions shall include one or more of the following:

- (i) Closer supervision
- (ii) Training
- (iii) Referral for personal counseling by an agency head's approved designee
- (iv) ~~[Voluntary or involuntary reassignment]~~ Reassignment
- (v) Use of appropriate leave
- (vi) Career counseling and out-placement
- (vii) Period of constant review
- (viii) Opportunity for remediation
- (ix) Written warnings

(2) The supervisor shall designate an appropriate corrective action period and shall provide frequent evaluation of the employee's progress.

(3) If, after reasonable effort, the corrective actions taken do not result in improved performance that is satisfactory, the employee shall be disciplined according to R477-11[+]. The written record of the corrective action shall satisfy the requirement of Section 67-19-18(1).

(4) DHRM shall provide assistance to agency management upon request.

.....

R477-10-4. Liability Prevention Training.

Agencies shall provide liability prevention training to their employees. The curriculum shall be approved by DHRM and Risk Management. Topics shall include but not be limited to: new employee orientation, prevention of sexual harassment, and supervisor training on prevention of workplace violence~~[and new employee orientation]~~.

.....

KEY: educational tuition, employee performance evaluation, employee productivity, training programs
~~[June 26, 1999]~~ **2000** **67-19-6**
Notice of Continuation July 1, 1997



**Human Resource Management,
Administration**

R477-11

Discipline

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22849

FILED: 05/11/2000, 11:34

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Amendments clarify the time lines for an employee to respond to a notification of discipline.

SUMMARY OF THE RULE OR CHANGE: Subsection R477-11-1(2) (Disciplinary Action): amended language clarifies that an employee's reply to a notification of discipline must be received within five working days. All other amendments are technical and nonsubstantive.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 67-19-6 and 67-19-18

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Implementation of this rule will require no additional administrative resources.

❖LOCAL GOVERNMENTS: No impact--this rule only affects agencies of the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects agencies of the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No other person outside the executive branch of state government is affected by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM (Department of Human Resource Management) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. This rule change will not affect agency budgets.

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DIRECT QUESTIONS REGARDING THIS RULE TO:
Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.

R477-11. Discipline.

R477-11-1. Disciplinary Action.

(1) Agency management may discipline any employee for any of the following reasons:

- (a) noncompliance with these rules, agency or other applicable policies, including but not limited to safety policies, agency professional standards and workplace policies;
- (b) work performance that is inefficient or incompetent;
- (c) failure to maintain skills and adequate performance levels;
- (d) insubordination or disloyalty to the orders of a superior;
- (e) misfeasance, malfeasance, nonfeasance or failure to advance the good of the public service;
- (f) any incident involving intimidation, physical harm or threats of physical harm against co-workers, management, or the public;
- (g) no longer meets the requirements of the position.

(2) All disciplinary actions of career service employees shall be governed by principles of due process and Title 67, Chapter 19a. In all such cases, except as provided under Subsection 67-19-18(4), the disciplinary process shall include all of the following:

- (a) The agency representative notifies the employee in writing of the proposed discipline and the reasons.
- (b) The employee's ~~[must]~~reply must be received within five working days in order to have the agency representative consider the reply before discipline is imposed.
- (c) If an employee waives the right to respond or does not reply within the time frame established by the agency representative or within five days, whichever is longer, discipline may be imposed in accordance with these rules.
- (3) After a career service employee has been informed of the reasons for the proposed discipline and has been given an opportunity to respond and be responded to, the agency representative may discipline that employee, or any non-career service employee not subject to the same procedural rights, by imposing one or more of the following:
 - (a) Written reprimand
 - (b) Suspension without pay up to 30 calendar days per incident requiring discipline

(c) Demotion of any employee through one of the following methods:

(i) An employee may be moved from a position in one ~~[class]job~~ to a position in another ~~[class]job~~ having a lower entrance salary if the duties of the position have been reduced for disciplinary reasons.

(ii) A demotion within the employee's current pay range may be accomplished by lowering the employee's salary rate back on the range, as determined by the agency head or designee.

(d) Dismissal

(i) An agency head shall dismiss or demote a career service employee only in accordance with the provision's of Subsection 67-19-18(5)~~[-See]and R477-11-2[-of these rules]~~.

(e) When deciding the specific type and severity of the discipline to administer to any employee, the agency representative may consider the following factors:

- (i) Consistent application of rules and standards
- (ii) Prior knowledge of rules and standards
- (iii) The severity of the infraction
- (iv) The repeated nature of violations
- (v) Prior disciplinary/corrective actions
- (vi) Previous oral warnings, written warnings and discussions
- (vii) The employee's past work record
- (viii) The effect on agency operations
- (ix) The potential of the violations for causing damage to persons or property.

(4) If an agency determines that a career service employee endangers or threatens the peace and safety of others or poses a grave threat to the public service or is charged with aggravated or repeated misconduct, the agency may impose the following actions, as provided by subsection 67-19-18-(4), pending an investigation and determination of facts:

- (a) Paid administrative leave
- (b) Temporary reassignment to another position or work location at the same rate of pay
- (5) At the time disciplinary action is imposed, the employee shall be notified in writing of the discipline, the reasons for the discipline, the effective date and length of the discipline.
- (6) Disciplinary actions are subject to the grievance and appeals procedure as provided by law for career service employees only. The employee and the agency representative may agree in writing to waive or extend any grievance step, or the time limits specified for any grievance step.

R477-11-2. Dismissal or Demotion.

An employee may be dismissed or demoted for cause as explained under R477-10-2 and R477-11-1~~[-of these rules]~~, and through the process outlined in this rule.

(1) An agency head or appointing officer may dismiss or demote a non-career service status employee without right of appeal by providing written notification to the employee specifying the reasons for the dismissal or demotion and the effective date.

(2) No employee shall be dismissed or demoted from a career service position unless the agency head or designee has observed the Grievance Procedure Rules and law cited in R137-1-13 and Title 67, Chapter 19a and the following procedures:

(a) The agency head or designee shall notify the employee in writing of the specific reasons for the dismissal or demotion.

(b) The employee shall have up to five working days to reply. The employee must reply within five working days for the agency representative to consider the reply before discipline is imposed.

(c) The employee shall have an opportunity to be heard by the agency head or designee.

(d) Following a hearing, if the agency head finds adequate cause or reason, an employee may be dismissed or demoted.

(3) Agency management may suspend an employee with pay pending the administrative appeal to the agency head.

KEY: discipline of employees, dismissal of employees, grievances, government hearings
~~[June 26, 1999]~~2000 **67-19-6**
Notice of Continuation July 1, 1997 **67-19-18**

Human Resource Management,
Administration
R477-12
Separations

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 22850
FILED: 05/11/2000, 11:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Amendments to this rule clarify due process rights for an employee accused of abandonment of position and implement policy changes imposed on the state by the Utah Court of Appeals in *Draughn v. Department of Financial Institutions et al.*

SUMMARY OF THE RULE OR CHANGE: a) Section R477-12-2 (Abandonment of Position): new language makes it clear that an employee must be absent for three working days without providing proper notice to have abandoned his position. The employee may now appeal a notice of abandonment of position directly to the agency head; b) Section R477-12-3 (Reduction in Force): amendments implement the provisions of case of *Draughn v. Department of Financial Institutions et al.* The terms "involuntary" and "voluntary" reassignment are removed and replaced with the term "reassignment." This new term is strictly defined in R477-1-1 to conform with the requirements of the court. All other changes are technical and nonsubstantive.

(DAR Note: The proposed amendment to R477-1 is found under DAR No. 22838 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Implementation of these changes will require no additional administrative resources.

❖LOCAL GOVERNMENTS: No impact--this rule only affects agencies of the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects agencies of the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No persons outside the executive branch of state government are affected by these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM (Department of Human Resource Management) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. This rule change will not affect agency budgets.

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

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at the Division of Administrative Rules.

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THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.
R477-12. Separations.

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R477-12-2. Abandonment of Position.

Employees who are absent from work for three consecutive working days and are capable of providing proper notification to their supervisor, but do not, shall be considered to have abandoned their position.

(1) Management may terminate an employee who has abandoned his position. Management shall inform the employee of the action in writing.

(a) The employee shall have the right to appeal to the agency head within five working days of receipt or delivery of the notice of abandonment to the last known address.

(b) If the termination action is appealed, management may not be required to prove intent to abandon the position.

R477-12-3. Reduction in Force.

Reductions in force shall be required when there are inadequate funds, or a change of workload, or lack of work. Reductions in force shall be governed by DHRM business practices, standards and the following rules:

(1) When staff will be reduced in one or more classes, agency management shall develop a work force adjustment plan (WFAP). Career service employees shall only be given formal written notification of separation after a WFAP has been reviewed and approved by the Executive Director, DHRM or designee. The following items shall be considered in developing the work force adjustment plan:

(a) The categories of work to be eliminated, including positions impacted through bumping, as determined by management.

(b) A decision by agency management allowing or disallowing bumping.

(c) Specifications of measures taken to facilitate the placement of affected employees through normal attrition, retirement, [~~voluntary or involuntary~~]reassignment, [~~voluntary~~] relocation, and movement to vacant positions based on interchangeability of skills.

(d) A list of all affected employees showing the retention points for each employee.

(2) Eligibility for RIF

(a) Only career service employees who have been identified in an approved WFAP and given an opportunity for a hearing with the agency head may be RIF'd.

(b) Employees covered by USERRA and in a leave without pay status must be identified, assigned retention points and notified of the RIF of their previous position in the same manner as career service employees.

(3) Retention points shall be calculated for all affected employees within a category of work as follows:

(a) Seniority shall be determined by the length of total state career service, which commenced in a competitive career service position for which the probationary period was successfully completed.

(i) For part-time work, length of service shall be determined in proportion to hours actually worked.

(ii) Exempt service time subsequent to attaining career service tenure with no break in service shall also be counted for purposes of seniority.

(iii) In the event of ties in retention points, the amount of time employed in the affected agency/department serves as the tie breaker.

(b) Length of state service shall be measured in years and additional days shown as a fraction of a year.

(c) Time spent in a leave without pay status for service in the uniformed services covered under USERRA shall be counted for purposes of seniority.

(d) Any time spent in leave without pay status, to include worker's compensation leave, may not be counted for purposes of seniority.

(e) All affected employees including employees covered under USERRA in a leave without pay status within a category of work shall be assigned a job proficiency rating. The job proficiency rating shall be an average of the last three annual performance evaluation ratings as described in R477-10-1.(1)(e). If employees have had fewer than three annual performance evaluations, the proficiency ratings shall be an average of the all ratings received as of that time.

(f) The numeric values of each employee's job proficiency rating and that employee's actual length of service shall be added together to produce the retention points.

(g) Retention points shall be calculated for employees covered under USERRA and in a leave without pay status in the same manner as for current employees in the affected class. If there are no performance evaluation ratings for an employee covered under USERRA, no proficiency rating shall be included in the retention points.

(4) The order of separation shall be:

(a) Non-career service employees

(b) Probationary employees

(c) Career service employees in the order of their retention points with the lowest points are released first. In the event of ties in retention points, the amount of seniority in the affected agency serves as the tie breaker.

(5) Employees, including those covered under USERRA in a leave without pay status, who are separated due to a reduction in force shall be given formal written notification of separation, allowing for a minimum of 20 working days prior to the effective date of the RIF.

(6) Appeals

(a) An employee separated due to a reduction in force may appeal to the agency head for an administrative review. Employees must submit notice of appeal within 20 working days after the receipt of written notification of separation.

(b) The employee may appeal the decision of the agency head according to the appeals procedure of the Career Service Review Board.

(7) Reappointment of RIF'd employee

(a) A RIF'd employee is eligible for reappointment into a half time or greater career service position for which he qualifies in a salary range comparable to or less than the last career service position held, for a period of one year following the date of separation. See R477-5-4 for selection of employees from the reappointment register.

(i) The Executive Director, DHRM, shall maintain a reappointment register and shall make the final determination on whether an eligible RIF meets the job requirements for position vacancies.

(ii) A RIF'd employee shall remain on the state reappointment register for twelve months from the date of separation, unless reappointed sooner.

(b) During a statewide mandated freeze on hiring wherein the Governor disallows increases in each department's FTEs, eligibility for the reappointment register shall be extended for the entire length of time covered by a freeze.

(c) When determining comparable salary ranges in cases of RIF eligibility or bumping eligibility, a comparison of the previous to the new salary range maximum step is required. The previous salary range shall be considered comparable if the maximum step is equal to or greater than the maximum step of the new salary range.

(d) A RIF'd employee who is reappointed to a career service position shall not be required to serve a probationary period. The employee shall enjoy all the rights and privileges of a regular career service employee.

(e) At agency discretion, employees reappointed from a reappointment register may buy back part or all accumulated annual and converted sick leave that was cashed out when RIF'd.

(8) Appeal rights of RIF'd employee – An individual whose name is on the reappointment register as a result of a reduction in force may use the grievance procedure regarding their reappointment rights.

(9) Career service employees in exempt positions – Any career service employee accepting an exempt position without a break in service, who is later not retained by the appointing officer, unless discharged for cause as provided for by these regulations, shall:

(a) Be placed on a reappointment register for one year from the date of separation and shall be reappointed to any half time or greater career service position for which the employee qualifies in a pay range comparable to the employee's last position in the career service, provided an opening exists; or

(b) Be reappointed to any lesser career service position for which the employee qualifies pending the opening of a position at the last career service salary range held. The Executive Director, DHRM, shall maintain a reappointment register for this purpose, and shall make the final determination on whether an eligible RIF meets the job requirements for position vacancies.

