UTAH STATE BULLETIN

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

Number 2000-13
July 1, 2000

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Nancy L. Lancaster, Editor

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

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

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Bulletin* and *Digest* are printed and distributed semi-monthly by Legislative Printing. Annual subscription rates (24 issues) are $174 for the *Bulletin* and $48 for the *Digest*. Inquiries concerning subscription, billing, or changes of address should be addressed to:

LEGISLATIVE PRINTING
PO BOX 140107
SALT LAKE CITY, UT 84114-0107
(801) 538-1103
FAX (801) 538-1728

ISSN 0882-4738

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SPECIAL NOTICES

DEPARTMENT OF HEALTH

PUBLIC NOTICE
INPATIENT HOSPITAL DOLLAR MULTIPLIERS

The Utah Medicaid Agency hereby gives public notice that the Inpatient Hospital dollar multipliers for the period beginning July 1, 2000, are, on the average, increased by the factor of 3.0%. This percentage is based on the inflation adjustment reflecting funds appropriated by the Utah State Legislature.

Written comments can be sent to the attention of Blaine Goff. The public may review the proposed changes at the Utah Department of Health, Division of Health Care Financing, 288 North 1460 West, Salt Lake City, Utah 84114-3102.

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 June 2, 2000, 12:00 a.m., and June 15, 2000, 11:59 p.m., are included in this, the July 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 31, 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 October 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.

Agriculture and Food, Animal Industry
R58-1
Admission and Inspection of Livestock, Poultry, and Other Animals

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22930
FILED: 06/15/2000, 14:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for the change in these rules is to comply with H.B. 150, which was passed in the 1999 legislative session. (**DAR Note:** H.B. 150 is found at 1999 Utah Laws 290, and was effective March 19, 1999.)

SUMMARY OF THE RULE OR CHANGE: The changes are made to clarify the intent of these rules to eliminate or reduce the spread of diseases among livestock, poultry, and other animals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 4, Chapter 31, and Subsections 4-2-2(1)(c)(i) and 4-2-2(1)(j)
FEDERAL REQUIREMENT FOR THIS RULE: 9 CFR 78 (January 1, 2000)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 9 CFR 78 (January 1, 2000)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no cost to state budget. The changes clarify the requirements for the movement of cattle and bison within the state.
❖LOCAL GOVERNMENTS: There is no cost to local government. The changes clarify the requirements for the movement of cattle and bison within the state.
❖OTHER PERSONS: The cost to the livestock owner would be the cost established by the veterinarian to obtain a permit or Certificate of Veterinary Inspection.
COMPLIANCE COSTS FOR AFFECTED PERSONS: If livestock comes into the state illegally, there is a fine of $75 plus $2 per head.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost would be to the livestock owner for a permit or Certificate of Veterinary Inspection.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dr. Earl Rogers at the above address, by phone at (801) 538-7162, by FAX at (801) 538-7169, or by Internet E-mail at agmain.erogers@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.
R58-1. Admission and Inspection of Livestock, Poultry, and Other Animals.

. . . . . .

R58-1-2. Definitions.

A. "Approved Livestock Market" - A livestock market which meets the requirements as outlined in 9 CFR 78, January 1, [~~1997~~]2000 edition, Title 4, Chapter 30, and Rule R58-7.

B. "Livestock Market Veterinarian" - A Utah licensed and accredited veterinarian appointed by the Department of Agriculture and Food to work in livestock markets in livestock health and movement matters.

C. "Official Random Sample Test, 95/10" - A sampling procedure utilizing official pseudorabies serologic tests which provides a 95 percent probability of detecting infection in a herd in which at least 10 percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premises must be considered a separate herd and sampled as follows:

Less than 100 head -- Test 25
100 - 200 head ----- Test 27
201 - 999 head ----- Test 28
1,000 and over ----- Test 29

D. "Official Random Sample Test, 95/5" - A sampling procedure utilizing official pseudorabies serologic tests which provides a 95 percent probability of detecting infection in a herd in which at least five percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premises must be considered a separate herd and sampled as follows:

Less than 100 head -- Test 45
100 - 200 head ----- Test 51
201 - 999 head ----- Test 57
1,000 and over ----- Test 59

E. "Qualified Feedlot" - A feedlot approved by the Utah Department of Agriculture and Food to handle INTRASTATE heifers, cows or bulls which originate from Utah herds. These animals shall be confined to a drylot area which is used to upgrade or finish feeding animals going only to slaughter.

F. "Reportable Disease List" - A list of diseases and conditions developed by the state veternarian that may affect the

health and welfare of the animal industry of the state, reportable to the state veterinarian.

G. "Test Eligible Cattle and Bison" - All cattle or bison [~~over~~]six months of age or older, except:

1. Steers, spayed heifers;

2. Official calfhood vaccinates of dairy breeds under 20 months of age and beef breeds under 24 months of age which are not parturient, springers, or post parturient;

3. Official calfhood vaccinates, dairy or beef breeds of any age, which are Utah Native origin.

4. Utah Native Bulls from non-infected herds.

H. "Official Calfhood Vaccinate" - Female cattle of a dairy breed or beef breed vaccinated by a USDA Veterinary Services representative, State certified technician, or accredited Veterinarian with an approved dose of[~~Brucella Abortus~~] RB51 Vaccine or other USDA approved agent while from 4 to 12 months of age in accordance with its labeling. These cattle must be properly identified by official tattoos and ear tag or registration tattoo and be reported on an official vaccination certificate (VS Form 4-24) within 30 days to the State Veterinarian.

I. "Exposed Animal", "Reactor", "Suspect", as defined in the United States Department of Agriculture; Animal and Plant Health Inspection Service and Veterinary Services Brucellosis Eradication Uniform Methods and Rules and 9 CFR 78.[

~~J. "Approved Livestock Dealer handling facilities." A Livestock facility approved by the Utah Department of Agriculture and Food to handle Livestock for testing vaccination in change of ownership. The Facility will maintain chutes for handling of cattle. Also separate pens for corralling of cattle.~~

~~K. "Common Grazing Allotment." Lands grazed by cattle belonging to more than one owner per allotment and where such lands are administered by a government entity or grazing association.~~]

R58-1-3. Intrastate Cattle Movement - Rules - Brucellosis.

[~~A. Vaccination eligible female calves: All vaccination eligible heifer calves between the ages of four to 12 months shall be vaccinated for brucellosis with an approved vaccine as official vaccinates before change of ownership in commerce at ranch, farm, livestock market or at a Utah approved bonded dealer's facility at the owner's expense.~~

~~B. Change of Ownership: "Test Eligible Cattle" Test eligible cattle which are changing ownership will be tested or moved only to:~~

~~1. To a qualified feedlot, or~~

~~2. For immediate slaughter to a slaughtering establishment where Federal or State inspection is maintained, or~~

~~3. To a State or Federal approved market, or~~

~~4. To a Utah licensed bonded dealer with Department of Agriculture and Food approved handling facility to be tested or vaccinated or inspected by an accredited Veterinarian~~

~~5. To be moved INTERSTATE in accordance with INTERSTATE rules.~~]A. The State Veterinarian may require brucellosis testing of cattle, bison, and elk, moving intrastate as necessary to protect against potential disease threat or outbreak.

[~~6.~~]B. Utah Department of Agriculture and Food [~~Brand~~]Livestock Inspectors will help regulate Intrastate movement of cattle according to Brucellosis rules at the time of change of ownership inspection.

R58-1-4. Interstate Importation Standards.

A. No animal, poultry or bird of any species or other animal including wildlife, that is known to be affected with or has been exposed to a contagious, infectious or communicable disease, or that originates from a quarantined area, shall be shipped, transported or moved into the State of Utah until written permission for such entry is first obtained from Veterinary Services Division, United States Department of Agriculture, Animal and Plant Health Inspection Service, and Utah Department of Agriculture and Food, State Veterinarian or Commissioner of Agriculture and Food.

B. Certificate of Veterinary Inspection. An official Certificate of Veterinary Inspection issued by an accredited veterinarian is required for importation of all animals and poultry. A copy of the certificate shall be immediately forwarded to the Utah Department of Agriculture and Food by the issuing veterinarian or the livestock sanitary official of the state of origin.

C. Permits. Livestock, poultry and other animal import permits may be issued by telephone to the consignor, a consignee or to an accredited veterinarian responsible for issuing a Certificate of Veterinary Inspection, and may be obtained from the Utah Department of Agriculture and Food, 350 North Redwood Road, PO Box 146500, Salt Lake City, Utah 84114-6500, Phone (801) 538-7164; after hours and weekends, [~~(801)~~](435) 882-0217; (801) 773-5656.

R58-1-5. Cattle and Bison.

A. Import Permit and Certificate of Veterinary Inspection.

1. No cattle or bison may be imported into Utah without an import permit issued by the Department of Agriculture and Food. A Certificate of Veterinary Inspection and an import permit must accompany all cattle and bison imported into the state. All cattle and bison must carry some form of individual identification, 1) a brand registered with an official brand agency, or 2) an ear tag or a registration tattoo. Identification must be listed on the Certificate of Veterinary Inspection. Official individual identification used for testing purposes must be shown on the Certificate of Veterinary Inspection. The import permit number must be listed on the Certificate of Veterinary Inspection. This includes exhibition cattle. Commuter cattle are exempt as outlined in Subsection R58-1-5(B).

2. The following cattle are exempted from (1) above:

a. Cattle consigned directly to slaughter at a state or federally inspected slaughter house; and

b. Cattle consigned directly to a State or Federal approved Auction Market.

c. Movements under Subsections R58-1-5(A)(2)(a), and R58-1-5(A)(2)(b) must be in compliance with state and federal laws and regulations and must be accompanied by a weighbill, brand certificate, or similar document showing some form of positive identification, signed by the owner or shipper stating the origin, destination, number and description of animals and purpose of movement.

B. Commuter Cattle. Commuter, temporary grazing, cattle may enter Utah or return to Utah after grazing if the following conditions are met.

1. A Certificate of Veterinary Inspection or a commuter permit approved by the import state and the State of Utah must be obtained prior to movement into Utah. This will allow movements for grazing for current season if the following conditions are met:

a. All cattle shall meet testing requirements as to State classification for interstate movements as outlined in 9 CFR 1-78; USDA, Animal and Plant Health Inspection Services, Brucellosis Eradication, Uniform Methods and Rules, May 6, 1992 and approved by cooperating States.

b. Commuter cattle shall not be mixed with quarantined, exposed, or suspect cattle nor change ownership during the grazing period.

2. No quarantined, exposed or reactor cattle shall enter Utah.

C. Brucellosis. Prior to importation of cattle or bison into Utah the following health restrictions must be met.

1. Bison [~~H~~]heifers of vaccination age between four and 12 months must be officially vaccinated for brucellosis prior to entering Utah. All female bison cattle imported after July 1, 1984, must have a legible brucellosis calfhood vaccination tattoo to be imported or sold within the State of Utah, unless going directly to slaughter, or qualified feedlot to be sold for slaughter, or to an approved livestock market to be sold for slaughter or for vaccination.

a. Bison [~~H~~]heifers of vaccination age may be vaccinated upon arrival by special permit.

[~~2. A negative test for brucellosis is required prior to movement into Utah for the following test-eligible cattle:~~

~~a. Bulls over 12 months must have a negative blood test for brucellosis within 30 days prior to movement. The entry of vaccinated bulls is not permitted.~~

~~b. All vaccinated dairy cattle over 20 months and all beef cattle over 24 months except those originating in a certified brucellosis free herd or in a free state from a certified breeders herd of origin.~~

~~c. There may be an epidemiologic surveillance of imported cattle that remain in Utah, and they may be subject to a 45-120 day retest at owner's expense as determined by a brucellosis epidemiologist. Import cattle which are resold to leave the State before retest day, are free to move.~~

~~3. A brucellosis test is not required for:~~

~~a. Vaccinated cattle from a Brucellosis Certified Free Herd or Certified Breeding Herds from free states. Brucellosis Certified Free Herd number, date and results of last test must be entered on the Certificate of Veterinary Inspection.~~

~~b. Official vaccinated female dairy cattle under 20 months or official vaccinated female beef cattle under 24 months age. The Certificate of Veterinary Inspection must show vaccination tattoo and the official ear tag number or registration tattoo.~~

~~c. Steers and spayed heifers.~~

~~4. State Brucellosis Classification Requirements:~~

~~a. Cattle for breeding purposes from Class A States moving from farm of origin or Livestock market to the State of Utah:~~

~~(1) Permit.~~

~~(2) Official Vaccination for Brucellosis~~

~~(3) Negative Brucellosis test within 30 days before moving.~~

~~(4) A post movement test in 45 to 120 days after arrival.~~

~~b. Cattle for breeding from Class B States moving from farm of origin or livestock market into the State of Utah:~~

~~(1) Permit.~~

~~(2) Official Vaccination for Brucellosis.~~

~~(3) Negative Brucellosis test within 30 days.~~

~~(4) Quarantined for retest in 45 to 120 days after arrival.~~

~~c. Cattle for breeding from Class C States moving from farm of origin or livestock market into the State of Utah:~~

~~(1) Permit.~~

~~(2) Official Vaccination for Brucellosis.~~

~~(3) Two consecutive negative tests at least 60 days apart.~~

~~(4) Certificate.~~

~~(5) Quarantined for retest 45 to 120 days after arrival.~~]2. Test eligible cattle imported from states designated as brucellosis free, that are acquired directly from the farm of origin and moving directly to the farm of destination are not required to be tested for brucellosis prior to movement.

3. Test eligible cattle imported from states designated as brucellosis free, that are acquired through "trading channels", or any "non-farm of origin source" must be tested negative for brucellosis within 30 days prior to entry.

4. All test eligible cattle imported from states that have not been designated as brucellosis free must test negative for brucellosis within 30 days before movement into Utah.

5. Exceptions to the above testing requirements include Test Eligible Cattle imported to Utah and moving directly to:

a. an approved livestock market, or

b. to a "qualified feedlot", or

c. for immediate slaughter to a slaughtering establishment where federal or state inspection is maintained.

A brand inspection certificate, which indicates the intended destination is required for cattle entering the state under these provisions.

[~~5~~]6. No reactor cattle or cattle from herds under quarantine for brucellosis will be allowed to enter the state except when consigned to a slaughtering establishment where recognized state or federal meat inspection is maintained. An import permit and a Veterinary Services Form 1-27 prior to shipment are also required.

[~~6~~]7. Entry of cattle which have been retattooed is not permitted unless they are moved for immediate slaughter to a slaughtering establishment where state or federal inspection is maintained or to not more than one state or federal approved market for sale to a qualified feedlot or slaughtering establishment.

[~~7~~]8. Entry of cattle which have been adult vaccinated is not permitted unless they are for immediate slaughter where state or federal inspection is maintained.

D. Tuberculosis.

A negative test is required within 60 days prior to shipment for all breeding cattle originating within a quarantined area or from reactor or exposed herds.

E. Scabies.

No cattle affected with, or exposed to scabies shall be trailed, driven, shipped or otherwise moved into Utah. Cattle from a county where scabies have been diagnosed during the past 12 months must be officially treated within 10 days prior to shipment into Utah. The date of treating and products used must be shown on the Certificate of Veterinary Inspection; also the approved vat number and location.

F. Splenic or Tick Fever. No cattle infested with ticks, Margaropus annulatus, or exposed to tick infestations shall be shipped, trailed, or driven, or otherwise imported into the State of Utah for any purpose.

G. Exhibitions, Fairs, and Shows.

1. Dairy cattle and cattle for breeding purposes imported for exhibition or show purposes only to be returned to state of origin may enter provided:

a. The cattle are accompanied by the proper Certificate of Veterinary Inspection and import permit.

b. The cattle must have negative T.B. test within 60 days.[~~if coming from quarantined T.B. areas or exposed or reactor herds.~~]

c. The cattle must have a negative brucellosis test within 30 days prior to entrance. Vaccinates under age are acceptable.

H. Trichomoniasis.

[~~1. All Utah resident bulls over nine months of age, going onto a common grazing allotment, must test negative for Trichomoniasis. Testing shall be conducted annually within three months prior to a bulls exposure to cows and entering the common grazing allotment; except that testing performed at the conclusion of the previous breeding season will be acceptable for the current breeding season provided that the bulls have had no exposure to females in the interim.~~

~~2. All breeding bulls entering Utah which are over nine months of age, must test negative for Trichomoniasis by an accredited veterinarian within 30 days prior to entry into Utah.~~

~~3. Any Certificate of Veterinary Inspection issued for bulls covered under this rule, shall bear the statement, "Trichomoniasis has not been diagnosed in the herd of origin within the last 12 months.", except that, bulls from herds that have tested positive for Trichomoniasis within the previous 12 months are required to have three negative tests, no less than one week apart, prior to entry into Utah.~~

~~4. All Utah bulls which are tested shall be tagged with a current Official State of Utah Trichomoniasis test tag by the accredited veterinarian performing the test. Official tags shall be only those as are authorized by the Utah Department of Agriculture and Food, and approved by the State Veterinarian's office. Bulls entering the State of Utah under the provisions of this rule may be tagged upon arrival by an accredited veterinarian upon receipt of the Trichomoniasis test charts from the testing veterinarian.~~

~~5. Trichomoniasis testing in Utah shall be performed only by approved laboratories or accredited veterinarians whose laboratory procedures have been certified by the Utah Department of Agriculture and Food. An "official test" shall be one that is received by the lab within 48 hours of collection and shall not have been subjected to extreme temperatures in excess of 85 degrees Fahrenheit, or freezing, for a period of time longer than ten minutes. Test samples not meeting this criteria will be discarded. Acceptable media shall be Diamond's Media, or the "pouch" method, or other department approved transport media.~~

~~6. All bulls testing positive for Trichomoniasis must be reported immediately to the owner and the State Veterinarian by the veterinarian and laboratory performing the test. The owner shall be required to notify fellow members of the common grazing allotment and neighboring (contiguous) cattlemen within ten days following such notification by his veterinarian or laboratory.~~

~~7. Exceptions to the above rules shall include dairy bulls in total confinement operations, bulls consigned directly to slaughter at an approved slaughter facility, and bulls consigned directly to a "Qualified Feedlot" for finish feeding and slaughter.~~

~~8. Within 14 days, all bulls which test positive to Trichomoniasis must go directly to slaughter at an approved slaughter facility, or to a "Qualified Feedlot" for finish feeding and slaughter, or to an approved auction market for sale to slaughter only. Such bulls going to slaughter shall carry a VS 1-27 form issued by the testing veterinarian or other regulatory official.~~

~~9. Out of state "commuter" cattle grazing in Utah shall, also, be required to meet the requirements of Section R58-1-5-H.~~

~~10. To reduce the threat of this disease, the Utah Department of Agriculture and Food, in conjunction with Utah State University, shall provide an educational program to inform cattle producers of the need to test for Trichomoniasis and the details of this program. This information shall be available upon request from the department.~~]All bulls imported to Utah shall be in compliance with R58-21-3(A), which requires testing of all bulls over nine months of age for Trichomoniasis prior to entry, with some exceptions.