(c) If the employee has not been reappointed as outlined, his placement on the reappointment register shall be renewed on a yearly basis upon his written request.

R477-12-4. Exceptions.

The Executive Director, DHRM, may authorize exceptions to provisions of this rule consistent with R477-2-[3]2(1).

KEY: administrative procedure, employees' rights, grievances, retirement
~~[June 26, 1999]~~2000 **67-19-6**
Notice of Continuation July 1, 1997

Human Resource Management,
Administration
R477-13
Volunteer Programs

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22851
FILED: 05/11/2000, 11:36
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amended language implements an important change in the classification system for volunteer service credit.

SUMMARY OF THE RULE OR CHANGE: Section R477-13-2 (Volunteer Experience Credit): the term "minimum qualifications" is changed to "job requirements" to be consistent with similar changes in terminology in Rule R477-4 (Classification).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 67-19-6 and 67-20-8

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** DHRM (Department of Human Resource Management) has been involved in the process of changing classification systems for two years. This amendment merely changes terminology to coincide with the implementation of this new system this year.

❖**LOCAL GOVERNMENTS:** No impact--this rule only affects agencies of the executive branch of state government.

❖**OTHER PERSONS:** No impact--this rule only affects agencies of the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No other person outside the executive branch of state government is affected by this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees. This rule change will not affect agency budgets.

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

Human Resource Management, Administration
R477-14
Substance Abuse and Drug-Free Workplace

R477. Human Resource Management, Administration.

R477-13. Volunteer Programs.

R477-13-1. Volunteer Programs.

Agency management shall approve all work programs for volunteers before volunteers serve the state or any agency or subdivisions of the state. A volunteer is considered a government employee for purposes of workers compensation, operation of motor vehicles or equipment, and liability protection and indemnification.

(1) Agency management may establish a program for people to volunteer their services to the agency consistent with the following rules. The Executive Director, DHRM, may authorize exceptions to provisions of this rule consistent with R477-2-[3]2(1).

(2) When implementing a volunteer program, agency management shall:

- (a) Orient the volunteer to the conditions of state service and their specific job assignments;
(b) Provide adequate supervision of the volunteer staff
(c) Designate the type of work for which volunteer services may be allowed to supplement paid staff;
(d) Document the approval of, numbers of, and hours worked by its volunteers, based on standards established DHRM;
(e) Collect data on the number of volunteers and the number of volunteer hours;
(f) Evaluate and assign volunteers in accordance with standards set by DHRM.

R477-13-2. Volunteer Experience Credit.

(1) Agency management shall apply approved and documented related volunteer experience to satisfy the job requirements for career service positions.

(a) Volunteer experience shall not substitute for required licensure, POST certification, or other criteria for which there is no substitution in the job requirements in the job description.

(b) Court ordered community service experience will not be considered volunteer work for purposes of meeting [minimum qualifications] job requirements.

(2) Participants in state or other volunteer programs shall receive credit for volunteer experience for the purposes of career service employment if:

(a) The volunteer experience is related to the identified duties and responsibilities of the designated career service position as determined by agency management.

(b) The volunteer experience is documented in accordance with standards established by DHRM.

(3) Credit for documented and job related volunteer experience shall be given in the same manner as similar paid employment.

KEY: personnel management, administrative rules, rules and procedures, definitions

[July 3, 1995]2000

Notice of Continuation July 1, 1997

67-19-6

67-20-8

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 22853

FILED: 05/11/2000, 11:36

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes to this rule incorporate the federal standards for cut-off levels in the state's alcohol and drug testing policies.

SUMMARY OF THE RULE OR CHANGE: a) Section R477-14-1 (Rules Governing a Drug-Free Workplace): additional language and amendments to this section incorporate standards from four sections of the Code of Federal Regulations for alcohol and drug testing and make other technical wording changes to be consistent with these standards; b) Section R477-14-2 (Management Action): new language subjects an employee to discipline who attempts to alter the results of an alcohol or drug exam.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 67-19-6, 67-19-18, and 67-19-34

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 49 CFR 40.29 (1999); 49 CFR 382.107 (1999); 49 CFR 382.201 (1999); 49 CFR 382.505 (1999)

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: No additional cost is associated with this rule change. Agencies are already administering alcohol and drug tests and this rule does not impose any additional administrative burden.

LOCAL GOVERNMENTS: No impact--this rule only affects agencies of the executive branch of state government.

OTHER PERSONS: No impact--this rule only affects agencies of the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No other person outside the executive branch of state government is affected by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM (Department of Human Resource Management) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to

businesses through fees. This rule change will not affect agency budgets.

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THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.

R477-14. Substance Abuse and Drug-Free Workplace.

R477-14-1. Rules Governing a Drug-Free Workplace.

(1) This rule implements the federal Drug-Free Workplace Act of 1988, Omnibus Transportational Employee Testing Act of 1991, 49 USC 2505; 49 USC 2701; and 49 USC 3102, and Section 67-19-36 authorizing drug and alcohol testing, in order to:

(a) Provide a safe and productive work environment that is free from the effect of unlawful use, distribution, dispensing, manufacture, and possession of controlled substances or alcohol use during work hours. See the Federal Controlled Substance Act, 41 USC 701.

(b) Identify, correct and remove the effects of drug and alcohol abuse on job performance.

(c) Assure the protection and safety of employees and the public.

(2) State employees ~~[shall be prohibited from]~~ may not unlawfully manufactur[ing], dispens[ing], possess[ing], distribut[ing] or us[ing] any controlled substance or alcohol during working hours, on state property or while operating a state vehicle at any time or other vehicle while on duty except where legally permissible.

(a) Employees shall follow R477-14-1(2) outside of work if any violations directly affect the eligibility of state agencies to receive federal grants or to qualify for federal contracts of \$25,000 or more.

(3) When, during work hours, there is reasonable suspicion that an employee is using or is impaired through the use of a controlled substance or alcohol unlawfully, an employee may be required to submit to medically accepted testing procedures to determine whether the employee is using a controlled substance or alcohol in violation of federal or state law.

(a) All drug or alcohol testing shall be conducted by a federally certified or licensed physician or clinic, or testing service approved by DHRM.

(b) Drug and alcohol tests with positive results or a possible false positive result shall require a confirmation test.

(c) The State of Utah will use the same cut off levels for positive drug and alcohol tests as the federal government. This rule incorporates by reference the requirements of 49CFR40.29(1999), Laboratory Analysis Procedures, 49CFR382.107(1999), Definitions, 49CFR382.201(1999), Alcohol Concentration and 49CFR382.505(1999), Other Alcohol Related Conduct.

~~[(c)]~~(d) Management may take corrective or disciplinary action if:

(i) There is a positive confirmation test for controlled substances;

(ii) Results of a confirmation test for alcohol ~~[shows .08 percent body fluid content or more]~~meets or exceeds the established alcohol concentration cutoff level.

(iii) Management determines ~~[there is impairment]~~an employee is unable to perform his assigned job tasks, even when the results of a confirmation test for alcohol shows less than ~~[:.08 percent body fluid content]~~the established alcohol concentration cutoff level.

(4) Employees in safety sensitive positions, as approved by DHRM, are subject to drug or alcohol testing without justification of reasonable suspicion or critical incident. Random drug testing of employees in safety sensitive positions shall be conducted by the employing agency as authorized by the Executive Director in DHRM.

(a) Employees in safety sensitive positions whose confirmation test for alcohol results are .02 or greater, when tested before, during, or immediately after performing safety sensitive functions, must be removed from performing safety sensitive duties for 8 hours, or until another test is administered and the result is less than .02.

(b) Employees in safety sensitive positions whose confirmation test for alcohol results are .04 or greater when tested before, during or after performing safety sensitive duties, may be subject to corrective action or discipline.

(5) Agencies with employees in positions requiring a commercial driver license shall administer testing and prohibition requirements and conduct training on these requirements as outlined in the current DHRM Drug and Alcohol Testing Manual.

(6) The agency's Human Resource Office or authorized official shall keep a separate, private record of drug or alcohol test results. The employee's official personnel file shall only contain a document making reference to the existence of the drug or alcohol test record.

R477-14-2. Management Action.

(1) Pursuant to R477-10, R477-11 and R477-14-2, supervisors and managers who receive notice of a workplace violation of these rules shall take immediate action.

~~(2) [Upon review of the facts surrounding any violation, management may suspend or terminate the employee.]~~Management may take disciplinary action which may include termination.

(3) An employee who refuses to submit to drug or alcohol testing may be subject to disciplinary action. See Section 67-19-33.

(4) An employee who substitutes, adulterates, or attempts to substitute or adulterate a drug testing sample is subject to disciplinary action.

(5) Management may also take disciplinary action against employees who manufacture, dispense, possess, use or distribute controlled substances or use alcohol, per R477-11, under the following conditions:

(a) If the employee's action directly affects the eligibility of the agency to receive grants or contracts in excess of \$25,000.00.

(b) If the employee's action puts employees, clients, customers, patients or co-workers at physical risk.

(6) An employee who has a confirmed positive test for use of a controlled substance or alcohol in violation of these rules may be offered the option of participating in a rehabilitation program, as provided for in section 67-19-38.(3), in lieu of disciplinary action. This option is at agency discretion. If the employee accepts the offer tendered by management to participate in such a program in lieu of disciplinary action, the following shall apply:

(a) An employee participating in a rehabilitation program shall be granted accrued leave or leave without pay for inpatient treatment.

(b) The employee must sign a release to allow the transmittal of verbal or written compliance reports between the state agency and the inpatient or outpatient rehabilitation program provider.

(c) All communication shall be classified as private in accordance with Title 63, Chapter 2.

(d) An employee may be required to continue participation in an outpatient rehabilitation program prescribed by a licensed practitioner on the employee's own time and expense.

(e) An employee, upon successful completion of a rehabilitation program shall be reinstated to work in his previously held position, or a position with a comparable or lower salary range.

(7) An employee who fails to complete the prescribed treatment without a valid reason shall be subject to disciplinary action.

(8) An employee who has a confirmed positive test for use of a controlled substance or alcohol is subject to follow up testing.

(9) An employee who is convicted under federal or state criminal statute which regulates manufacturing, distributing, dispensing, possessing or using a controlled substance for a violation occurring in the workplace shall notify the agency head of the conviction no later than 5 calendar days after the conviction.

(a) The agency head shall notify the federal grantor or agency for which a contract is being performed within ten calendar days of receiving notice from:

(i) the judicial system,

(ii) other sources,

(iii) an employee performing work under the grant or contract who has been convicted of a controlled substance violation in the workplace.

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KEY: personnel management, drug/alcohol education, drug abuse, discipline of employees

[June 26, 1999]2000

Notice of Continuation December 27, 1996

67-19-6

67-19-18

67-19-34

Human Resource Management, Administration

R477-15

Sexual Harassment Policy and Procedure

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22854

FILED: 05/11/2000, 11:37

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments expand the old sexual harassment policy to a broader policy on unlawful harassment to coincide with recent changes in guidelines from the Equal Employment Opportunity Commission.

SUMMARY OF THE RULE OR CHANGE: The new state policy in Section R477-15-1 prohibits all forms of unlawful harassment based on all protected areas defined in federal law which now includes protected activity. Unlawful harassment is defined in Section R477-15-2 as well as the requirement to impose discipline for employees who violate the policy. Section R477-15-3 prohibits retaliation against employees who engage in protected activity related to unlawful harassment charges or investigations and specifies discipline. The complaint procedure outlined in Section R477-15-4 is not changed, but amended to reflect the new scope of the policy. The amendments to the investigative procedure outlined in Section R477-15-5, and records requirements in Section R477-15-6, merely rearrange the wording to add clarity and make technical changes to reflect the new scope of the policy.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 67-19-6 and 67-19-18

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: There will be costs associated with the implementation of this new policy as DHRM (Department of Human Resource Management) and agencies are required to develop and present new training for managers and

employees. It is impossible to discern what the cost will be, but agencies will absorb the cost into their regular training programs.

❖LOCAL GOVERNMENTS: No impact--this rule only affects agencies of the executive branch of state government.

❖OTHER PERSONS: No impact--this rule only affects agencies of the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No other person outside the executive branch of state government is affected by this policy change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect if an agency passes costs or saving on to businesses through fees.

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

Human Resource Management
Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.

R477-15. [Sexual]Unlawful Harassment Policy and Procedure.

R477-15-1. Purpose.

[The purpose of the State Department of Human Resource Management's (DHRM) policy on Sexual Harassment is designed to assure a working environment which is free from sexual harassment, which is a form of sex discrimination, and is in compliance with legal mandates of state and federal law.]It is the State of Utah's policy to:

(1) provide all employees a working environment that is free from unlawful harassment based on race, religion, national origin, color, sex, age, disability, or protected activity under the anti-discrimination statute; and

(2) comply with state and federal laws regarding discrimination based on unlawful harassment.

R477-15-2. Policy.