. . . . . .

R58-1-7. Swine.

A. Stocking, Feeding, and Breeding swine. Swine for stocking, breeding, feeding or exhibition may be shipped into the state if the following requirements are met:

1. Import Permit and Certificate of Veterinary Inspection - All swine must be accompanied by an approved Certificate of Veterinary Inspection stating they are clinically free from infectious or contagious disease or exposure and have not been fed raw garbage. The Certificate of Veterinary Inspection must show individual identification, ear tags, tattoos, registration numbers, micro chips or other permanent means. An import permit issued by the Department of Agriculture and Food must accompany all hogs, including feeder hogs imported into the state.

2. [~~Vaccination and~~]Test Status. The Certificate of Veterinary Inspection must list[~~the vaccination status for erysipelas, and leptospirosis, and~~] the brucellosis,[~~leptospirosis,~~] and pseudorabies test status of the animals.

3. Quarantine - All swine shipped into the state for feeding or breeding purposes are subject to an 18 day quarantine beginning with the date of arrival at destination. The department shall be notified by the owner of date of arrival. Release from quarantine shall be given by the department only when satisfied that health conditions are satisfactory.

4. Brucellosis - All breeding and exhibition swine over the age of three months shipped into Utah must pass a negative test for brucellosis within 30 days prior to movement into the state or originate from a validated brucellosis free herd. A validated brucellosis free herd number and date of last test is required to be listed on the Certificate of Veterinary Inspection.

5. Pseudorabies - All breeding, feeding and exhibition swine must pass a negative pseudorabies test within the last thirty days unless they originate from a recognized qualified pseudorabies free herd. However, feeder swine may come into the state from a herd of origin in a Stage III, IV, or V state as classified by the Official Pseudorabies Eradication Program Standards 6-19-91.[~~Copies may be obtained from Livestock Conservation Institute, 6414 Copps Ave. #204, Madison, WI. 53718, Phone: 608-221-4848.~~] A 30 day retest is required on all breeding and exhibition swine brought into the state. [~~Commercial feedlots will be tested annually by an official random sample test, 95/10.~~]Swine which are infected or exposed to pseudorabies may not enter the state, except swine consigned to a slaughterhouse for immediate slaughter and must be moved in compliance with 9 CFR 1-71.

6. Erysipelas - Purebred and breeding swine shall be immunized with erysipelas bacterin not less than 15 days prior to importation.

7. Leptospirosis - All breeding and exhibition swine over four months of age shall have passed a negative leptospirosis test within 30 days of entry, or be part of an entire negative herd test within the previous 12 months or be vaccinated for leptospirosis at least 15 days prior to entry. Herd and vaccination status must be stated on the Certificate of Veterinary Inspection.

B. Immediate Slaughter

Swine shipped into Utah for immediate slaughter must not have been fed raw garbage, must be shipped in for immediate slaughter with no diversions, and must be free from any infectious or contagious disease in compliance with 9 CFR 71.

. . . . . .

R58-1-10. Goats and [~~Llamas~~]Camelids.

A. Goats being imported into Utah must meet the following requirements:

1. Dairy goats must have a permit from the Department of Agriculture and Food (phone 801-538-7164) and, an official Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and tuberculosis free area. They must be free of communicable diseases or exposure thereto; there must be no evidence of Caseous Lymphadenitis (abscesses).

2. Meat type goats must have a Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis (abscesses).

3. Exemption - Goats for slaughter may be shipped into Utah directly to a slaughtering establishment or to a state and federally approved auction market for sale to such slaughtering establishment. However, they must be accompanied by a Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis, abscesses.

B. [~~Llamas~~]Camelids shall be accompanied by:

1. a Certificate of Veterinary Inspection;
2. Negative TB test within 60 days;
3. Negative Brucellosis within 30 days.

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R58-1-12. Dogs and Cats.

All dogs, [~~and~~]cats and ferrets over four months of age shall be accompanied by an official Certificate of Veterinary Inspection, showing vaccination against rabies within 12 months[~~ if over 4 months of age~~]. The date of vaccination, name of product used, and expiration date must be given.

R58-1-13. Game and Fur-Bearing Animals.

A. Contagious or Communicable Disease. No game or fur bearing animals will be imported into Utah without a prior permit being obtained from the Department. Each shipment shall be accompanied by an official Certificate of Veterinary Inspection certifying they are free from all contagious and communicable diseases and exposure thereto.

B. Mink.

All mink entering Utah shall have originated on ranches or herds where virus enteritis has not been diagnosed within the past three years.

C. Elk brought into the state under regulations governing elk farming and hunting shall meet the importation requirements of R58-18-11 and R58-18-12.

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KEY: disease control
[~~November 17, 1998~~]2000 **4-31**
Notice of Continuation June 19, 1997 **4-2-2(1)(j)**

Agriculture and Food, Animal Industry
R58-18
Elk Farming

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22932
FILED: 06/15/2000, 14:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is changed at the request of the Elk Farm Industry.

SUMMARY OF THE RULE OR CHANGE: The changes are made to clarify the intent of the department regarding elk farming. Included more definitions and requirements regarding Chronic Waste Disease.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-39-106

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no cost to state budget. The changes clarify the requirements for Chronic Waste Disease.
❖LOCAL GOVERNMENTS: There is no cost to local government. The changes clarify the requirements for Chronic Waste Disease.
❖OTHER PERSONS: The cost to the livestock owner would be the cost established by the veterinarian to obtain a permit or Certificate of Veterinary Inspection.
COMPLIANCE COSTS FOR AFFECTED PERSONS: If livestock comes into the state illegally, there is a fine of $75 plus $2 per head.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost would be the price established by the veterinarian for the inspection.

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

Agriculture and Food
Animal Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dr. Earl Rogers at the above address, by phone at (801) 538-7162, by FAX at (801) 538-7169, or by Internet E-mail at agmain.erogers@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

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

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R58-18-2. Definitions.

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

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

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

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

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

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

(6) "Elk" [~~=~~]as used in this chapter means North American Wapiti or Cervus Elaphus Canadensis.

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

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

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

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

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

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

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

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R58-18-6. Records.

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

(a) Name and address of agent(s) which the elk was purchased from[~~:~~]

(b) Identification number (tattoo or chip)

(c) Age

(d) Sex

(e) Date of purchase or birth

(f) Date of death or change of ownership

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

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

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

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R58-18-11. Health Rules.

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

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

(b) The entry permit number for Utah shall be obtained by the local veterinarian conducting the official health inspection by contacting the Utah Department of Agriculture and Food permit desk at 80l-538-7164.

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

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

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

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

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

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

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

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

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

(5) Any movement of elk outside a licensed elk farm shall comply with standards as provided in the document entitled: "Uniform Methods and Rules (UM and R)", as approved and published by the USDA. The documents, entitled: "Tuberculosis Eradication in Cervidae, Uniform Methods and Rules", the May 15, 1994 edition, and "Brucellosis Eradication, Uniform Methods and Rules", the May 6, 1992 edition as published by the USDA, are hereby incorporated by reference into this rule. These are the standards for tuberculosis and brucellosis eradication in domestic cervidae. Copies of the methods and rules are on file and available for public inspection at the Division of Animal Industry, Department of Agriculture and Food offices located at 350 North Redwood Road, Salt Lake City, Utah.

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

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

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

No elk originating from a CWD affected herd, trace back herd/source herd, trace forward herd, or adjacent herd, may be imported to Utah.

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

R58-18-12. Chronic Wasting Disease Surveillance.

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

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

Each hunting park, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) of all elk over 16 months of age that die; and the brain stem from 50% of all elk from each herd of origin that are otherwise slaughtered, killed, or destroyed, for testing for Chronic Wasting Disease with an official test. The samples shall be collected by an accredited veterinarian, approved laboratory, or person trained and approved by the State Veterinarian.

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

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

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

KEY: inspections
[~~July 16, 1998~~]2000 **4-39-106**

Agriculture and Food, Animal Industry
R58-20
Domesticated Elk Hunting Parks

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22933
FILED: 06/15/2000, 14:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for the change in these rules was at the request of the Elk Industry.

SUMMARY OF THE RULE OR CHANGE: The changes are made to include sections of Rule R58-18 as references in Sections R58-20-2 (Definitions), R58-20-8 (Acquisition of Elk), and R58-20-11 (Health Rules).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-39-106

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no cost to state budget. The changes being made are to include sections of Rule R58-18 as references within sections of this rule.
(**DAR Note:** The proposed amendment to R58-18 is found under DAR No. 22932 in this *Bulletin*.)
❖LOCAL GOVERNMENTS: There is no cost to local government. The changes being made are to include sections of Rule R58-18 as references within sections of this rule.
❖OTHER PERSONS: The cost to the owner would be the cost established by the veterinarian for the inspection of the livestock for any diseases.
COMPLIANCE COSTS FOR AFFECTED PERSONS: If livestock comes into the state illegally, there is a fine of $75 plus $2 per head.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost would be the amount established by the veterinarian for the inspection.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dr. Earl Rogers at the above address, by phone at (801) 538-7162, by FAX at (801) 538-7169, or by Internet E-mail at agmain.erogers@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.
R58-20. Domesticated Elk Hunting Parks.

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R58-20-2. Definitions.

In addition to terms used in Section 4-39-102, and R58-18-2:

(1) "Elk farm" means a place where domestic elk are raised, bred and sold within the practice of normal or typical ranching operations.

(2) "Hunting Park" means a place where domestic elk are harvested through normal or typical hunting methods.

(3) "Division" means the Division of Animal Industry, in the Utah Department of Agriculture and Food.

(4) "Domestic elk" means any elk which is born inside of, and has spent its entire life in captivity, and is the offspring of domestic elk.

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

(6) "Secure Enclosure" means a perimeter fence or barrier that is constructed and maintained in accordance with Section 4-39-201 and will prevent domestic elk from escaping into the wild or the ingress of big game wildlife into the facility.

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R58-20-8. Acquisition of Elk.

(1) All laws and rules found in Sections 4-39-302, 4-39-303, [~~and~~]R58-18-8 and R58-18-11 pursuant to importation or acquisition of domestic elk are applicable to hunting parks.

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R58-20-11. Health Rules.

(1) All laws and rules found in Sections 4-39-107, [~~and~~]R58-18-11 and R58-18-12 pursuant to animal health are applicable to hunting parks.

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KEY: inspections
[~~August 17, 1999~~]2000 **4-39-106**

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Agriculture and Food, Animal Industry
R58-21
Trichomoniasis

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 22934
FILED: 06/15/2000, 14:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule is to comply with H.B. 234, passed by the legislature in the 1999 session.

SUMMARY OF THE RULE OR CHANGE: These rules are established to prevent the spreading of the disease trichomoniasis among cattle.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-31-21

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no cost to state budget. This is a new rule established to comply with H.B. 234. (**DAR Note:** H.B. 234 is found at 2000 Utah Laws 96, and was effective March 10, 2000.)
❖LOCAL GOVERNMENTS: There is no cost to local government. This is a new rule established to comply with H.B. 234.
❖OTHER PERSONS: The cost to the owner would be the cost established by the veterinarian for the inspection of the cattle for trichomoniasis.
COMPLIANCE COSTS FOR AFFECTED PERSONS: If livestock comes into the state illegally, there is a fine of $75 plus $2 per head.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost would be the amount established by the veterinarian for the inspection of the disease.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dr. Earl Rogers at the above address, by phone at (801) 538-7162, by FAX at (801) 538-7169, or by Internet E-mail at agmain.erogers@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

R58-21. Agriculture and Food, Animal Industry.
R58-21. Trichomoniasis.
R58-21-1. Authority.
Promulgated under authority of Section 4-31-21.

R58-21-2. Definitions.
Total Confinement Operation - means a dry lot feeding operation where none of the sexually active animals are allowed access to pasture, or to mingle with other cattle outside the confines of the premise.
Commuter Cattle - means cattle traveling across state lines for grazing purposes while utilizing a Commuter Permit Agreement approved by both the respective State Veterinarians, or cattle traveling on a Certificate of Veterinary Inspection where there is no change of ownership.
Official Test - means one where the sample is collected by an accredited veterinarian approved by the department and which is received by the lab within 24 hours of collection. The sample should be transported on acceptable media and maintained at 65 to 90 degrees Fahrenheit. Test samples not meeting this criteria will be discarded and a new sample collected. Acceptable media shall be Diamond Media, or the In Pouch method, or other department approved transport media. An Official State of Utah Trichomoniasis Test Tag or similar official tag from another state shall be placed in the right ear of any bull so tested.
Qualified Feedlot - means a feedlot approved by the Utah Department of Agriculture and Food to handle INTRASTATE heifers, cows, or bulls which originate from Utah herds. These animals shall be confined to a dry lot area which is used to upgrade or finish feeding animals going only to slaughter.
Positive Herd - means any herd or group of cattle owned by one or more persons which shares common grazing or feeding operations and in which one or more animals has been diagnosed to be infected with trichomoniasis within the last 12 months.
Department - means the Utah Department of Agriculture and Food.
Brand - means a 2 X 3 hot iron single character lazy V applied to the left of the tail of a bull, signifying that the bull is infected with the venereal disease, Trichomoniasis.
Exposed to female cattle - means freedom from restraint such that breeding is a possible activity.
Feeder Bulls - means bulls not exposed to female cattle and kept in total confinement operations for the purpose of feeding and eventual slaughter.

R58-21-3. Trichmoniasis - Rules - Prevention and Control.
All bulls nine months of age and older, entering Utah, must be tested for Trichomoniasis by an accredited veterinarian within 30 days prior to entry into Utah. Exceptions include: 1) bulls going directly to slaughter or to a qualified feedlot, 2) feeder bulls kept in total confinement operations, 3) rodeo bulls for the purpose of exhibition, and 4) bulls attending livestock shows for the purpose of exhibition, only to be returned to the state of origin. Rodeo and exhibition bulls with access to grazing, or exposed to female cattle,

or being offered for sale are required to be tested prior to entry. Any Certificate of Veterinary Inspection issued for bulls covered under this rule shall bear the statement, Trichomoniasis has not been diagnosed in the herd of origin within the last 12 months, except that, bulls from herds that have tested positive for trichomoniasis within the previous 12 months are required to have three negative tests, no less the one week apart, prior to entry into Utah.

All bulls nine months of age and older residing in Utah, and all commuter bulls must be tested for trichomoniasis annually, between October 1 and September 30 of the following year, with an official test prior to exposure to female cattle. Testing shall be performed by an accredited veterinarian who has been certified to perform testing for trichomoniasis. All bulls from positive herds are required to have three negative tests, no less the one week apart, prior to exposure to female cattle. Exceptions include bulls going to slaughter or to a qualified feedlot, dairy bulls in total confinement operations, and feeder bulls in total confinement operations which are not exposed to female cattle and are destined for slaughter.

All bulls nine months of age and older being offered for sale for reproductive purposes in the state of Utah must be tested for Trichomoniasis with an official test within 30 days prior to sale and shall bear a current official Trichomoniasis test tag. Bulls that have had contact with female cattle subsequent to testing must be re-tested prior to sale.

It shall be the responsibility of the owner or his agent to declare, on the auction drive-in slip, the Trichomoniasis status of a bull being offered for sale at a livestock auction. Untested bulls (i.e. bulls without a current Trichomoniasis test tag), including dairy bulls, may be sold for slaughter only, or for direct movement to a Qualified Feedlot or Total Confinement Operation.

Any bull over nine months of age which is found estray and commingles with another producers female cattle may be required to be tested (or re-tested) for trichomoniasis. The owner of the offending bull shall bear all costs for the official test.

All Utah bulls, which are tested, shall be tagged in the right ear with a current Official State of Utah Trichomoniasis test tag by the accredited veterinarian performing the test. Official tags shall be only those as are authorized by the department and approved by the State Veterinarian office. The color of the approved tag shall be changed yearly. Bulls entering the State of Utah under the provisions of this rule may be tagged upon arrival by an accredited veterinarian upon receipt of the Trichomoniasis test charts from the testing veterinarian. Bulls which bear a current Trichomoniasis test tag from another state which has an official Trichomoniasis testing program will be acceptable to the State of Utah.

All bulls testing positive for Trichomoniasis must be reported immediately to: 1) the owner, and 2) the State Veterinarian, by the veterinarian performing the test. The owner shall be required to notify the administrators of the common grazing allotment and any neighboring (contiguous) cattleman within ten days following such notification by his veterinarian or laboratory.

All bulls which test positive to Trichomoniasis must be sent by direct movement within 14 days, to: 1) slaughter at an approved slaughter facility, or 2) to a Qualified Feedlot or Total Confinement Operation for finish feeding and slaughter, or 3) to an approved auction market for sale to one of the above facilities. Such bulls must move only when accompanied by a VS 1-27 Form issued by the testing veterinarian or other regulatory official. Positive bulls entering a Qualified feedlot, Total Confinement Operation or Approved Auction Market shall be identified with a lazy V brand on the left side of the tail, indicating that the bull is infected with the venereal disease, Trichomoniasis.

Any person who fails to satisfy the requirements of this rule or who knowingly sells animals infected with Trichomoniasis, other than to slaughter, without declaring their disease status shall be subject to citation and fines as prescribed by the department or may be called to appear before an administrative proceeding by the department.

KEY: disease control
2000 **4-31-21**

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Agriculture and Food, Animal Industry
R58-22
Equine Infectious Anemia (EIA)

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 22935
FILED: 06/15/2000, 14:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is proposed at the request of the equine industry.