[It is the policy of DHRM that:

— (1) discrimination based on sexual harassment, subtle or otherwise, shall not be tolerated; violators shall be subject to disciplinary action including termination or referral for criminal prosecution;

— (2) any behavior or conduct of a sexual nature which is unwelcome and pervasive, demeaning, ridiculing, derisive, or coercive and results in a hostile, abusive or intimidating work environment constitutes sexual harassment and shall not be tolerated; violators shall be subject to disciplinary action including termination;

— (3) any quid pro quo behavior which offers job advancement, enhancement or other tangible job benefits in return for sexual favors constitutes sexual harassment and shall be prohibited and subject to discipline and termination;

— (4) consideration shall be given to the complainant's requests in the investigation and through either a preliminary review process or a formal investigation as the circumstances indicate. However, the agency head or Executive Director, DHRM, may take appropriate action under this policy where the agency or state's legal liability is at risk;

— (5) sexual harassment complaints may be filed regardless of whether or not the behavior occurred on or off duty if it resulted in a hostile work environment;

— (6) supervisors who knew or should have known that offensive sex based behavior was occurring on duty, or have been made aware of the behavior occurring off duty which resulted in a hostile work environment and did not take timely action to correct the situation shall be subject to disciplinary action;

— (7) malicious or frivolous complaints of sexual harassment shall result in corrective or disciplinary action taken against the accuser;

— (8) individuals affected by alleged sexual harassment may, but shall not be required to, confront the accused harasser before filing a complaint;

— (9) the accused shall not contact the complainant regarding allegations of harassment once a complaint has been filed. However, contact could be made in a formal appeal situation.](1)

Unlawful harassment means discriminatory treatment based on race, religion, national origin, color, sex, age, protected activity or disability. Discrimination based on unlawful harassment will not be tolerated. Violators shall be subject to corrective action or disciplined and may be referred for criminal prosecution. Discipline may include termination of employment.

(2) Unlawful harassment includes the following subtypes:

(a) Behavior or conduct in violation of R477-15-2(1) that is unwelcome, pervasive, demeaning, ridiculing, derisive, or coercive, and results in a hostile, offensive, or intimidating work environment.

(b) Behavior or conduct in violation of R477-15-2(1) that results in a tangible employment action being taken against the harassed employee.

(3) The imposition of corrective action and discipline is governed by R477-10-2 and R477-11.

(4) An employee shall be subject to corrective action or discipline for unlawful harassment towards another employee even if that harassment occurs outside of scheduled work time or work location provided that the harassment meets the requirements of R477-15-2(2).

(5) Individuals affected by alleged unlawful harassment may, but shall not be required to, confront the accused harasser before filing a complaint.

(6) Once a complaint has been filed, the accused shall not communicate with the complainant regarding allegations of harassment.

R477-15-3. [Reprisals]Retaliation.

(1) ~~[Reprisals are prohibited against any person]~~No person may retaliate against any employee who opposes a practice forbidden under this policy, or has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this policy~~[-] or is otherwise engaged in protected activity.~~

(2) Any act of ~~[reprisal]~~retaliation toward the complainant, witnesses or others involved in the investigation shall be subject to corrective action or disciplinary action. Prohibited~~[- reprisal]~~ actions~~[- shall]~~ include~~[- but not be limited to]:~~

(a) open hostility to complainant, participant or others involved;

(b) exclusion/ostracism of the complainant, participant or others;

(c) creation of or the continued existence of a hostile work environment;

(d) ~~[gender based negative]~~discriminatory remarks about the complainant, participant or others;

(e) special attention to or assignment of the complainant, participant or others to demeaning duties not otherwise performed;

(f) tokenism or patronizing behavior;

(g) discriminatory treatment;

(h) subtle harassment; or

(i) unreasonable supervisory imposed time restrictions on employees in preparing complaints or compiling evidence of ~~[sexual]~~unlawful harassment activities or behaviors.

R477-15-4. Complaint Procedure.

Individuals affected by ~~[sexual]~~unlawful harassment ~~[are afforded avenues for filing complaints which are]~~may file complaints and engage in an administrative process free from bias, collusion, intimidation or ~~[reprisal]~~retaliation.

(1) Individuals who feel they are being subjected to ~~[sexual]~~unlawful harassment should do the following:

(a) continue to report to work,

(b) verbalize disapproval of the action to the perpetrator and demand that it cease,

(c) document the occurrence,

(d) identify a witness.

~~[(2) Employees are encouraged to use internal agency or DHRM complaint procedures.]~~A complaint of [sexual]unlawful harassment may be submitted in accordance with an agency's approved complaint procedure, directly to DHRM or the Anti-Discrimination and Labor Division (UALD) or the Equal Employment Opportunity Commission.

(a) Complaints may be submitted by any individual, witness, volunteer or other employee.

(b) Complaints may be made through either verbal or written notification and shall be handled in compliance with confidentiality guidelines.

(c) Any supervisor who has knowledge of ~~[offensive]~~unlawful harassment~~[- behavior of a sexual nature]~~ shall take immediate, appropriate action and document the actions.

(3) Any complaint of ~~[sexual]~~unlawful harassment must be acted upon following receipt of the complaint.

(4) If an immediate investigation by the agency is not warranted, a meeting shall be held with the complainant, the supervisor or manager of the appropriate division, and others as appropriate to communicate the findings and management's resolution of the complaint.

R477-15-5. Investigative Procedure.

(1) ~~The investigative procedures established by agencies shall allow the complainant to [request to file their complaint with an investigator of a specific gender and as required in R477-15-4(1) and (2)]make specific requests relating to the investigation process and about the person or persons who will conduct the investigation. The agency shall attempt to comply with these requests, but may take whatever action necessary and appropriate to resolve the complaint.~~

(2) Preliminary reviews and investigations must be conducted in accordance with procedures issued by the Department of Human Resource Management.

(1+3) Results of Investigation

(a) If the investigation reveals that disciplinary action is warranted, the agency head shall take appropriate action as provided in R477-11.

(b) If an investigation reveals evidence of criminal conduct in ~~[sexual]~~unlawful harassment allegations, the Executive Director of the agency or DHRM, may refer the matter to the Attorney General's Office or County/District Attorney as appropriate.

~~(c) [If the investigation reveals the accusations are unfounded, this information shall be documented, the investigation terminated, and all parties involved notified. If the investigation results in findings of a malicious, frivolous, bad faith or false claim, the individual filing the claim shall be subject to corrective or disciplinary action.]If an investigation of unlawful harassment reveals that the accusations are unfounded, the findings shall be documented, the investigation terminated, and appropriate parties notified.~~

(d) Investigations shall be conducted by qualified individuals ~~[selected from a DHRM-approved list]~~based on DHRM standards.

R477-15-6. Records.

(1) A separate protected record of all ~~[sexual]~~unlawful harassment complaints shall be maintained and stored in the agency's human resource office, DHRM office or in the possession of an authorized official. Removal or disposal of records in the protected file may only be done with the approval of the agency head or Executive Director, DHRM, and only after minimum timelines specified herein have been met. Records shall be kept for: a minimum of three years from the resolution of the complaint or investigative proceeding.

(2) ~~[Separate files related to sexual harassment complaints shall not be kept by supervisors.]Supervisors shall not keep separate files related to complaints of unlawful harassment.~~

(3) All information contained in the complaint file shall be classified as protected pursuant to requirements of ~~[law]Section 63-2-304~~, Government Records Access and Management Act~~[, Section 63-2-304]~~.

(4) Information contained in the ~~[sexual]unlawful~~ harassment protected file shall only be released by the agency head or Executive Director, DHRM, when in compliance with the requirements of law.

(5) Participants in any ~~[sexual]unlawful~~ harassment proceeding shall treat all information as protected.

(6) Final disposition of ~~[sexual]unlawful~~ harassment cases shall be communicated to appropriate parties.

R477-15-7. Training.

(1) Departments shall comply with the ~~[Sexual]Unlawful~~ Harassment Prevention Training Standards set by DHRM. As a minimum, these shall contain:

- (a) Course curriculum standards.
- (b) Training presentation requirements.
- (c) Trainer qualifications.
- (d) Training records management criteria.

KEY: administrative procedures, hostile work environment*
~~[June 26, 1999]2000~~ **67-19-6**
Notice of Continuation July 1, 1997 **67-19-18**
Governor's Executive Order on Sexual Harassment, March 17, 1993



Human Services, Recovery Services
R527-100
 Uniform Interstate Family Support Act

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR FILE No.: 22868
 FILED: 05/15/2000, 12:22
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule should now be repealed because it has been replaced by Section 78-45f-902 of the Utah Code.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 78-45f-100 through 78-45f-901
 FEDERAL REQUIREMENT FOR THIS RULE: 42 U.S.C. 666(f)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--because the new Section 78-45f-902 is essentially the same as the rule, there will be no change in cost or savings to the state upon repeal of the rule. (**DAR Note:** Section 78-45f-902 was enacted by S.B. 49 in the 2000 General Session; S.B. 49 is found at 2000 Utah Laws 161, and was effective May 1, 2000.)

❖LOCAL GOVERNMENTS: None--administrative rules of the Office of Recovery Services do not apply to local governments.

❖OTHER PERSONS: None--the repeal of this rule will not create an additional financial impact on other persons because the new Section 78-45f-902 of the Utah Code continues to ensure that the invalidation of one or more of the provisions of the Uniform Interstate Family Support Act (UIFSA) will not result in the invalidation of its other provisions which would otherwise be effective in the absence of the invalid provisions. This means that despite changes that may occur in UIFSA in the future, it will remain essentially intact and continue to have the overall effect of maintaining the essential flow of child support and medical support services necessary to many families in Utah and other states, resulting in significant financial benefit to them. COMPLIANCE COSTS FOR AFFECTED PERSONS: None--there is no direct compliance cost associated with this rule nor with the state law which replaces it.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The potential fiscal impact of this rule on businesses will not change when it is repealed because the recently enacted Section 78-45f-902 of the Utah Code provides the same effect. The effect is, that provisions in the Uniform Interstate Family Support Act (UIFSA) relating to businesses will not become invalidated if other provisions of UIFSA are invalidated, unless they are unable to stand without the invalidated provisions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 Human Services
 Recovery Services
 14th Floor, Eaton/Kenway Building
 515 East 100 South
 PO Box 45011
 Salt Lake City, UT 84145-0011, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hsdadmin.hsorsslc.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.
[R527-100. Uniform Interstate Family Support Act.
R527-100-1. Purpose.

The purpose of this rule is to provide for severability of provisions in the Uniform Interstate Family Support Act (UIFSA), Section 78-45f-100 through 78-45f-901 in accordance with 42 U.S.C. Subsection 666(f).

R527-100-2. Severability Clause.

If any provision of Chapter 45f or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given without the invalid provision or application, and to this end the provisions of this chapter are severable.

KEY: child support, interstate
June 16, 1998 78-45f-100 through 78-45f-901]



Insurance, Administration
R590-199
Plan of Orderly Withdrawal Rule
Relating to Health Benefit Plans

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 22875
FILED: 05/15/2000, 16:33
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to maintain a health benefit plan market that is stable, fair, and efficient for individuals and small employers. It ensures and maintains increased access for individuals and small employers to health coverage. It promotes an orderly process by which an insurer can elect to nonrenew health benefit plan coverages without unreasonable disruption to the health insurance market.

SUMMARY OF THE RULE OR CHANGE: This rule applies to any insurer that provides health benefit plan coverage to individuals or small employers. The rule is composed of a definition section that incorporates the definitions in Section 31A-30-103 of the Insurance Code, as well as the term "Annual Renewal Date." A section of the rule entitled "Plan of Orderly Withdrawal" provides information about when this plan is to be filed, what information is to be included and what happens if a filing is incomplete. Another section, entitled "Implementation of Withdrawal," outlines the responsibilities of the withdrawing carrier to notify its insureds of nonrenewal, send a copy to the commissioner, and set prohibitions on future business within the state.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-4-115, and 31A-30-106

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Review of the withdrawal plan will require the department to use about \$1,000 worth of personnel services. This rule will not require insurers to change their policy rates or forms. However, it will require insurers to file a change to their certificates of authority and pay a filing fee of \$100 to the department, which will go into the General Fund. It is anticipated that two to four companies will withdraw a line of business from the insurance marketplace each year.

❖LOCAL GOVERNMENTS: This rule will not affect local government. The rule is regulated by a state government agency to which all fees are paid by its licensees.

❖OTHER PERSONS: Industry Impact: Compliance with the rule will require the withdrawing company to expend services with a value of between \$5,000 to \$10,000, depending on the size of its business in Utah and the complexity of the business. Insurers who pull out of the market in a certain line of business will have to amend their certificates of authority, which will cost \$100 and will go into the General Fund. Insureds will also have the cost of mailing a notice to affected insureds, notifying them of their withdrawal from the market. Most of the information required to be collected by the insured and given to the insurance commissioner is already collected by the insured. Most of them already employ actuaries. The decision to withdraw from the Utah market is a business decision. The department has no way of knowing how many companies will withdraw in a year. It is estimated that it will be in the range of two to four per year. Compliance with the rule is therefore an individual company impact. Consumer Impact: Compliance with the rule should not have any increased fiscal impact on consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Industry Impact: Compliance with the rule will require the withdrawing company to expend services with a value of between \$5,000 to \$10,000, depending on the size of its business in Utah and the complexity of the business. Insurers who pull out of the market in a certain line of business will have to amend their certificate of authority, which will cost \$100 and will go into the General Fund. Insureds will also have the cost of mailing a notice to affected insureds of their withdrawal from the market. Most of the information required to be collected by the insured and given to the insurance commissioner is already collected by the insured. Most of them already employ actuaries. The decision to withdraw from the Utah market is a business decision. The department has no way of knowing how many companies will withdraw in a year. Compliance with the rule is therefore an individual company impact. Consumer Impact: Compliance with the rule should not have any increased fiscal impact on consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The decision to withdraw from the Utah market is a business decision. The General Fund will receive a minimal amount of \$100 to \$400 per year. The insurance industry will be impacted in the area of \$5,000 to \$10,000 depending on the complexity of the business and number of insureds involved. Consumers should not be impacted by the effects of the rule at all.

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

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at jdmain.jwhitby@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/13/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 07/06/00, 10:00 a.m., 1112 State Office Building (behind the Capitol), Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 07/14/2000

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-199. Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans.

R590-199-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-201(3), 31A-4-115(8) and 31A-30-106(1)(k)(iii).

R590-199-2. Purpose.

This rule is drafted for the purposes of maintaining a health benefit plan market that is stable, fair, and efficient for individuals and small employers and ensuring and maintaining increased access for individuals and small employers to health coverage. It promotes an orderly process by which an insurer can elect to nonrenew health benefit plan coverages without unreasonable disruption to the health insurance market.

R590-199-3. Applicability and Scope.

This rule applies to any insurer that provides health benefit plan coverage to individuals or small employers.

R590-199-4. Definitions.

(1) The definitions in Section 31A-30-103 apply to this rule.

(2) "Annual Renewal Date" means the annual anniversary of the date of the policy or plan, under which health insurance benefits are provided, was initially issued.

R590-199-5. Plan of Orderly Withdrawal.

(1) A covered carrier and each affiliate of a covered carrier that elects to nonrenew coverage under a health benefit plan in Utah must file a plan of orderly withdrawal with the Utah insurance commissioner explaining the process of nonrenewal. The plan must be filed with the Utah insurance commissioner at the time advance notice is given under Subsection 31A-30-107(1)(f)(i). The plan of orderly withdrawal is to include the following information:

(a) name and telephone number of company representative to contact regarding the nonrenewal;

(b) list of all policy forms affected by the withdrawal;

(c) number of group or individual policies, or both, that are currently in force;

(d) number of covered lives, include insured, spouse and dependents, under individual health benefit plan policies;

(e) number of covered lives, include insured, spouse and dependents, under small employer health benefit plans;

(f) number of COBRA or state extension policies and the number of covered lives for each;

(g) copy of conversion plan and rates that will be offered in accordance with Section 31A-22-703;

(h) copy of notice required by Subsection 31A-30-107(1)(f)(ii). Such notice must inform the insured of their portability rights and responsibilities;

(i) service or coverage areas within the state, which indicates withdrawal areas;

(j) list of all types of all insurance coverages offered in Utah by line of business and the premium volume generated in the prior year;

(k) any reinsurance ceding arrangements relating to the health benefit plans being nonrenewed;

(l) information relating to any waiver provided under Subsection 31A-30-104(3)(a);

(m) list of all affiliated carriers as described in Subsection 31A-30-104(2);

(n) certification of compliance executed by the president of the company stating that the withdrawing company is in compliance with Sections 31A-30-101 through 31A-30-112 at the time the election to withdraw is filed;

(o) certification executed by the president of the company that its individual enrollment cap has been exceeded, if applicable;

(p) loss ratios for each form issued in Utah and the methodology by which the loss ratio was calculated, including a description of all assumptions made;

(q) certified actuarial analysis from a qualified actuary of the impact that the withdrawal or nonrenewal will have on the individual and small employer market in Utah;

(r) certified actuarial analysis from a qualified actuary of the impact that withdrawal or nonrenewal will have on the Utah Comprehensive Health Insurance Pool;

(s) actuarial certification from a qualified actuary certifying to the level of liability related to the policies;

(t) detailed explanation of all efforts made to place business that is to be nonrenewed with other carriers;

(u) any plans to nonrenew any other line of business in Utah in the future;

(v) copy of the certificate of authority of the company and all affiliates involved in the withdrawal; and

(w) demonstrate that all liabilities relating to the policies that will be nonrenewed are fully satisfied or adequately reserved.

(2) Submit two copies of the plan of orderly withdrawal, one copy to be filed and a second set to be returned to you, and a self addressed return envelope.

(3) If both the written notice and a complete plan of orderly withdrawal are not received, the partial submission will be returned and not considered to have been received by the department.

R590-199-6. Implementation of Withdrawal.

(1) A covered carrier and all its affiliates that elect to withdraw from the market or to nonrenew a health benefit plan issued to covered insureds must provide written notice of the decision to do so to all affected insureds and to the insurance commissioner in each state in which an affected insured resides.

(2) Each insured must be given at least 180-days notice prior to the nonrenewal date.

(3) The Utah insurance commissioner is to receive written notice of the decision to withdraw or nonrenew any health benefit plan at least three working days prior to the mailing of the notice to affected covered insureds.

(4) The carrier must include with the notice to the Utah insurance commissioner its certificate of authority which will be modified to prohibit the writing of business which the carrier has elected to nonrenew or withdraw from the market.

(5) The carrier is prohibited from writing new business in the individual and small employer health benefit plan market for a period of five-years from the date of notice to the Utah insurance commissioner.

(6) The covered carriers affiliates, as defined in Subsection 31A-30-104(2), may also be required to withdraw as determined by the commissioner.

(7) Each plan submitted to the commissioner must provide that the nonrenewal of any coverage under a health benefit plan will occur on the annual renewal date of each policy or plan. Nonrenewal can only occur on the annual renewal date.

R590-199-7. Severability.

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

**KEY: insurance
2000**

**31A-2-201
31A-4-115
31A-30-106**



Natural Resources, Parks and
Recreation
R651-301
State Recreation Fiscal Assistance
Programs

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22869
FILED: 05/15/2000, 14:16
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to comply with changes to Sections 63-11-17.8 and 63-11a-501, as amended by S.B. 13 of the 2000 Legislature.

(DAR Note: S.B. 13 is found at 2000 Utah Laws 20, and was effective May 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: This rule: a) corrects the title of the Recreational Trails program; b) revises the activation date to April 15, 2000, for grant program changes; c) revises the list of eligible grant participants; d) clarifies standards for establishing the matching value of donated labor costs to be applied to the grant projects; and e) removes reference to the Statewide Comprehensive Outdoor Recreation Plan (SCORP) in favor of meeting local outdoor recreation needs.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The requested amendment requirements will not cost or save the state budget any money. The changes are either mandated by the state legislature or are for organizational, technical, and clarification purposes.

❖**LOCAL GOVERNMENTS:** Since local government has no authority over State Parks, there is no aggregate anticipated cost or savings.

❖**OTHER PERSONS:** There are no anticipated savings or cost to other persons because this change is for clarification and definition to the current rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no revenues or money involved with this change. Clarification, definition, and updates of information in the current rule by this amendment will make the rule more easily understood by the recreating public.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule will have no fiscal impact on business.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: David K. Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.
R651-301. State Recreation Fiscal Assistance Programs.
R651-301-1. Authority and Effective Date.

(a) These rules are established as required by 63-11a-501, and 63-11-17.8, and apply to the following state funded recreation fiscal assistance programs:

- (1) Riverway Enhancement[-]
- (2) ~~Non-Motorized~~ Recreational Trails[-]
- (3) Off Highway Vehicles[-]

(b) These rules govern procedures for fiscal assistance applications, priorities, and project selection criteria commencing on or after ~~January 1, 1994~~ April 15, 2000.

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R651-301-3. Fiscal Assistance Application Process.

(a) Deadline for submission of applications is May 1 annually. Submissions post-marked on or before that date will be eligible for funding consideration.

(b) Applications are to be submitted on a form to be provided by the Division. Eligible applicants will be notified by mail of the application deadline and procedures at least 45 days prior to the deadline.

(c) Applications must be submitted to:
Utah Division of Parks and Recreation
Attention: Grants Coordinator
1594 West North Temple, Suite 116
Salt Lake City, Utah 84111 ~~(6)4-6001~~

(d) Eligible applicants include:

- (1) Riverway Enhancement Program[-]
- (i) State agencies[-]
- (ii) Cities and towns[-]
- (iii) Counties[-]
- (iv) Special Improvement Districts
- (2) ~~Non-Motorized~~ Recreational Trails Program[-]
- (i) Federal government agencies[-]
- (ii) State agencies
- (iii) Cities and towns[-]
- ~~(iii)~~ (iv) Counties[-]
- (v) Special Improvement Districts
- (3) Off-Highway Vehicle Program[-]
- (i) Federal government agencies[-]
- (ii) State agencies[-]
- (iii) Cities and towns[-]
- (iv) Counties[-]
- (v) Organized User Group (as defined in U.C.A. 41-22-2(15))
- (4) Centennial Non-Motorized Paths and Trail Crossings

Program

- (i) State agencies
- (ii) Cities and towns

(iii) Counties

R651-301-4. Fiscal Assistance Program Requirements.

(a) All programs require a 50/50 match. ~~[matching assistance from the applicants on at least 50/50 basis.]~~

(b) ~~[Matching assistance]~~ An applicant's match may be in the form of cash, force account labor, equipment, or materials; donated materials and labor[-] or donation of land from a third party to be exclusively used for the proposed project. The value of donated labor will be based on a general laborer rate ~~equivalent to a General Maintenance Worker I entry level employee on the State Compensation system.~~ unless the person is professionally skilled in the work being performed on the project. When this is the case, the wage rate normally paid for performing this service may be charged to the project. A general laborer's wages may be charged in the amount of that which the project sponsor pays its own employees having similar experience and performing similar duties. Donated materials and land will be valued at the fair market value based on an appraisal that is approved by the Division.

(c) Riverway Enhancement fiscal assistance must be along a river or stream that is impacted by high density population or is prone to flooding.[-]

~~----- (d) All program applicants must solicit public comment on the proposed project and submit a summary of that comment to the Division.]~~

~~([e]d)~~ Recreational trails that are on lands under the control of the Division must comply with Section 63-11a-203, and require public hearings in the area of proposed trail development.

~~([f]e)~~ Program funds may be used for land acquisition, ~~[facility]~~ development, and planning ~~[costs]~~. Off-highway vehicle funds may also be used for operation and maintenance. No administrative or indirect costs are allowed.

~~([g]f)~~ Not more than 50% of program funds may be advanced to the project sponsor, and only after official notice to the Division is made by the sponsor that project costs will be incurred within 30 days.

(g) No more than 50% of the monies available to the Centennial Non-Motorized Paths and Trail Crossings Program in a fiscal year may be allocated to a single project, except upon unanimous recommendation of the Recreational Trails Advisory Council.

~~([h]g)~~ The balance of funding shall be provided to sponsors at the project completion, and only after a final accounting is made to the Division of total project costs.

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R651-301-6. Priorities and Project Selection Criteria.

(a) All applicants shall be evaluated on administrative considerations, such as prior project performance and proper use of funds.

(b) All applications shall be evaluated on meeting legislative intent, and meeting outdoor recreation needs ~~[as outlined in the current Statewide Comprehensive Outdoor Recreation Plan (SCORP)].~~

(c) All applications shall be evaluated on cooperative efforts of the project among agencies and user groups. This includes, but is not limited to, cooperative funding.

(d) Location of the proposed project site shall be evaluated based on proximity to the majority of users, adequacy of access to the site, safety, linking similar existing facilities, and convenience to users.

(e) Projects that promote multiple season use for maximum year-round participation and multiple uses or users shall be encouraged.

(f) Planning, design, and programs for the Riverway Enhancement and Recreational Trails programs shall be evaluated to encourage:

- (1) Innovative or unique design features that enhance the environment and recreation opportunities.
- (2) Linking access to natural, scenic, historic, or recreational areas of statewide significance.
- (3) Minimizing adverse effects on wildlife, natural areas, and adjacent landowners.
- (4) Harmony with existing and planned land uses.
- (5) Masterplanning.

KEY: recreation, fiscal*, assistance*
~~[1994]~~ July 4, 2000
Notice of Continuation July 21, 1998

63-11a-501
63-11-17.8



Natural Resources, Parks and
Recreation
R651-408
Off-Highway Vehicle Education
Curriculum Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 22870
FILED: 05/15/2000, 14:16
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule updates student and instructor requirements for the Off-Highway Vehicle Education Program.

SUMMARY OF THE RULE OR CHANGE: There have been so many changes in terms and requirements, this amendment is to help clarify ambiguous wording, require that helmets be safety rated and designed for motorized use, and clarifies testing procedures and changes the number of courses or skills an instructor must teach each year to maintain certification.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This rule will not change the state costs of administering the off-highway vehicle (OHV) program; it is

to eliminate misunderstanding of terms and procedures used in the OHV program.

❖LOCAL GOVERNMENTS: Since local government has no authority over State Parks, there is no aggregate anticipated cost or savings.

❖OTHER PERSONS: The reduction in the amount of time an instructor must spend to maintain certification will be reduced. This will reduce the cost of their participation in the program if they wish to remain a certified instructor.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be an additional cost to students whose present helmet does not meet the new OHV helmet requirements. The number of students affected is expected to be low since nearly all new helmets sold already meet the stricter requirements. Each helmet dealer would set the cost they would use, and that cannot be determined at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule will have no fiscal impact on business.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: David K. Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.
R651-408. Off-Highway Vehicle Education Curriculum Standards.

R651-408-1. Student Requirements.

1. A student under 18 years old attending ~~the~~any off-highway vehicle education course shall be required to have a parent or adult responsible for that student attend at least the first hour of ~~the pre-ride module~~any classroom session, and all of ~~the~~any applicable skills module.

2. All students shall submit to ~~their~~the course instructor a ~~liability release~~Parental Consent and Waiver form signed by their parent or legal guardian during ~~the first~~any off-highway vehicle education class.

3. All students participating in the skills module shall wear the following safety equipment: a ~~proper fitting~~properly fitted, safety-

rated helmet, designed for motorized use, safety proven eye protection, gloves, and boots that cover the ankle.

4. A student must receive a grade of 70 percent or better on the ~~[pre-ride module]~~written test before ~~[taking a]~~participating in a corresponding skills module. A score of 70 percent is also necessary on the skills module in order to be certified.

5. A student may challenge the ~~[pre-ride module]~~written test or any~~[one]~~ of the skills modules by passing the~~[knowledge test and the]~~ appropriate~~[skills]~~ test.