SUMMARY OF THE RULE OR CHANGE: The intent of these rules is to eliminate or reduce the spread of Equine Infectious Anemia (EIA) among equines by providing for a protocol for testing and handling of equines infected and exposed to EIA.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 4, Chapter 31; Subsections 4-2-2(1)(c) and 4-2-2(1)(j)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no cost to state budget. The owner of the equine would have to cover the costs incurred for the inspection of EIA.
❖LOCAL GOVERNMENTS: There is no cost to local government. The owner of the equine would have to cover the costs incurred for the inspection of EIA.
❖OTHER PERSONS: The cost to the owner would be the cost established by the veterinarian for the inspection of the equine for EIA.
COMPLIANCE COSTS FOR AFFECTED PERSONS: If livestock comes into the state illegally, there is a fine of $75 plus $2 per head.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost would be the amount established by the veterinarian for the inspection of the disease.

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

Agriculture and Food
Animal Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dr. Earl Rogers at the above address, by phone at (801) 538-7162, by FAX at (801) 538-7169, or by Internet E-mail at agmain.erogers@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.
R58-22. Equine Infectious Anemia (EIA).
R58-22-1. Authority.

Promulgated under authority of Title 4, Chapter 31 and Subsections 4-2-2(1)(c), 4-2-2(1)(j).

The intent of these rules is to eliminate or reduce the spread of Equine Infectious Anemia among equines by providing for a protocol for testing and handling of equines infected and exposed to Equine Infectious Anemia.

R58-22-2. Definitions.

Accredited Veterinarian – means a veterinarian approved by the Deputy Administrator of USDA, APHIS, VS in accordance with provisions of Part 161, Title 9, Code of Federal Regulations (CFR).

Coggins test – means a common name for the Agar Gel Immuno-diffusion (AGID) test for diagnosis of EIA.

Equine – means any animal in the family Equidae, including horses, asses, mules, ponies, and Zebras.

Equine Infectious Anemia (EIA) – means an infectious disease of equines caused by a lentivirus, equine infectious anemia virus (EIAV). The disease is characterized by three distinct clinical forms: acute, chronic and inapparent.

Identification – means permanent notation of equines that are determined to be EIA reactors by application of a hot iron, or freeze marking using the National Uniform Tag code number for the State of Utah (87), followed by the letter "A" on the left side of the neck or left shoulder.

Official test – means any test for the laboratory diagnosis of EIA that utilizes a diagnostic product that is (1) produced under license from the Secretary of Agriculture, and found to be efficacious for that diagnosis, under the Virus-Serum- Toxin Act of March 4, 1913, and subsequent amendments (21 U.S.C. 151 et seq.); and (2) conducted in a laboratory approved by the Administrator of APHIS.

Reactor – means any equine that has been subjected to an official laboratory test whose result is positive for EIA.

Exposed Animals – means all equines that have been exposed to EIA by reason of association with the affected animal.

R58-22-3. Equine Infectious Anemia – Rules – Prevention and Control.

The State Veterinarian shall have authority to conduct or supervise testing at an official laboratory to diagnose EIA and to quarantine and order disposition of any individuals or herds that are found to be positive for EIA, at such time as may be deemed necessary for the control and elimination of EIA., as granted under Title 4–31–16 of the Utah Agricultural Code.

Personnel authorized to submit samples, approved laboratories, and official tests shall be those identified in the Uniform Methods and Rules, USDA, APHIS 91-55-037 Part II, B, C, and D, effective January 1, 1998, or subsequent revisions.

Procedures for handling equines which are classified as reactors:

Quarantine – When an equine has a positive result on an official test for EIA, the animal shall be placed under quarantine within 24 hours after positive test results are known and a second, confirmatory, test shall be performed under the direction of the state veterinarian. The equine shall remain in quarantine until final classification and disposition is made. Equines which have been located within 200 yards of the infected animal shall be quarantined and tested also.

Repeat testing and removal of reactors – When a reactor is disclosed in a herd, and removed, testing of all exposed equines for EIA must be repeated at no less than 45 day intervals until all remaining equines on the premise test negative, at which time the quarantine may be removed.

Identification of reactor equines – Equines that are determined to be reactors must be permanently identified using the National Uniform Tag code number for Utah (87) followed by the letter "A". Markings must be permanently applied using a hot iron, or freeze marking by an APHIS representative, State representative, or accredited veterinarian. The marking shall be not less than two inches high and shall be applied to the left shoulder or left side of the neck of the reactor. Official identification is not necessary if the reactor is moved directly to slaughter under a permit and is in a conveyance sealed with an official seal.

Euthanasia and disposal – Once an equine has been classified as a reactor, it must be removed from the herd. This can be accomplished by euthanasia or removal to slaughter. If slaughter is chosen, the equine must be moved either to a federally or state inspected slaughtering establishment per the Code of Federal Regulations, Part 75.4. If euthanasia is chosen, the animal must be properly buried six feet underground and the carcass treated above and below with lime.

R58-22-4. Importation of Equines.

A. Equines imported to Utah shall be in compliance with R58-1-6.

KEY: inspections **4-2-2(1)(c)**
2000 **4-2-2(1)(j)**

◆ ◆

Commerce, Occupational and Professional Licensing

R156-16a

Optometry Practice Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22924
FILED: 06/12/2000, 18:51
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rewrite of Title 58, Chapter 16a, the Optometry Practice Act, which passed during the 2000 legislative session (S.B. 48) has resulted in the necessity to make changes in the Optometry Practice Act Rules.
(**DAR Note:** S.B. 48 is found at 2000 Utah Laws 160, and was effective May 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: Section R156-16a-102: The two definitions of supervision associated with the optician exemption are not necessary because the amended statute deleted the optician exemption as of July 1, 2000. A definition of "verbal order" is added to specify who is permitted to issue a verbal order for a contact lens prescription in order to clarify the new section of statute. Section R156-16a-302a: Courses in emergency medical care are now defined to include Cardiopulmonary Resuscitation (CPR) and Basic Life Support (BCLS). These courses have been the only courses previously accepted. The rule puts into writing what has been the previously accepted courses. Section R156-16a-302b: Minor changes were made in a statute citation and names of examinations were corrected. Section R156-16a-302c: The endorsement section of the statute does not require an endorsement applicant to pass any of the national board examinations for qualified endorsement applicants. Therefore, the requirement to take parts of the national board examinations is being deleted. The current scope of practice for optometry is "therapeutic" optometry, which grants prescriptive practice. Therefore, optometry practice that is "consistent with the legal practice of optometry in this state" is defined to mean "therapeutic" optometry. Therefore, individuals licensed in another state who have not engaged in prescriptive practice, i.e. therapeutic optometry, practice for 3,200 hours in the immediate preceding two years would not qualify by endorsement. Without the 3,200 hours, an individual must meet the requirements for initial licensure to become licensed in Utah. Section R156-16a-302d: The existing rule directs the quality assurance program committee, when appropriate, to enter a finding of "gross incompetence." A finding of gross incompetence should only be entered after following the procedures set forth in the Administrative Procedures Act. Therefore, this wording is being deleted in Subsection R156-16a-302d(8)(a). The quality assurance committee may drop a licensee from the quality assurance program if the licensee fails to comply with the quality assurance program. The quality assurance committee then notifies the division that a licensee has been dropped from the program. Title 58, Chapter 13, gives the quality assurance committee authority to report adverse findings to the division. A statute citation reference to Title 58, Chapter 13, is being added for clarification. Section R156-16a-304: The existing rule provides that, after September 30, 1998, only courses approved by the Council on Optometric Professional Education (COPE) would be accepted. The Optometry Board recommends that optometry related courses approved by the American Optometric Association and the American Medical Association be added as providing approved continuing education courses. All of these organizations have committees that review, evaluate and approve the continuing education programs. The standards they utilize are essentially the same standards listed under the existing rule. Therefore, the continuing education standards outlined in the existing rule are not needed and are being deleted. Sections R156-16a-306a and R156-16a-306b: Both of these sections are being deleted in their entirety as they applied to the former optician exemption which is no longer applicable. Section R156-16a-307: Under prior law, the Optometry Practice Act was amended to permit qualified optometrists to engage in therapeutic optometry. The Optometry Practice Act was amended again in 1997 and created Section 58-16a-307, which was intended to restrict optometrists from practicing therapeutic optometry unless they meet the current licensure requirements. In order to track the optometrists that did not qualify to engage in therapeutic optometry, two additional levels of licensure were established by rule: (1) "without certification" and (2) "diagnostic certification." The proposed rule removes the two additional license classifications, but continues to define the scope of practice under prior law. The division will issue only a license in the classification of "optometrist" as is set forth in the statute. Those individuals having an optometry license that do not meet the current license requirements are restricted to engage in only that scope of practice they were permitted to engage in under prior law. Section R156-16a-502: An unprofessional conduct section is being added to clarify that a licensee must maintain current membership in the quality assurance program and that a licensee who does not meet the current license requirements is only permitted to engage in the scope of practice permitted under prior law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-16a-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The division will incur minimal costs to reprint the rules once they become effective. Any costs will be absorbed in the division's current budget. The proposed rule changes, by deleting provisions no longer needed under the current statute and by clarifying and defining existing statute provisions, may result in some efficiencies to the division, but the efficiencies are not significant enough to define in terms of actual savings.
❖LOCAL GOVERNMENTS: Proposed rules do not apply to local governments; therefore, no cost or savings.