6. A student failing any test or skills module may be retested no sooner than seven days after the initial test. If ~~[that]~~the student fails the retest of a skills module, then he must retake the entire module.

7. A student participating in the skills module must be able to straddle the machine, with a slight bend to his knees, while his feet are on the foot rests.

R651-408-2. Safety Instructor Requirements.

1. An off-highway vehicle safety instructor shall teach a minimum of ~~[eight]~~two off-highway vehicle ~~[pre-ride]~~courses or skills modules per year to maintain instructor certification.

R651-408-~~[5]~~3. Off-Highway Vehicle Education Fees.

1. The fee for the off-highway vehicle education course is \$10.
2. The fee to challenge the off-highway vehicle education course by taking the knowledge and skills test is \$5.
3. The non-resident off-highway vehicle education certificate is \$5.
4. A duplicate off-highway vehicle education certificate is \$2.

KEY: off-highway vehicles

~~[1989]~~July 4, 2000 41-22-31
 Notice of Continuation June 29, 1999 41-22-32
41-22-33



Natural Resources, Parks and Recreation

R651-409

Minimum Amounts of Liability Insurance Coverage For An Organized Practice or Sanctioned Race

NOTICE OF PROPOSED RULE

(New)
 DAR FILE NO.: 22871
 FILED: 05/15/2000, 14:16
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To provide compliance with Subsection 41-22-29(1)(a)(b). The 1999 Legislature amended the Off-Highway Vehicle (OHV) Act to allow persons under eight years of age to operate a

motorcycle at designated facilities that meet specified conditions, including insurance to be specified by the Division of Parks and Recreation. This rule provides the specifications for the required insurance.

(DAR Note: H.B. 140 is found at 1999 Utah Laws 114, and was effective May 3, 1999.)

SUMMARY OF THE RULE OR CHANGE: The insurance policy must be obtained from a company specified criteria and will be comprehensive or commercial general insurance in the amount of not less than \$1,000,000 combined single limit per occurrence, and an aggregate of not less that \$1,000,000 and shall apply to only the organization's operation conducted under the OHV (Off-Highway Vehicle) Act. The policy must contain a provision keeping full insurance in force for claims reported up to three years after the organization ceases activities covered by the policy. Persons providing services or who own lands affected by the activities must be covered. This rule, in compliance with Subsection 41-22-29(1), sets the insurance requirements for sponsors of organized motorcycle practices and sanctioned motorcycle races involving children under eight years of age. Private insurance companies' rates differ considerably for this coverage.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There will be no cost or savings anticipated to the state budget because Parks already administers the program and the motorcycle events will be insured as required in this rule.

❖LOCAL GOVERNMENTS: Since local government has no authority over State Parks, there is no aggregate anticipated cost or savings.

❖OTHER PERSONS: Those holding special events will have to be insured as required in this rule, as described under "summary of the rule or change." An exact cost is impossible to predict because private insurance companies' rates differ considerably for this coverage.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will be based on available insurance rates at the time of the scheduled events and be contingent upon the number of racers and the number of spectators anticipated. Private insurance will be required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule will have no fiscal impact on business.

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

Natural Resources
 Parks and Recreation
 116
 1594 West North Temple
 PO Box 146001
 Salt Lake City, UT 84114-6001, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: David K. Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.
R651-409. Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race.
R651-409-1. Insurance Policy Requirements Maintained.

The insurance specifications for Subsections 41-22-29(1)(a) and (b) for an organization conducting "organized practices" or "sanctioned races" shall be a continuously maintained policy fully covering insurable responsibilities. This insurance policy shall be obtained from a reliable insurance company that is authorized to do business in Utah and is at all times A.M. Best Company rated "A" or better with a financial size category of XII or larger. The policy shall include Comprehensive General Liability Insurance, including coverage for premises and operations, products, combined single limit per occurrence, and an aggregate of not less than \$1,000,000 combined single limit per occurrence, and an aggregate of not less than \$1,000,000, which shall be designated as applying only to the organization conducted under Subsections 41-22-29(1)(a) and (b) U.C.A. 1953. If this coverage is written on a claims-made basis, the certificate of insurance shall so indicate. The policy shall also contain an extended-reporting-period provision or similar "tail" provision that keeps full insurance in force for claims reported up to three (3) years after the organization ceases activities covered by the policy. The insurance policy shall be endorsed to add all persons providing services or who own lands affected by the activities conducted.

KEY: parks, liability, insurance
July 4, 2000

63-11-17
41-22-29(1)(a)
41-22-29(1)(b)



Natural Resources, Parks and
Recreation
R651-601
Definitions as Used in These Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22872
FILED: 05/15/2000, 14:16
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To define terms commonly used in the approval of commercial activity on state park land. These terms clarify procedures outlined in Rule R651-634 (Snowmobiles User Fee - Non Residents).

SUMMARY OF THE RULE OR CHANGE: Terms such as "commercial activity," "commercial gain," "concession," and "special use permit" that are commonly used in park concession operations with private entities have needed to be more precisely defined in the rules. This amendment will help those reading it to understand more fully what each term means.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Because this rule defines specific terms and has no monetary change, no additional cost or savings to the current state budget is anticipated.

❖LOCAL GOVERNMENTS: Since local government has no authority over State Parks, there is no aggregate anticipated cost or savings.

❖OTHER PERSONS: No additional cost or savings to other persons is anticipated. This rule is to help those reading this rule to understand terms commonly used in the state park system.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional compliance costs beyond current administrative procedures are required by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule will have no fiscal impact on business.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: David K. Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.
R651-601. Definitions as Used in These Rules.

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R651-601-12. Commercial Activity.

"Commercial Activity" means any activity, private or otherwise, that is for the purpose of commercial gain, or that is part of any scheme or plan established for the purpose of obtaining commercial gain. This includes, but is not limited to:

- (1) sales of goods or merchandise.
- (2) rentals of equipment.
- (3) collection of entrance or admission fees.
- (4) collection of storage or use fees.
- (5) sales of services.

R651-601-13. Commercial Gain.

"Commercial gain" means compensation in money, services, or other consideration as part of a scheme or effort to generate income or financial advantage of any kind.

R651-601-14. Concession.

"Concession" means a use agreement granted to an individual, partnership, corporation, or other recognized organization, for the purpose of providing services or sales of goods or merchandise for conducting commercial activity.

R651-601-15. Special Use Permit.

"Special Use Permit" means a temporary authorization or concession, not to exceed one year, for the purpose of conducting commercial activity.

KEY: parks

[December 2, 1999] July 4, 2000

Notice of Continuation June 29, 1999

63-11-17(2)(b)



Natural Resources, Parks and
Recreation
R651-606
Camping

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 22873
FILED: 05/15/2000, 14:16
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R651-606 establishes quiet hours between 10:00 p.m. and 7:00 a.m. in general, but does not provide the latitude to change hours, as in the case of Coral Pink Sand Dunes State

Park, which has a great amount of off-highway vehicle use. Hours there need to be adjusted to accommodate both motorized and nonmotorized groups. By changing quiet hours from 10:00 p.m. to 7:00 a.m. to 10:00 p.m. to 9:00 a.m., it will help the state avoid, by rule, conflicts between motorized and nonmotorized vehicle groups at Coral Pink Sand Dunes State Park.

SUMMARY OF THE RULE OR CHANGE: Some visitors such as Off-Highway Vehicle (OHV) users are motorized, which creates high decibel noise. Others are nonmotorized, such as horseback riding, bicycling, and walking, which creates low decibel noise. There are times when there is a conflict between the two types of park visitors, and this amendment will allow the division to extend quiet hours at Coral Pink Sand Dunes State Park to alleviate problems with noise.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Since the noise levels are the issue here, there would be no aggregate anticipated cost or savings. Rangers who already serve at the park would be enforcing the new quiet hours at Coral Pink Sand Dunes State Park.

❖LOCAL GOVERNMENTS: Since local government has no authority over State Parks, there is no aggregate anticipated cost or savings.

❖OTHER PERSONS: If the visitor (public) fails to comply with the quiet hours rule, they will be warned. After the warning, if they do not comply, they could receive a citation from rangers at the park for failure to do so. Any fine would be treated on a case-by-case basis by a judge. Parks personnel do not issue or levy fines.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Parks and Recreation continues to serve the public and accommodate their needs. Noise levels are extremely high at times from OHV and other motorized vehicles. Those with nonmotorized vehicles have vocalized their problems with loud noises at Coral Pink Sand Dunes State Park. If the group with the high noise level complies with the warning from state park rangers, there will be no cost to them. If they do not comply, they face being cited by peace officers from Parks and Recreation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule will have no fiscal impact on business.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: David K.Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.
R651-606. Camping.

.....

R651-606-10. Quiet Hours.

No person shall violate the 10 p.m. to 7 a.m. park area quiet hours[-], except in the following area(s): Coral Pink Sand Dunes State Park, which shall be 10 p.m. to 9 a.m.

KEY: parks
[~~October 4, 1999~~July 4, 2000 **63-11-17(2)(b)**
Notice of Continuation June 29, 1999



Natural Resources, Parks and
Recreation
R651-634
Snowmobile User Fee - Non-Residents

NOTICE OF PROPOSED RULE
(New)
DAR FILE No.: 22874
FILED: 05/15/2000, 14:16
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To explain user fees for out-of-state snowmobile users on public lands, trail, street or highway in Utah. Fees will be charged according to S.B. 14, which states that the snowmobile user annual fee will be \$30 per year. This rule will also terminate the registration requirement for snowmobiles owned by nonresidents, providing for the collection of fees and issuance of decals by agents of the Division of Parks and Recreation, and provides a criminal penalty for noncompliance. It will help resolve conflicts with commercial uses of state park lands.

SUMMARY OF THE RULE OR CHANGE: Any nonresident of the state of Utah who uses public lands, trails, streets, or highways in Utah will now pay a fee of \$30 per year as

required by S.B. 14. This rule will terminate registration requirement in lieu of fee and issuance of decals. This rule clarifies the procedures for conducting commercial activity and prescribes the terms and conditions under which commercial activity may be approved on state park lands. **(DAR Note: S.B. 14 is found at 1999 Utah Laws 1, and was effective July 1, 1999.)**

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The \$30 is in lieu of fee and issuance of decals for nonresident, and, therefore would have little if any fiscal impact on the state budget.
❖LOCAL GOVERNMENTS: Since local government has no authority over State Parks, there is no aggregate anticipated cost or savings.
❖OTHER PERSONS: Out-of-state visitors will pay a fee as required in S.B. 14 of \$30 per year per visitor. The total would vary with the number of visitors who come to Utah who utilize snowmobiling on state lands. This amount is in lieu of fee and issuance of decals.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Every out-of-state visitor will be required to pay an annual fee of \$30 in lieu of fee and issuance of decals. Noncompliance could result in a criminal penalty.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule will have no fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 07/04/2000

AUTHORIZED BY: David K. Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.
R651-634. Snowmobile User Fee - Non-Residents.
R651-634-1. User Fees.
Except as provided in Subsection 41-22-29(1)(b), any nonresident owning a snowmobile who operates or gives another

person permission to operate the snowmobile on any public land, trail, street or highway in this state, shall pay an annual snowmobile user fee

A decal will be dispersed by which proves payment has been made. The decal will then be displayed on the snowmoile in accordance with the rules of the board. The decal should not be transferred.

Fees charged will be in accordance with S.B. 14 (1999 Utah Laws 1, effective July 1, 1999) which states that the snowmobile user annual fee will be \$30 per year.

This rule will terminate the registration requirement for snowmobiles owned by nonresidents, providing for the collection of fees and issuance of decals by agents of the Division of Park and Recreation; and provide for a criminal penalty

KEY: parks

July 4, 2000

41-22-29(1)(a)

41-22-29(1)(b)

63-11-17



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 (1996).

Administrative Services, Facilities Construction and Management **R23-2** Procurement of Architectural and Engineering Services

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22821
FILED: 05/04/2000, 17:02
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-56-14(2) directs the Building Board to adopt rules establishing procedures for the procurement of architectural and engineering services by DFCM. Subsection 63A-5-103(1)(e) sets forth the Board's authority to adopt rules for the activities of DFCM. Title 63, Chapter 56, and Title 63A, Chapter 5, contain the statutory provisions governing the procurement of architectural and engineering services by DFCM.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The State Building Board and DFCM are currently going through a substantial review of the procurement process outlined in this rule. This has included hearings and the receipt of written comments. A number of architects and engineers have commented in favor of the existing rule as being a cost effective method for the state to administer and for them to solicit state work. The majority of those making comments have recommended that some changes occur in the existing rule, although there is not uniformity in the changes that are suggested. A number of parties have opposed the existing rule with positions that it allowed too much bias on the part of

selection committees and does not objectively consider past performance.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued while the Building Board determines what changes, if any, should be made in the procurement process for architect and engineer services. If the rule is made ineffective prior to the completion of the Building Board's determination and any rule making resulting therefrom, the Division of Facilities Construction and Management (DFCM) will not have an authorized process to follow in the procurement of these services. This would require that critical projects be delayed while the differences of opinion regarding this rule are resolved. This would result in increased project costs and would also substantially hinder the operations of state agencies and institutions. While it is likely that some changes to this rule will be made in the future, the Building Board and DFCM want to give the affected parties sufficient time to express their concerns and work together towards a solution.

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

Administrative Services
Facilities Construction and Management
4110 State Office Building Room
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kenneth Nye at the above address, by phone at (801) 538-3284, by FAX at (801) 538-3267, or Internet E-mail at knye@dfcm.state.ut.us.