❖OTHER PERSONS: Qualified optometry endorsement applicants will no longer be required to take the national board examinations, if not already taken. The cost for the examinations is approximately $400. The number of endorsement applicants who have not taken the examinations is approximately two per year, for a total cost savings of approximately $800 to those qualified optometry endorsement applicants. Licensed optometrists may experience a slight savings in continuing education costs due to the additional options made available by this rule amendment. However, since continuing education costs are based upon individual choices of the licensed optometrist, any savings realized are not capable of being estimated.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The division only anticipates savings to qualified optometry endorsement applicants and to licensed optometrists with respect to their continuing education costs as identified above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed rules are occasioned by the legislative rewrite of the optometry licensing act passed during the 2000 legislative session. Other than technical changes and clarifications, the primary purpose for the proposed amendments is to harmonize them with the rewritten act, and to broaden the scope of options for obtaining continuing education. The amendments will also strike the requirement that applications for endorsement take the national exam, if not already taken, since there is no language in the statute to support such a requirement. The fiscal impact upon the state budget, if any, will be minimal and there will be no impact on local governments. At the present time, an average of two endorsement applicants a year have not taken the national examination which will result in a savings of approximately $800 per year (2 x $400 examination fee). The practitioners of the regulated profession may see a lessening of the cost of continuing education due to the options made available by this rule amendment, but the amount would be based upon the individual choices of the professionals and is therefore not capable of being estimated--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) 530-6221, 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 07/31/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 07/12/2000, 9:00 a.m., 160 East 300 South, Conference Room 4B, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: A. Gary Bowen, Director

R156. Commerce, Occupational and Professional Licensing.
R156-16a. Optometry Practice Act Rules.
R156-16a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 16a, as used in Title 58, Chapters 1 and 16a or these rules:

(1) [~~"Direct supervision" means the supervising optometrist or ophthalmologist is physically present and immediately available for face-to-face consultation with the optician providing services.~~

~~(2) "General supervision" means the supervising optometrist or ophthalmologist is available for direct oral communication with the optician being supervised either face-to-face or by some other means.~~

~~(3)~~]"Peer review program" or "peer review organization" means a quality assurance program approved by the division in collaboration with the board.

(2) "Verbal order" as used in Subsection 58-16a-102(3)(a), means that the attending optometrist ordered the contact lens prescription by telephone, or that an individual acting under the supervision and direction of the attending optometrist ordered the contact lens prescription by telephone.

R156-16a-302a. Qualifications for Licensure - Education Requirements.

In accordance with Subsection 58-16a-302(1)(e), the course of study satisfactory to the division and the board shall consist of:

(1) 100 clock hours of General and Ocular Pharmacology in a recognized accredited optometry school; and

(2) one of the following[~~a~~] courses in Emergency Medical Care:

(a) Cardiopulmonary Resuscitation (CPR); or

(b) Basic Life Support (BCLS)[~~taught by a person who has the authority to grant certification in cardiopulmonary resuscitation~~].

R156-16a-302b. Qualifications for Licensure - Examination Requirements.

In accordance with Subsection 58-16a-302(1)(f), the examinations which must be successfully passed by applicants for licensure as an optometrist are:

(1) the National Board of Examiners in Optometry [~~E~~]examinations to include the following sections:

(a) [~~Basic Science,~~]Part I (Basic Science);

(b) [~~Clinical Science,~~]Part II (Clinical Science);

(c) [~~Clinical Skills,~~]Part III (Patient Care); and

(d) [~~the treatment and management of ocular disease~~]The Treatment and Management of Ocular Disease (TMOD).

R156-16a-302c. Licensure by Endorsement.

[~~If an applicant meets the requirements for licensure by endorsement as set forth in Subsection 58-16a-302(2), Part III of the National Board of Optometric Examiners Clinical Skills Examination shall be waived.~~]In accordance with Subsection 58-16a-302(2)(b), optometry practice that is "consistent with the legal practice of optometry in this state" means that the licensed

optometrist has lawfully engaged in therapeutic optometry for not less than 3200 hours in the past two years.

R156-16a-302d. Quality Assurance Program.

In accordance with Subsections 58-16a-302(1)(g) and 58-16a-303(2)(a), a quality assurance program must meet the following criteria in order to be approved by the division in collaboration with the board.

(1) The quality assurance program shall consist of a quality assurance provider, quality assurance reviewers, and the subscribing optometrists and shall be under the direction of the quality assurance provider.

(2) The quality assurance provider shall clearly demonstrate that its personnel have such knowledge and expertise in the practice of optometry and quality assurance to permit the quality assurance provider to competently conduct an optometry peer review program.

(3) The quality assurance program must be open to all licensed optometrists.

(4) The quality assurance provider shall submit a written document to the division for prior approval which outlines the quality assurance program in detail, sets forth the standards and audit criteria against which the optometrist will be reviewed, establishes the criteria for selection of those persons who will be accepted to perform quality assurance review, and documents corrective action procedures.

(5) The contract between the quality assurance provider and its subscribing optometrists shall provide that the quality assurance review process be conducted not less frequently than once every three years.

(6) The primary emphasis of the quality assurance program shall be educational.

(7) Any fees charged for participation in the quality assurance program shall be reasonable and necessary and shall be submitted by the quality assurance provider to the division for approval prior to implementation or change.

(8) A quality assurance provider shall provide in its agreement between the provider and subscribing optometrist that:

(a) [~~upon a finding of gross incompetence in the practice of optometry, the provider shall provide its findings to the division for appropriate action;~~

~~(b)~~]if the subscribing optometrist fails to substantially comply with a plan of correction determined appropriate by the provider following quality assurance review by the provider, the subscriber will suspend the subscribing optometrist from that provider's quality review program and will report such suspension to the division; and

([~~c~~]b) the provider will make available to the division the results of a quality review in accordance with Title 58, Chapter 13, and otherwise report the results of a quality review upon the proper issuance of a subpoena duces tecum by the division in accordance with the provisions of Title 58, Chapter 1.

(9) The approved quality assurance provider shall submit, upon request, a written report to the division in sufficient detail to assess the progress, effectiveness and outcome of the program. Representatives of the quality assurance provider shall meet with the division and board if requested to address issues, concerns or the previously-mentioned report.

R156-16a-304. Continuing Education.

In accordance with Section 58-16a-304, the standards for the 30 hours of qualified continuing professional education are the following.

[~~(1) Qualified continuing professional education shall consist of:~~

~~(a) a minimum of 24 clock hours in pathology, pharmacology, emergency medicine or hands-on clinical continuing education;~~

~~(b) a biennial course in cardiopulmonary resuscitation (CPR) or Basic Life Support (BCLS) resulting in certification; and~~

~~(c) not more than two clock hours relating to ocular practice management.~~

~~(2) Qualified continuing professional education shall meet the following criteria:~~

~~(a) the subject matter must be relevant;~~

~~(b) the faculty must be qualified, both in experience and in teaching expertise;~~

~~(c) the learning objectives must be reasonable and clearly stated;~~

~~(d) the teaching methods must be clearly stated and appropriate;~~

~~(e) attendance must be open to all optometrists and students of optometry;~~

~~(f) there must be a written post course or program evaluation; and~~

~~(g) documentation of attendance must be provided to those attending.~~

~~(3) Credit for qualified continuing professional education shall be recognized in accordance with the following:~~

~~(a) courses approved by the Council on Optometric Professional Education (COPE);~~

~~(b) courses, seminars, lectures, grand rounds, or conferences approved or sponsored by:~~

~~(i) state, regional, or national optometric associations;~~

~~(ii) state, regional, or national opthalmological associations;~~

~~(iii) state licensing boards;~~

~~(iv) accredited colleges or universities; or~~

~~(v) established local eye care facilities.~~

~~(4) After September 30, 1998, only courses approved by COPE will qualify as meeting the qualified continuing professional education requirements.~~](1) With the exception of Subsection (2), only courses approved by the Council on Optometric Professional Education (COPE) and optometry related courses approved by the Council on Medical Education and the American Optometric Association will be accepted.

(2) A maximum of two hours of continuing professional education will be accepted for courses in certification or recertification in cardiopulmonary resuscitation (CPR) or Basic Life Support (BCLS).

([~~5~~]3) Qualified continuing professional education hours for licensees who have not been licensed for the entire two year [~~period~~]renewal cycle will be prorated from the date of licensure.

([~~6~~]4) A licensee shall be responsible for maintaining competent records of completed qualified continuing professional education for a period of four years after close of the two year

[~~period~~]renewal cycle to which the records pertain.[~~ It is the responsibility of the licensee to maintain such information with respect to qualified continuing professional education and to demonstrate it meets the requirements under this section.~~]

(5) Hours in excess of the 30 hours obtained in one renewal cycle cannot be transferred to the next renewal cycle.

[

~~**R156-16a-306a. Written Agreement.**~~

~~In accordance with Subsection 58-16a-306(2), the current written agreement is defined and clarified as follows.~~

~~(1) The written agreement shall consist of the following:~~

~~(a) acknowledgment of a relationship between the optician and the optometrist or ophthalmologist; and~~

~~(b) documentation of the optician's successful completion of the apprenticeship as defined and clarified in Subsection R156-16a-306b to include:~~

~~(i) the beginning and ending dates of the apprenticeship;~~

~~(ii) a log of 100 patients fitted for contact lenses consistent with Subsection R156-16a-306b(1); and~~

~~(iii) a supporting medical record for each of the 100 patients.~~

~~(2) A copy of the current written agreement shall be maintained at the practice sites of the optician and the optometrist or ophthalmologist and made available to the division upon request.~~

~~**R156-16a-306b. Apprenticeship.**~~

~~In accordance with Subsection 58-16a-306(3), the contact lens apprenticeship is defined and clarified as follows.~~

~~(1) The optician shall fit a minimum of 100 patients with contact lenses.~~

~~(2) The fittings shall include:~~

~~(a) 30 Rigid Gas Permeable lenses including 10 Rigid Gas Permeable Toric, and~~

~~(b) 10 Toric Soft lenses.~~

~~(3) The 100 fittings shall be under the direct supervision of the supervising optometrist or ophthalmologist.~~

~~(4) The medical record for each patient shall be signed by the optician and the supervising optometrist or ophthalmologist.~~

~~(5) After successful completion of the required fittings, the remainder of the apprenticeship shall be under the general supervision of the supervising optometrist or ophthalmologist.~~

~~(6) A qualified optician who has met the requirements under Section R156-16a-306b prior to May 5, 1997 shall be considered to have met the apprenticeship requirements by:~~

~~(a) submitting an affidavit certifying completion of the above requirements on a form provided by the Division; and~~

~~(b) submitting the above-referenced form to the Division by December 1, 1997.~~]

R156-16a-307. Licenses Held on Effective Date - Scope of Practice Defined.

(1) In accordance with Section 58-16a-307, the [~~classification of licensure and~~] scope of practice for an individual holding a current license as an optometrist without certification on May 5, 1997 is clarified as follows.

(a) [~~The licensee shall be issued a license in the classification of optometrist without certification.~~

~~(b)~~]An optometrist without certification:

(i) shall not engage in the treatment of eye disease or injury, the administration or prescribing of diagnostic or therapeutic prescription drugs, or over the counter medicines, the removal of any foreign body from the eye, or treatment of any condition of the eye except those which can be corrected by the use of lenses, prisms, contact lenses, or ocular exercises; and

(ii) may use, dispense, or recommend over-the-counter contact lens solutions.

(iii) upon finding any eye disease or injury requiring therapeutic treatment, shall refer the patient to a qualified practitioner.

(2) In accordance with Section 58-16a-307, the[~~classification of licensure and~~] scope of practice for an individual holding a current license as an optometrist with diagnostic certification on May 5, 1997 is clarified as follows.

(a) [~~The licensee shall be issued a license in the classification of optometrist with diagnostic certification.~~

~~(b)~~]An optometrist with diagnostic certification:

(i) shall not engage in the treatment of eye disease or injury, the administration or prescribing of therapeutic prescription drugs, or therapeutic over the counter medicines, the removal of any foreign body from the eye, or treatment of any condition of the eye except those which can be corrected by the use of lenses, prisms, contact lenses, or ocular exercises;

(ii) may use, dispense, or recommend over-the-counter contact lens solutions;

(iii) may administer diagnostic prescription drugs or over the counter medicines to include the categories of anesthetics, myotics, mydriatrics, or cyclopegics; and

(iv) upon finding any eye disease or injury requiring therapeutic treatment, shall refer the patient to a qualified practitioner.

(3) In accordance with Section 58-16a-307, the[~~classification of licensure and~~] scope of practice for an individual holding a current license as an optometrist with therapeutic certification on May 5, 1997 [~~is clarified as follows.~~

~~(a) The licensee shall be issued a license in the classification of optometrist.~~

~~(b) The scope of practice for an optometrist~~]shall be consistent with the scope of practice set forth in Section 58-16a-601.

R156-16a-502. Unprofessional Conduct.

In addition to Title 58, Chapters 1 and 16a, and in accordance with Subsection 58-1-203(5), unprofessional conduct is further defined to include:

(1) failure to maintain current membership in the quality assurance program in accordance with Subsection 58-16a-303(2)(a) and Section R156-16a-302d; or

(2) engaging in optometry beyond the scope of practice pursuant to Section R156-16a-307 and Section 58-16a-601.

KEY: optometrists, licensing

[~~April 1, 1998~~]2000	**58-16a-101**
Notice of Continuation September 2, 1997	**58-1-106(1)**
	58-1-202(1)

Education, Administration
R277-400
Emergency Preparedness Plan

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22945
FILED: 06/15/2000, 18:20
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide procedures for Comprehensive Emergency Response plans to prevent and combat violence in public schools as required by H.B. 14 from the 2000 General Session.
(**DAR Note:** H.B. 14 is found at 2000 Utah Laws 119, and was effective May 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: The changes include provisions for establishing emergency response plans, notice and preparation of emergency response plans, emergency response training, and prevention and intervention strategies for both students and employees.

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

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no anticipated cost or savings to the state because all of the preparation and training is handled at the school district/school level.
❖LOCAL GOVERNMENTS: There will be costs to school districts/schools for implementation and training of personnel, including presenters, meals, booklets, teacher time, and mileage. Costs may range from $2,500 for a very small district to $6,000,000 for a large district such as Davis County School District.
❖OTHER PERSONS: There is no anticipated cost or savings to other persons because school districts/schools will have the responsibility for implementation and training.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for school districts may range from $2,500 for a small school district to $6,000,000 for a large school district.

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Carol B. Lear, Acting Coordinator, School Law

R277. Education, Administration.
R277-400. [~~Emergency Preparedness~~]School Emergency Response Plans.
R277-400-1. Definitions.

A. "Emergency" means a natural or man-made disaster, accident, act of war, or other circumstance which could reasonably endanger the safety of school children or disrupt the operation of the school.

B. "Emergency Preparedness Plan[~~(Plan)~~]" means policies and procedures developed to promote the safety and welfare of students, protect district property, or regulate the operation of schools during an emergency occurring within a district or a school.

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

D. "Emergency Response Plan" means a plan developed by a school district or school to prepare and protect students and staff in the event of school violence emergencies.

R277-400-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities and Section 53A-1-402(1)(b) directs the Board to adopt rules for student health and safety.

B. The purpose of this rule is to establish general criteria for both Emergency Preparedness and Emergency Response plans required of[~~local~~] schools and districts [~~governing conduct during~~]in the event of natural disasters or school violence emergencies. This rule also directs school districts to develop prevention, intervention, and response measures and to prepare staff and students to respond promptly and appropriately to school violence emergencies.

R277-400-3. Establishing[~~a~~] District Emergency Preparedness and Emergency Response Plans.

A. By July 1, 2000, [~~E~~]each local board of education shall adopt,[~~and~~] maintain, and provide a copy to the USOE, its [~~a~~]Emergency Preparedness and Emergency Response [~~P~~]plans or a comprehensive plan that prepares and trains students and staff for natural disaster and school violence emergencies[~~for its district which meets Board standards~~].[~~The plan shall contain specific procedures designed for each individual school located within the district.~~]

B. As a part of a local board of education's annual application for Safe and Drug Free School funds, the local board shall reference its Emergency Response plan.

C. The plan(s) shall be designed to meet individual school needs and features. A district may direct schools within the district to develop and implement individual plans.

[~~B~~]D. The local board shall appoint a committee to prepare [~~a~~]plan(s) or modify[~~an~~] existing plan(s) to [~~meet Board standards~~]satisfy this rule. The committee shall consist of appropriate school and community representatives which may include school and district administrators, teachers, parents, community and municipal governmental officers, and fire and law enforcement personnel. Governmental agencies and bodies vested with responsibility for directing and coordinating emergency services on local and state levels shall be included on the committee.

[~~C~~]E. The local board shall appoint appropriate persons at least once every three years to review[~~ and update~~] the [~~P~~]plan(s).

F. The Board shall develop Emergency Response plan models under Section 53A-3-402(17)(d).

[

~~**R277-400-4. Establishing a School Emergency Preparedness Plan.**~~

~~A. Each school shall prepare a school Plan which shall be consistent with the district Plan and approved by the district superintendent.~~

~~B. Parents, teachers, and administrators shall participate in the development of a school Plan.~~

~~C. The school Plan shall be updated at least as frequently as the district Plan.~~]

R277-400-[~~5~~]4. Notice and Preparation.

A. A copy of the [~~P~~]plan(s) for each school within a district shall be filed in the district superintendent's office.

B. At the beginning of each school year, parents and staff shall receive a written [~~summary~~]notice of relevant sections of district and school [~~P~~]plans which are applicable to that school.

C. Each school shall designate an Emergency Preparedness/Emergency Response week prior to April 30 of each school year. Community, student, teacher awareness, training, or inservice, such as those outlined in R277-400-7 and 8, would be appropriate activities offered during the week.

R277-400-[~~6~~]5. Plan(s) Content--Educational Services and Student Supervision.

The plan shall contain measures which assure that, during an emergency, school children receive reasonably adequate educational services and supervision during school hours.