AUTHORIZED BY: Richard E. Byfield, American Institute of Architects (AIA), Director

EFFECTIVE: 05/04/2000

◆ _____ ◆

Human Services, Recovery Services
R527-67
Locate, Use of Subpoena Duces
Tecum

Natural Resources; Forestry, Fire and
State Lands
R652-120
Wildland Fire

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

DAR FILE No.: 22820
FILED: 05/03/2000, 08:25
RECEIVED BY: NL

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

DAR FILE No.: 22835
FILED: 05/09/2000, 16:02
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 62A-11-304.1 of the Utah Code, ORS is authorized to use subpoena power to obtain "financial and other information needed to establish, modify, or enforce a support order." It also allows ORS to impose a penalty against an entity that fails to provide information requested by subpoena, and protects the entity from civil and criminal liability for providing the information. The rule specifies the conditions under which ORS may use its subpoena power.

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule is promulgated under general rulemaking authority of Subsection 65A-1-4(2). The rule is appropriate because it establishes criteria for issuance of burning permits under Section 65A-8-9, and authorizes the establishment of fire management areas as part of the division's responsibilities under Subsection 65A-8-1(2).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it limits the Office of Recovery Services' (ORS) use of subpoenas to situations in which the location or earnings of a person who owes support cannot be reasonably obtained in any other way.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Cooperative fire protection on nonfederal forest, range, and watershed lands in unincorporated areas is a continuing responsibility of the division. The rule is necessary as long as this responsibility exists.

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

Human Services
Recovery Services
14th Floor, Eaton/Kenway Building
515 East 100 South
PO Box 45011
Salt Lake City, UT 84145-0011, or
at the Division of Administrative Rules.

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

Natural Resources
Forestry, Fire and State Lands
3520
1594 West North Temple
PO Box 145703
Salt Lake City, UT 84114-5703, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hsdadmin.hsorsslc.wbraithw@email.state.ut.us.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at (801) 538-5495, by FAX at (801) 533-4111, or Internet E-mail at nrslf.kkappe@state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

AUTHORIZED BY: Karl Kappe, Strategic Planner

EFFECTIVE: 05/03/2000

EFFECTIVE: 05/09/2000



Regents (Board of), Administration
R765-626
Lender-of-Last-Resort Program

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

DAR FILE No.: 22822
FILED: 05/05/2000, 09:09
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53B-12-101(6) and Pub. L. No. 102-325 (Higher Education Act): the statute authorizes the Utah Higher Education Assistance Authority to adopt, amend, or repeal rules to govern the authorized activities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Federal regulations require the Utah Higher Education Assistance Authority to have policies in place regarding FFELP (Federal Family Education Loan Program) Lender-of-Last-Resort Program.

**End of the Five-Year Notices of Review and
Statements of Continuation Section**

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

Regents (Board of)
Administration
Suite 550, 3 Triad Center
355 West North Temple
PO Box 45202
Salt Lake City, UT 84180-1205, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cathryn Judd at the above address, by phone at (801) 321-7249, by FAX at (801) 321-7299, or Internet E-mail at cjudd@utahsbr.edu.

AUTHORIZED BY: Chalmers Gail Norris, Associate Commissioner for Student Financial Aid, and Executive Director, UHEAA and LPP

EFFECTIVE: 05/05/2000



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. 22701 (AMD): R156-57-302a. Qualifications for Licensure - Examination Requirements.

Published: April 1, 2000

Effective: May 2, 2000

No. 22700 (AMD): R156-71-202. Naturopathic Physician Formulary.

Published: April 1, 2000

Effective: May 2, 2000

DAR correction notice: In the May 15, 2000, *Bulletin*, the notice of correction for an effective notice that was incorrect in the May 1, 2000, *Bulletin* contained an error. The DAR number was published as 22605. The DAR number should have been 22604. The notice should have been:

Environmental Quality

Drinking Water

No. 22604 (NEW): R309-405. Compliance and Enforcement: Administrative Penalty.

Published: February 1, 2000

Effective: April 17, 2000

Human Services

Aging and Adult Services

No. 22659 (AMD): R510-302. Adult Protective Services.

Published: March 1, 2000

Effective: May 16, 2000

Labor Commission

Safety

No. 22702 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.

Published: April 1, 2000

Effective: May 9, 2000

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2000, including notices of effective date received through May 15, 2000, the effective dates of which are no later than June 1, 2000. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-2	Procurement of Architectural and Engineering Services	22821	5YR	05/04/2000	2000-11/101
AGRICULTURE AND FOOD					
<u>Plant Industry</u>					
R68-2	Utah Commercial Feed Act Governing Feed	R68-2	NSC	05/01/2000	Not Printed
<u>Regulatory Services</u>					
R70-310	Grade A Pasteurized Milk	22657	5YR	02/10/2000	2000-5/64
R70-310	Grade A Pasteurized Milk	22658	AMD	04/03/2000	2000-5/5
R70-310-2	Adoption of USPHS Ordinance	22707	NSC	05/01/2000	Not Printed
R70-630	Water Vending Machine	22596	5YR	01/11/2000	2000-3/91
R70-630	Water Vending Machine	22597	AMD	03/03/2000	2000-3/5
ALCOHOLIC BEVERAGE CONTROL					
<u>Administration</u>					
R81-1-7	Disciplinary Hearings	22639	AMD	03/27/2000	2000-4/4

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R81-1-12	Alcohol Training and Education Seminar	22752	NSC	05/01/2000	Not Printed
CAPITOL PRESERVATION BOARD (STATE)					
<u>Administration</u>					
R131-1	Procurement of Architectural and Engineering Services	22572	NEW	03/13/2000	2000-2/5
R131-2	Capitol Hill Facility Use	22568	NEW	03/13/2000	2000-2/4
R131-7	State Capitol Preservation Board Master Planning Policy	22574	NEW	03/13/2000	2000-2/7
COMMERCE					
<u>Occupational and Professional Licensing</u>					
R156-1-205	Advisory Peer Committees - Direct to Appear with Concurrence of Board - Terms of Office - Vacancies in Office - Removal from Office - Quorum Requirements - Appointment of Chairman - Division to Provide Secretary - Compliance with Open and Public Meetings Act - Compliance with Utah Administrative Procedures Act - No Provision for Per Diem and Expenses	22587	AMD	02/15/2000	2000-2/8
R156-1-308a	Renewal Dates	22645	AMD	03/20/2000	2000-4/12
R156-17a	Pharmacy Practice Act Rules	22318	AMD	see CPR	99-17/10
R156-17a	Pharmacy Practice Act Rules	22318	CPR	02/15/2000	2000-2/17
R156-17a-602	Operating Standards - Pharmacy Intern - Scope of Practice	22738	NSC	05/01/2000	Not Printed
R156-24a-503	Physical Therapist Supervisory Authority and Responsibility	22734	NSC	05/01/2000	Not Printed
R156-31b-304	Quality Review Program	22576	AMD	02/15/2000	2000-2/10
R156-31b-304	Quality Review Program	22663	NSC	02/24/2000	Not Printed
R156-31c-201	Issuing a License	22577	AMD	02/15/2000	2000-2/11
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	22725	5YR	04/06/2000	2000-9/183
R156-56	Utah Uniform Building Standard Act Rules	22398	AMD	see CPR	99-20/15
R156-56	Utah Uniform Building Standard Act Rules	22398	CPR	02/15/2000	2000-2/21
R156-56-602	Factory Built Housing Dealer Bonds	22478	AMD	see CPR	99-22/7
R156-56-602	Factory Built Housing Dealer Bonds	22478	CPR	02/15/2000	2000-2/24
R156-56-706	Amendments to the IPC	22449	AMD	see CPR	99-21/7
R156-56-706	Amendments to the IPC	22449	CPR	01/18/2000	99-24/47
R156-57	Respiratory Care Practices Act Rules	22482	AMD	01/04/2000	99-23/13
R156-57-302a	Qualifications for Licensure - Examination Requirements	22701	AMD	05/02/2000	2000-7/6
R156-59	Employee Leasing Company Act Rules	22677	AMD	04/17/2000	2000-6/11
R156-59	Professional Employer Organization Act Rules	22786	NSC	05/01/2000	Not Printed
R156-60c	Professional Counselor Licensing Act Rules	22726	5YR	04/06/2000	2000-9/183
R156-61	Psychologist Licensing Act Rules	22588	AMD	02/15/2000	2000-2/12
R156-61-302e	Duties and Responsibilities of a Supervisor of Psychology Training and Mental Health Therapist Training	22735	NSC	05/01/2000	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-63-302a	Qualifications for Licensure - Application Requirements	22736	NSC	05/01/2000	Not Printed
R156-65	Burglar Alarm Security and Licensing Act Rules	22737	NSC	05/01/2000	Not Printed
R156-66	Utah Professional Boxing Regulation Act Rules	22589	AMD	02/15/2000	2000-2/14
R156-71	Naturopathic Physician Practice Act Rules	22507	AMD	01/04/2000	99-23/14
R156-71-202	Naturopathic Physician Formulary	22700	AMD	05/02/2000	2000-7/7
<u>Real Estate</u>					
R162-6	Licensee Conduct	22514	AMD	01/27/2000	99-24/10
R162-10	Administrative Procedures	22624	AMD	03/20/2000	2000-4/14
R162-106	Professional Conduct	22626	AMD	03/20/2000	2000-4/16
<u>Securities</u>					
R164-2	Investment Adviser - Unlawful Acts	22642	NEW	03/20/2000	2000-4/18
R164-4	Licensing Requirements	22643	AMD	03/20/2000	2000-4/29
R164-14	Exemptions	22644	AMD	03/20/2000	2000-4/20
EDUCATION					
<u>Administration</u>					
R277-404	Year-Round School and Effective Facility Use Program	22563	REP	02/01/2000	2000-1/8
R277-430	Capital Outlay Equalization Qualification	22564	REP	02/01/2000	2000-1/10
R277-462	Comprehensive Guidance Program	22669	AMD	04/03/2000	2000-5/6
R277-472	Reading Performance Improvement Awards Program	22593	NSC	01/25/2000	Not Printed
R277-501	Educator Licensing Renewal	22609	NEW	03/03/2000	2000-3/8
R277-507	Driver Education Endorsement	22528	AMD	02/01/2000	2000-1/11
R277-514	Board Procedures: Sanctions for Misconduct	22670	AMD	04/03/2000	2000-5/8
R277-607	Truancy Prevention	22610	AMD	03/03/2000	2000-3/11
R277-904	Applied Technology Center and Service Region Standards and Operating Procedures	22611	AMD	03/03/2000	2000-3/13
ENVIRONMENTAL QUALITY					
<u>Air Quality</u>					
R307-110	General Requirements: State Implementation Plan	22623	NSC	02/25/2000	Not Printed
R307-110-19	Section XI, Other Control Measure for Mobile Sources	22553	AMD	02/10/2000	2000-1/14
R307-110-19	Section XI, Other Control Measures for Mobile Sources	22660	NSC	02/25/2000	Not Printed
R307-115	General Conformity	22688	NSC	03/20/2000	Not Printed
R307-121-2	Amount of Credit	22686	NSC	03/20/2000	Not Printed
R307-122-2	Amount of Credit	22687	NSC	03/20/2000	Not Printed
R307-150	Emission Inventories	22605	AMD	04/06/2000	2000-3/21
R307-320	Davis, Salt Lake and Utah Counties, and Ogden City: Employer-Based Trip Reduction Program	22724	5YR	04/05/2000	2000-9/184

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-403-8	Offsets: Banking of Emission Offset Credit	22607	NSC	01/25/2000	Not Printed
R307-415-5a	Permit Applications: Duty to Apply	22606	AMD	04/06/2000	2000-3/23
<u>Drinking Water</u>					
R309-302	Required Certification Rules for Backflow Technicians in the State of Utah	22730	5YR	04/10/2000	2000-9/185
R309-405	Compliance and Enforcement: Administrative Penalty	22604	NEW	04/17/2000	2000-3/25
<u>Radiation Control</u>					
R313-12	General Provisions	22598	AMD	03/10/2000	2000-3/27
R313-15	Standards for Protection Against Radiation	22599	AMD	03/10/2000	2000-3/34
R313-16	General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines	22600	AMD	03/10/2000	2000-3/56
R313-22	Specific Licenses	22601	AMD	03/10/2000	2000-3/59
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	22602	AMD	03/10/2000	2000-3/77
R313-34	Requirements for Irradiators	22603	AMD	03/10/2000	2000-3/86
R313-34	Requirements for Irradiators	22720	5YR	04/03/2000	2000-9/186
<u>Solid and Hazardous Waste</u>					
R315-1-1	Utah Hazardous Waste Definitions and References	22537	NSC	01/25/2000	Not Printed
R315-2	General Requirements - Identification and Listing of Hazardous Waste	22538	NSC	01/25/2000	Not Printed
R315-2-9	Characteristics of Hazardous Waste	22653	NSC	02/25/2000	Not Printed
R315-3	Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	22539	NSC	01/25/2000	Not Printed
R315-3-20	Hazardous Waste Incinerator Plan Approvals	22654	NSC	02/25/2000	Not Printed
R315-5	Hazardous Waste Generator Requirements	22541	NSC	01/25/2000	Not Printed
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	22541	NSC	01/25/2000	Not Printed
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	22543	NSC	01/25/2000	Not Printed
R315-13	Land Disposal Restrictions	22544	NSC	01/25/2000	Not Printed
R315-16	Standards for Universal Waste Management	22545	NSC	01/25/2000	Not Printed
R315-50	Appendices	22546	NSC	01/25/2000	Not Printed
R315-101	Cleanup Action and Risk-Based Closure Standards	22547	NSC	01/25/2000	Not Printed
<u>Water Quality</u>					
R317-2	Standards of Quality for Waters of the State	22566	AMD	03/17/2000	2000-1/15
R317-4	Onsite Wastewater Systems	22490	NEW	02/16/2000	99-23/16
R317-4	Onsite Wastewater Systems	22691	NSC	03/20/2000	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R317-501	Individual Wastewater Disposal Systems	22491	REP	02/16/2000	99-23/45
R317-502	Individual Disposal Wastewater Systems - General Requirements	22492	REP	02/16/2000	99-23/48
R317-503	Soil and Ground Water Requirements	22493	REP	02/16/2000	99-23/56
R317-504	Building Sewer	22494	REP	02/16/2000	99-23/58
R317-505	Septic Tanks	22495	REP	02/16/2000	99-23/59
R317-506	Discharge to Absorption System	22496	REP	02/16/2000	99-23/63
R317-507	Absorption Systems	22497	REP	02/16/2000	99-23/65
R317-508	Plan Information for Individual Wastewater Disposal Systems	22498	REP	02/16/2000	99-23/73
R317-509	Design, Installation, and Maintenance of Sewage Holding Tanks	22499	REP	02/16/2000	99-23/75
R317-510	Review Criteria for Establishing the Feasibility of Proposed Housing Subdivisions and Other Similar Developments	22500	REP	02/16/2000	99-23/77
R317-511	Percolation Test Requirements	22501	REP	02/16/2000	99-23/80
R317-512	Approved Building Sewer Pipe and Distribution Pipe for Individual Wastewater Disposal Systems	22502	REP	02/16/2000	99-23/82
R317-513	Recommendations for the Maintenance of Septic Tanks and Absorption Systems	22503	REP	02/16/2000	99-23/84
HEALTH					
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1	Utah Medicaid Program	22512	AMD	01/26/2000	99-24/13
R414-58	Children's Organ Transplants	22529	AMD	02/17/2000	2000-1/29
R414-61	Home and Community Based Waivers	22513	AMD	see CPR	99-24/15
R414-61	Home and Community Based Waivers	22513	CPR	03/30/2000	2000-4/69
R414-303	Coverage Groups	22378	AMD	see CPR	99-19/25
R414-303	Coverage Groups	22378	CPR	01/26/2000	99-24/52
R414-304	Income and Budgeting	22703	EMR	03/09/2000	2000-7/19
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-6	Emergency Medical Services Grants Program Rules	22534	AMD	04/30/2000	2000-1/31
<u>Health Systems Improvement, Health Facility Licensure</u>					
R432-7	Specialty Hospital - Psychiatric Hospital Construction	22630	5YR	02/01/2000	2000-4/70
R432-8	Specialty Hospital - Chemical Dependency/Substance Abuse Construction	22631	5YR	02/01/2000	2000-4/70
R432-9	Specialty Hospital - Rehabilitation Construction Rule	22632	5YR	02/01/2000	2000-4/71
R432-10	Specialty Hospital - Chronic Disease Construction Rule	22633	5YR	02/01/2000	2000-4/72
R432-11	Orthopedic Hospital Construction	22634	5YR	02/01/2000	2000-4/72
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	22635	5YR	02/01/2000	2000-4/73

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	22636	5YR	02/01/2000	2000-4/73
R432-14	Birthing Center Construction Rule	22637	5YR	02/01/2000	2000-4/74
R432-30	Adjudicative Procedure	22638	5YR	02/01/2000	2000-4/74
R432-270	Assisted Living Facilities	22655	5YR	02/09/2000	2000-5/64
R432-270	Assisted Living Facilities	22743	NSC	05/01/2000	Not Printed
<u>Health Systems Improvement, Primary Care and Rural Health</u>					
R434-20	Special Population Health Care Provider Financial Assistance Program	22622	AMD	03/24/2000	2000-4/31
<u>Epidemiology and Laboratory Services, Laboratory Improvement</u>					
R444-14	Rules for the Certification of Environmental Laboratories	22516	AMD	03/01/2000	99-24/16
HOUSING FINANCE AGENCY					
<u>Administration</u>					
R460-1	Authority and Purpose	22682	5YR	02/23/2000	2000-6/46
R460-4	Additional Servicing Rules	22683	5YR	02/23/2000	2000-6/46
R460-6	Adjudicative Proceedings	22684	5YR	02/23/2000	2000-6/47
R460-7	Public Petitions for Declaratory Orders	22685	5YR	02/23/2000	2000-6/47
HUMAN SERVICES					
<u>Administration, Administrative Services, Licensing</u>					
R501-3	Categorical Standards	22694	REP	05/02/2000	2000-6/20
R501-12	Foster Care Rules	22629	AMD	03/17/2000	2000-4/38
R501-13	Core Standards for Adult Day Care Programs	22661	R&R	04/15/2000	2000-5/32
R501-19	Residential Treatment Programs	22695	NEW	05/02/2000	2000-6/28
R501-20	Day Treatment Programs	22696	NEW	05/02/2000	2000-6/31
R501-21	Outpatient Treatment Programs	22697	NEW	05/02/2000	2000-6/33
R501-22	Residential Support Programs	22698	NEW	05/02/2000	2000-6/36
<u>Aging and Adult Services</u>					
R510-302	Adult Protective Services	22619	5YR	01/24/2000	2000-4/75
R510-302	Adult Protective Services	22659	AMD	05/16/2000	2000-5/43
<u>Child and Family Services</u>					
R512-1	Description of Division Services, Eligibility, and Service Access	22814	EMR	05/01/2000	2000-10/56
R512-41	Qualifying Adoptive Families and Adoption Placement	22815	EMR	05/01/2000	2000-10/58
<u>Recovery Services</u>					
R527-5	Release of Information	22555	AMD	02/01/2000	2000-1/33
R527-10	Disclosure of Information to the Office of Recovery Services	22692	5YR	03/01/2000	2000-6/48
R527-24	Good Cause	22487	REP	01/10/2000	99-23/86

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R527-34-1	Non-AFDC Services	22628	AMD	03/24/2000	2000-4/42
R527-40	Retained Support	22656	5YR	02/10/2000	2000-5/65
R527-67	Locate, Use of Subpoena Duces Tecum	22820	5YR	05/03/2000	2000-11/102
R527-200	Administrative Procedures	22556	AMD	02/01/2000	2000-1/37
R527-200	Administrative Procedures	22754	NSC	05/01/2000	Not Printed
R527-475	State Tax Refund Intercept	22488	AMD	01/10/2000	99-23/87
R527-475	State Tax Refund Intercept	22708	5YR	03/24/2000	2000-8/34
R527-800	Enforcement Procedures	22755	NSC	05/01/2000	Not Printed
INSURANCE					
<u>Administration</u>					
R590-88	Prohibited Transactions Between Agents and Unauthorized Multiple Employer Trusts	22665	5YR	02/15/2000	2000-5/66
R590-128	Unfair Discrimination Based on the Failure to Maintain Automobile Insurance. (Revised.)	22666	5YR	02/15/2000	2000-5/66
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	22667	5YR	02/15/2000	2000-5/67
R590-140	Reference Filings of Rate Service Organization Prospective Loss Costs	22759	5YR	04/13/2000	2000-9/186
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R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	22417	CPR	02/01/2000	99-24/53
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R590-197	Treatment of Guaranty Association Assessments as Qualified Assets	22621	NSC	02/25/2000	Not Printed
R590-198	Valuation of Life Insurance Policies Rule	22506	NEW	01/04/2000	99-23/90
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R606-3-2	Procedures and Prohibitions	22675	NSC	03/20/2000	Not Printed
R606-5-2	Procedures and Prohibitions	22676	NSC	03/20/2000	Not Printed
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R614-1-5	Adoption and Extension of Established Federal Safety Standards and State of Utah General Safety Orders	22766	NSC	05/01/2000	Not Printed
R614-1-10	Discrimination	22672	NSC	03/20/2000	Not Printed
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R623-1	Lieutenant Governor's Procedure for Regulation of Lobbyist Activities	22612	AMD	03/03/2000	2000-3/89
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R657-19	Taking Nongame Mammals	22712	5YR	03/30/2000	2000-8/34
R657-19	Taking Nongame Mammals	22733	NSC	05/01/2000	Not Printed
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R657-38	Dedicated Hunter Program	22649	AMD	04/04/2000	2000-5/46
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R657-46	The Use of Game Birds in Dog Field Trials and Training	22651	AMD	04/04/2000	2000-5/51
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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 5YR = Five-Year Review
 EXD = Expired

NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 * = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

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	22659	R510-302	AMD	05/16/2000	2000-5/43
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	22660	R307-110-19	NSC	02/25/2000	Not Printed
	22688	R307-115	NSC	03/20/2000	Not Printed
	22686	R307-121-2	NSC	03/20/2000	Not Printed
	22687	R307-122-2	NSC	03/20/2000	Not Printed
	22605	R307-150	AMD	04/06/2000	2000-3/21
	22724	R307-320	5YR	04/05/2000	2000-9/184
	22606	R307-415-5a	AMD	04/06/2000	2000-3/23
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	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24
	22449	R156-56-706	AMD	see CPR	99-21/7
	22449	R156-56-706	CPR	01/18/2000	99-24/47
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	22478	R156-56-602	AMD	see CPR	99-22/7
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	22449	R156-56-706	AMD	see CPR	99-21/7
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	22487	R527-24	REP	01/10/2000	99-23/86
	22628	R527-34-1	AMD	03/24/2000	2000-4/42
	22656	R527-40	5YR	02/10/2000	2000-5/65
	22820	R527-67	5YR	05/03/2000	2000-11/102
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	22671	R686-100	AMD	04/03/2000	2000-5/53
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	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24
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	22449	R156-56-706	CPR	01/18/2000	99-24/47
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	22604	R309-405	NEW	04/17/2000	2000-3/25
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	22659	R510-302	AMD	05/16/2000	2000-5/43
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	22674	R606-2-2	NSC	03/20/2000	Not Printed
	22676	R606-5-2	NSC	03/20/2000	Not Printed
Workforce Services, Workforce Information and Payment Services	22548	R994-202-103	AMD	02/02/2000	2000-1/60
<u>EMPLOYMENT AGENCIES</u>					
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<u>EMPLOYMENT TESTS</u>					
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	22722	R994-204	5YR	04/04/2000	2000-9/188
	22723	R994-204	5YR	04/04/2000	2000-9/188
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<u>ENGINEERS</u>					
Administrative Services, Facilities Construction and Management	22821	R23-2	5YR	05/04/2000	2000-11/101
Capitol Preservation Board (State), Administration	22572	R131-1	NEW	03/13/2000	2000-2/5
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	22606	R307-415-5a	AMD	04/06/2000	2000-3/23

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	22604	R309-405	NEW	04/17/2000	2000-3/25
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	22649	R657-38	AMD	04/04/2000	2000-5/46
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Agriculture and Food, Plant Industry	22753	R68-2	NSC	05/01/2000	Not Printed
<u>FEES</u>					
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Public Safety, Fire Marshal	22557	R710-1	AMD	02/01/2000	2000-1/44
	22560	R710-7	AMD	02/01/2000	2000-1/54
	22561	R710-8	AMD	02/01/2000	2000-1/57
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Natural Resources, Wildlife Resources	22392	R657-13	AMD	01/03/2000	99-20/31
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	22648	R657-13-12	AMD	04/04/2000	2000-5/45
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	22648	R657-13-12	AMD	04/04/2000	2000-5/45
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	22712	R657-19	5YR	03/30/2000	2000-8/34
	22733	R657-19	NSC	05/01/2000	Not Printed
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Environmental Quality, Solid and Hazardous Waste	22537	R315-1-1	NSC	01/25/2000	Not Printed
	22538	R315-2	NSC	01/25/2000	Not Printed
	22653	R315-2-9	NSC	02/25/2000	Not Printed
	22539	R315-3	NSC	01/25/2000	Not Printed
	22654	R315-3-20	NSC	02/25/2000	Not Printed
	22541	R315-5	NSC	01/25/2000	Not Printed
	22542	R315-7	NSC	01/25/2000	Not Printed
	22543	R315-8	NSC	01/25/2000	Not Printed
	22544	R315-13	NSC	01/25/2000	Not Printed
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	22632	R432-9	5YR	02/01/2000	2000-4/71
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	22634	R432-11	5YR	02/01/2000	2000-4/72
	22635	R432-12	5YR	02/01/2000	2000-4/73
	22636	R432-13	5YR	02/01/2000	2000-4/73
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	22671	R686-100	AMD	04/03/2000	2000-5/53
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	22822	R765-626	5YR	05/05/2000	2000-11/103
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	22683	R460-4	5YR	02/23/2000	2000-6/46
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	22629	R501-12	AMD	03/17/2000	2000-4/38
	22661	R501-13	R&R	04/15/2000	2000-5/32
	22695	R501-19	NEW	05/02/2000	2000-6/28
	22696	R501-20	NEW	05/02/2000	2000-6/31
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	22698	R501-22	NEW	05/02/2000	2000-6/36
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	22506	R590-198	NEW	01/04/2000	99-23/90
	22595	R590-198	NSC	01/25/2000	Not Printed
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	22746	R590-164	5YR	04/11/2000	2000-9/187
	22416	R590-197	NEW	01/25/2000	99-20/30
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	22318	R156-17a	AMD	see CPR	99-17/10
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	22738	R156-17a-602	NSC	05/01/2000	Not Printed
	22734	R156-24a-503	NSC	05/01/2000	Not Printed
	22576	R156-31b-304	AMD	02/15/2000	2000-2/10
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	22478	R156-56-602	AMD	see CPR	99-22/7
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	22701	R156-57-302a	AMD	05/02/2000	2000-7/6
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	22786	R156-59	NSC	05/01/2000	Not Printed
	22726	R156-60c	5YR	04/06/2000	2000-9/183
	22588	R156-61	AMD	02/15/2000	2000-2/12
	22735	R156-61-302e	NSC	05/01/2000	Not Printed
	22736	R156-63-302a	NSC	05/01/2000	Not Printed
	22737	R156-65	NSC	05/01/2000	Not Printed
	22589	R156-66	AMD	02/15/2000	2000-2/14
	22507	R156-71	AMD	01/04/2000	99-23/14
	22700	R156-71-202	AMD	05/02/2000	2000-7/7
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	22629	R501-12	AMD	03/17/2000	2000-4/38
	22661	R501-13	R&R	04/15/2000	2000-5/32
	22695	R501-19	NEW	05/02/2000	2000-6/28
	22696	R501-20	NEW	05/02/2000	2000-6/31
	22697	R501-21	NEW	05/02/2000	2000-6/33
	22698	R501-22	NEW	05/02/2000	2000-6/36
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	22612	R623-1	AMD	03/03/2000	2000-3/88
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School and Institutional Trust Lands, Administration	22664	R850-130-400	NSC	02/25/2000	Not Printed
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	22700	R156-71-202	AMD	05/02/2000	2000-7/7
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	22663	R156-31b-304	NSC	02/24/2000	Not Printed
	22577	R156-31c-201	AMD	02/15/2000	2000-2/11
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Commerce, Occupational and Professional Licensing	22587	R156-1-205	AMD	02/15/2000	2000-2/8
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	22553	R307-110-19	AMD	02/10/2000	2000-1/14
	22660	R307-110-19	NSC	02/25/2000	Not Printed
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	22835	R652-120	5YR	05/09/2000	2000-11/102
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	22522	R884-24P-62	AMD	01/20/2000	99-24/40
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	22318	R156-17a	CPR	02/15/2000	2000-2/17
	22738	R156-17a-602	NSC	05/01/2000	Not Printed
<u>PHARMACISTS</u>					
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	22786	R156-59	NSC	05/01/2000	Not Printed
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	22574	R131-7	NEW	03/13/2000	2000-2/7
<u>PUBLIC EDUCATION</u>					
Education, Administration	22669	R277-462	AMD	04/03/2000	2000-5/6
<u>PUBLIC SCHOOLS</u>					
Education, Administration	22564	R277-430	REP	02/01/2000	2000-1/10
<u>PUBLIC UTILITIES</u>					
Public Service Commission, Administration	22530	R746-360-2	NSC	01/25/2000	Not Printed
	22550	R746-401	NSC	01/25/2000	Not Printed
	22784	R746-405	NSC	05/01/2000	Not Printed
<u>RABBITS</u>					
Natural Resources, Wildlife Resources	22520	R657-6	AMD	01/18/2000	99-24/35
<u>RADIATION</u>					
Environmental Quality, Radiation Control	22602	R313-25	AMD	03/10/2000	2000-3/77
	22603	R313-34	AMD	03/10/2000	2000-3/86
	22720	R313-34	5YR	04/03/2000	2000-9/186
<u>RADIATION SAFETY</u>					
Environmental Quality, Radiation Control	22603	R313-34	AMD	03/10/2000	2000-3/86
	22720	R313-34	5YR	04/03/2000	2000-9/186
<u>RADIOACTIVE MATERIAL</u>					
Environmental Quality, Radiation Control	22599	R313-15	AMD	03/10/2000	2000-3/34
	22601	R313-22	AMD	03/10/2000	2000-3/59
<u>RADIOACTIVE WASTE DISPOSAL</u>					
Environmental Quality, Radiation Control	22602	R313-25	AMD	03/10/2000	2000-3/77
<u>READING</u>					
Education, Administration	22593	R277-472	NSC	01/25/2000	Not Printed

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<u>REAL ESTATE</u>					
School and Institutional Trust Lands, Administration	22796	R850-140-100	NSC	05/01/2000	Not Printed
<u>REAL ESTATE APPRAISAL</u>					
Commerce, Real Estate	22626	R162-106	AMD	03/20/2000	2000-4/16
<u>REAL ESTATE BUSINESS</u>					
Commerce, Real Estate	22514	R162-6	AMD	01/27/2000	99-24/10
	22624	R162-10	AMD	03/20/2000	2000-4/14
<u>RECLAMATION</u>					
Natural Resources; Oil, Gas and Mining; Coal	22214	R645-301-500	AMD	see CPR	99-16/32
	22214	R645-301-500	CPR	02/01/2000	2000-1/64
<u>RECREATION</u>					
Natural Resources, Wildlife Resources	22521	R657-38	AMD	01/18/2000	99-24/38
	22649	R657-38	AMD	04/04/2000	2000-5/46
<u>REPORTS</u>					
Environmental Quality, Air Quality	22605	R307-150	AMD	04/06/2000	2000-3/21
<u>RESPIRATORY CARE</u>					
Commerce, Occupational and Professional Licensing	22482	R156-57	AMD	01/04/2000	99-23/13
	22701	R156-57-302a	AMD	05/02/2000	2000-7/6
<u>RULEMAKING PROCEDURES</u>					
School and Institutional Trust Lands, Administration	22594	R850-10	5YR	01/04/2000	2000-3/92
<u>RULES AND PROCEDURE</u>					
Public Service Commission, Administration	22550	R746-401	NSC	01/25/2000	Not Printed
	22784	R746-405	NSC	05/01/2000	Not Printed
<u>SAFETY</u>					
Environmental Quality, Radiation Control	22599	R313-15	AMD	03/10/2000	2000-3/34
Labor Commission, Occupational Safety and Health	22765	R614-1-1	NSC	05/01/2000	Not Printed
	22524	R614-1-4	NSC	01/25/2000	Not Printed
	22766	R614-1-5	NSC	05/01/2000	Not Printed
	22672	R614-1-10	NSC	03/20/2000	Not Printed
Labor Commission, Safety	22702	R616-2-3	AMD	05/09/2000	2000-7/15
<u>SCHOLARSHIP</u>					
Health, Health Systems Improvement, Primary Care and Rural Health	22622	R434-20	AMD	03/24/2000	2000-4/31
Regents (Board of), Administration	22052	R765-604	NEW	see CPR	99-11/63
	22052	R765-604	CPR	02/04/2000	99-20/53
<u>SECONDARY EDUCATION</u>					
Regents (Board of), Administration	22052	R765-604	NEW	see CPR	99-11/63
	22052	R765-604	CPR	02/04/2000	99-20/53
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Commerce, Securities	22642	R164-2	NEW	03/20/2000	2000-4/18

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	22644	R164-14	AMD	03/20/2000	2000-4/29
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Commerce, Securities	22642	R164-2	NEW	03/20/2000	2000-4/18
	22643	R164-4	AMD	03/20/2000	2000-4/20
	22644	R164-14	AMD	03/20/2000	2000-4/29
<u>SECURITY GUARDS</u>					
Commerce, Occupational and Professional Licensing	22735	R156-61-302e	NSC	05/01/2000	Not Printed
	22736	R156-63-302a	NSC	05/01/2000	Not Printed
<u>SEPTIC SYSTEMS</u>					
Environmental Quality, Water Quality	22491	R317-501	REP	02/16/2000	99-23/45
<u>SEPTIC TANKS</u>					
Environmental Quality, Water Quality	22490	R317-4	NEW	02/16/2000	99-23/16
	22691	R317-4	NSC	03/20/2000	Not Printed
<u>SETTLEMENT</u>					
Labor Commission, Adjudication	22764	R602-2-1	NSC	05/01/2000	Not Printed
<u>SHELTER CARE FACILITIES</u>					
Human Services, Aging and Adult Services	22619	R510-302	5YR	01/24/2000	2000-4/75
	22659	R510-302	AMD	05/16/2000	2000-5/43
<u>SMALL BUSINESS ASSISTANCE PROGRAM</u>					
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	22553	R307-110-19	AMD	02/10/2000	2000-1/14
	22660	R307-110-19	NSC	02/25/2000	Not Printed
<u>SOCIAL SERVICES</u>					
Human Services, Child and Family Services	22814	R512-1	EMR	05/01/2000	2000-10/56
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Natural Resources; Forestry, Fire and State Lands	22428	R652-70-2400	AMD	02/29/2000	99-21/47
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Environmental Quality, Radiation Control	22601	R313-22	AMD	03/10/2000	2000-3/59
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Environmental Quality, Air Quality	22687	R307-122-2	NSC	03/20/2000	Not Printed
<u>STUDENT LOANS</u>					
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Environmental Quality, Radiation Control	22603	R313-34	AMD	03/10/2000	2000-3/86
	22720	R313-34	5YR	04/03/2000	2000-9/186

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Public Service Commission, Administration	22784	R746-405	NSC	05/01/2000	Not Printed
<u>TAXATION</u>					
Tax Commission, Property Tax	22627	R884-24P-33	AMD	03/28/2000	2000-4/56
	22508	R884-24P-44	AMD	01/20/2000	99-23/107
	22522	R884-24P-62	AMD	01/20/2000	99-24/40
<u>TAX EXEMPTIONS</u>					
Environmental Quality, Air Quality	22686	R307-121-2	NSC	03/20/2000	Not Printed
	22687	R307-122-2	NSC	03/20/2000	Not Printed
<u>TEACHER CERTIFICATION</u>					
Professional Practices Advisory Commission, Administration	22504	R686-100	AMD	01/05/2000	99-23/96
	22671	R686-100	AMD	04/03/2000	2000-5/53
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<u>TIME</u>					
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	22673	R606-1-2	NSC	03/20/2000	Not Printed
	22674	R606-2-2	NSC	03/20/2000	Not Printed
Labor Commission, Antidiscrimination and Labor, Fair Housing	22591	R608-1-3	NSC	01/25/2000	Not Printed
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<u>TRAMWAYS</u>					
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<u>TRANSPORTATION SAFETY</u>					
Transportation, Operations, Traffic and Safety	22617	R920-50	AMD	03/24/2000	2000-4/64
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	22721	R994-204	5YR	04/04/2000	2000-9/187
	22722	R994-205	5YR	04/04/2000	2000-9/188
	22723	R994-206	5YR	04/04/2000	2000-9/188
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Labor Commission, Industrial Accidents	22592	R612-8	5YR	01/03/2000	2000-3/91
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Public Service Commission, Administration	22530	R746-360-2	NSC	01/25/2000	Not Printed
<u>UTILITY REGULATION</u>					
Public Service Commission, Administration	22784	R746-405	NSC	05/01/2000	Not Printed
<u>WASTE DISPOSAL</u>					
Environmental Quality, Radiation Control	22599	R313-15	AMD	03/10/2000	2000-3/34
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Environmental Quality, Water Quality	22490	R317-4	NEW	02/16/2000	99-23/16
	22691	R317-4	NSC	03/20/2000	Not Printed
	22491	R317-501	REP	02/16/2000	99-23/45
	22492	R317-502	REP	02/16/2000	99-23/48
	22493	R317-503	REP	02/16/2000	99-23/56
	22494	R317-504	REP	02/16/2000	99-23/58
	22495	R317-505	REP	02/16/2000	99-23/59
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	22497	R317-507	REP	02/16/2000	99-23/65
	22498	R317-508	REP	02/16/2000	99-23/73
	22499	R317-509	REP	02/16/2000	99-23/75
	22500	R317-510	REP	02/16/2000	99-23/77
	22501	R317-511	REP	02/16/2000	99-23/80
	22502	R317-512	REP	02/16/2000	99-23/82
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	22755	R527-800	NSC	05/01/2000	Not Printed
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Natural Resources, Water Rights	22744	R655-4	NSC	05/01/2000	Not Printed
<u>WILDLIFE</u>					
Natural Resources, Wildlife Resources	22519	R657-5	AMD	see CPR	99-24/25
	22519	R657-5	CPR	02/01/2000	2000-1/66
	22520	R657-6	AMD	01/18/2000	99-24/35
	22392	R657-13	AMD	01/03/2000	99-20/31
	22693	R657-13-4	AMD	04/24/2000	2000-6/41
	22648	R657-13-12	AMD	04/04/2000	2000-5/45
	22712	R657-19	5YR	03/30/2000	2000-8/34
	22733	R657-19	NSC	05/01/2000	Not Printed
	22521	R657-38	AMD	01/18/2000	99-24/38
	22649	R657-38	AMD	04/04/2000	2000-5/46
	22650	R657-41-2	AMD	04/04/2000	2000-5/50
	22651	R657-46	AMD	04/04/2000	2000-5/51
	22562	R657-47	NEW	02/01/2000	2000-1/40
<u>WILDLIFE LAW</u>					
Natural Resources, Wildlife Resources	22392	R657-13	AMD	01/03/2000	99-20/31
	22693	R657-13-4	AMD	04/24/2000	2000-6/41
	22648	R657-13-12	AMD	04/04/2000	2000-5/45
<u>WILDLIFE PERMITS</u>					
Natural Resources, Wildlife Resources	22650	R657-41-2	AMD	04/04/2000	2000-5/50
	22562	R657-47	NEW	02/01/2000	2000-1/40
<u>WORKER'S COMPENSATION</u>					
Labor Commission, Adjudication	22764	R602-2-1	NSC	05/01/2000	Not Printed
Labor Commission, Industrial Accidents	22592	R612-8	5YR	01/03/2000	2000-3/91
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Environmental Quality, Radiation Control	22600	R313-16	AMD	03/10/2000	2000-3/56
<u>YEAR-ROUND SCHOOLS</u>					
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