A. Evacuation procedures shall assure reasonable care and supervision of children until responsibility has been affirmatively assumed by another responsible party.

B. Release of a child below ninth grade at other than regularly scheduled hours is prohibited unless the parent or another responsible person has been notified and has assumed responsibility for the child. An older child may be released without such notification if a school official determines that the child is reasonably responsible and notification is not practicable.

C. School districts shall, to the extent reasonably possible, provide educational services to school children whose regular school program has been disrupted by an extended emergency.

R277-400-[~~7~~]6. [~~Plan Content--~~]Emergency Preparedness Training.

The [~~P~~]plan shall contain measures which assure that school children receive emergency preparedness training.

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

B. Fire drills:

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

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

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

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

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

D. Resources and materials available for training shall be identified in the [~~P~~]plan.[

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

R277-400-7. Emergency Response Training.

A. Each district shall provide an annual inservice for district and school building staff on employees roles, responsibilities and priorities in the emergency response plan.

B. Districts shall require schools to conduct at least one annual drill for school violence emergencies.

C. Districts shall require schools to review existing security measures and procedures within their schools and make adjustments as needs demonstrate and funds are available.

D. Districts shall develop standards and protections to the extent practicable for participants and attendees at school-related activities, with special attention to those off school property.

E. Districts and schools shall coordinate with local law enforcement and other public safety representatives in appropriate drills for school safety emergencies.

R277-400-8. Prevention and Intervention.

A. Districts shall provide schools, as part of their regular curriculum, comprehensive violence prevention and intervention

strategies such as resource lessons and materials on anger management, conflict resolution, and respect for diversity and other cultures.

B. Districts shall also develop, to the extent resources permit, student assistance programs such as care teams, school intervention programs, and interagency case management teams.

C. In developing student assistance programs, districts are encouraged to coordinate with and seek support from other state agencies and the Utah State Office of Education.

R277-400-[8]9. [~~Plan Content--~~]Cooperation With Governmental Entities.

A. As appropriate, a local board may enter into cooperative agreements with other governmental entities to assure proper coordination and support during emergencies.

B. A school district shall cooperate with other governmental entities, as reasonably feasible, to provide emergency relief services. The [~~P~~]plan(s) shall contain procedures for assessing and providing district facilities, equipment, and personnel to meet public emergency needs.

C. The [~~P~~]plan(s) shall delineate communication channels and lines of authority within the district, city, county, and state.

(1) the Board, through its superintendent, is the chief officer for emergencies involving more than one district or state or federal aid;

(2) the local board, through its superintendent, is the chief officer for district emergencies;

(3) direction and control of emergency operations shall be exercised by the executive heads of government and school districts. Local governments and school districts retain their autonomy and identity throughout all levels of emergency operations;

(4) personnel and resources received from outside sources shall be incorporated into the structure of the local government and school district.

R277-400-[9]10. [~~Plan Content--~~]Fiscal Procedures.

The [~~P~~]plan(s) shall address procedures for recording district funds expected for emergencies, for assessing and repairing damage, and for seeking reimbursement for emergency expenditures.

KEY: emergency preparedness, disasters, safety, safety education

[~~November 3, 1998~~]2000	**Art X Sec 3**
Notice of Continuation September 12, 1997	**53A-1-401(3)**
	53A-1-402(1)(b)

Education, Administration

R277-455

Standards and Procedures for Building Plan Review

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22946

FILED: 06/15/2000, 18:20

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for review of school district sites for geologic hazards for building sites.

SUMMARY OF THE RULE OR CHANGE: School districts shall have procedures in place to review possible geologic hazards for building site.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There should be savings to Geologic Survey staff who no longer review building sites for geologic hazards.

❖LOCAL GOVERNMENTS: There may be costs to school districts to pay a geotechnical consultant may range from $20+ an hour to hiring a specialist at approximately $40,000 a year.

❖OTHER PERSONS: There should be no costs to persons outside of school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs to districts may range from paying a geotechnical consultant $20+ an hour to hiring a specialist at approximately $40,000 a year.

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

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

Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Carol B. Lear, Acting Coordinator, School Law

R277. Education, Administration.
R277-455. Standards and Procedures for Building Plan Review.

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R277-455-4. Criteria for Approval.

A. To receive approval of a proposed building site, the local school district must certify that:

(1) the site is well located;

(2) the site is of adequate size;

(3) [~~the site has been inspected by the~~]staff of the Utah Geological Survey have reviewed and recommended approval of the geologic hazards report provided by the school district geotechnical consultant; and

(4) the location of the site has been determined after consultation with appropriate local government authorities in accordance with Section 53A-20-108.

B. School districts shall have a procedure to review geologic hazards in screening potential school facility sites prior to acquisition.

[~~B~~]C. To receive approval of proposed building plans, the local school district must provide evidence that:

(1) the plans meet the requirements of Section 53A-20-102;

(2) the school district has provided for inspection by an inspector qualified under criteria established by R156-56-11, Uniform Building Standard Rules, and the State Superintendent; and

(3) the school district has provided the notice required by Section 53A-20-108.

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KEY: educational facilities
[~~1988~~]2000
Notice of Continuation February 26, 1999

53A-20-102
53A-20-104
53A-1-402(1)(d)
53A-1-401(3)
53A-20-108
26-29-4

Education, Administration
R277-716
Alternative Language Services (ALS)

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22948
FILED: 06/15/2000, 18:20
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to delete definitions no longer used in the rule, to modify the completion date for ESL endorsements, and to provide language for distribution of one-time funds for literacy/reading instruction.

SUMMARY OF THE RULE OR CHANGE: Deletes definitions, modifies the required English as a Second Language (ESL) endorsement date, and provides language for distribution of one-time funds for literacy/reading instruction.

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

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no cost or savings to state budget because the one-time funds were appropriated by the legislature.
❖LOCAL GOVERNMENTS: School districts may have some savings because of the extended time period for teachers to acquire ESL endorsements.
❖OTHER PERSONS: ESL teachers must be endorsed by the 2000-2001 school year and may incur some costs in earning the required endorsement. Costs may be as minimal as $10-$25 for registration fees for inservice or conferences to University tuition rates ranging from $120-$150 per hour.
COMPLIANCE COSTS FOR AFFECTED PERSONS: ESL teachers may incur some costs in earning the required endorsement. Costs may be as minimal as $10-$25 for registration fees for inservice or conferences to University tuition rates ranging from $120-$150 per hour.

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

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Education
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250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Carol B. Lear, Acting Coordinator, School Law

R277. Education, Administration.
R277-716. Alternative Language Services (ALS).
R277-716-1. Definitions.

A. "Alternative Language Services (ALS)" means researched-based, instructional programs and is compatible with the Board's

PRINCIPLES OF EQUITY FOR UTAH'S PUBLIC SCHOOLS and which meet the needs of children speaking a language other than English in the public school system. Programs shall be designed to enable students to achieve competence in English and to meet school grade-promotion and graduation requirements as determined by the Board and school districts. Such programs are included in the following models:

(1) "Special alternative instructional program," such as an English as a Second Language (ESL) program, means instruction designed for students of limited-English proficiency. Such programs are not transitional or developmental education programs but are designed to meet the particular linguistic and instructional needs of the students enrolled. Such programs shall provide both structured English language instruction and special instructional services which allow the student to achieve competence in the English language.

(2) "Transitional bilingual education" means a model designed for a student of limited-English proficiency which provides structured English instruction to allow a student to achieve competency in the English language, using the student's primary language as a medium of instruction. Insofar as possible, such instruction shall incorporate the cultural heritage of students in the program.

(3) "Developmental bilingual education" means full-time instruction using both English and a second language. Such instruction is designed to help students achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses of study. Classes in programs of developmental bilingual education shall be comprised of equal numbers of students whose primary language is English and limited-English proficient students whose primary languages are the second languages of instruction and study in the program.

[~~B. "Title VI of the Civil Rights Act of 1964" is federal legislation that states no person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in the educational program offered by the school district.~~

~~C. "Lau v. Nichols" is a 1974 United States Supreme Court case in which the Court held that students who understand little or no English are denied equal opportunities when English is the sole medium of instruction and there are no systematic efforts to teach that language to non-English speaking children or language assistance to enable them to participate in the instructional program of the district.~~

~~D~~]B. "Students with bilingual needs" means students whose primary or home language is other than English (PHLOTE); and:

(1) who are monolingual speakers of a language other than English;

(2) who speak a language other than English and have limited oral proficiency or limited literacy in English or limited proficiency in both;

(3) who have equal oral knowledge of another language and English; but lack cognitive and academic English skills; or

(4) who speak predominantly English but have limited cognitive and academic skills in English.

[~~E~~]C. "Board" means the Utah State Board of Education.

[~~F~~]D. "A Limited English proficient (LEP)" student means a student who meets one or more of the following conditions:

(1) was born outside of the United States or whose native language is not English;

(2) comes from an environment where a language other than English is dominant; or

(3) is American Indian or Alaska Native and comes from an environment where a language other than English has a significant impact on the student's level of English language proficiency; and

(4) who because of Subsections (1), (2) and (3) has sufficient difficultly speaking, reading, writing, or understanding the English language that the student is denied the opportunity to learn successfully in an English-only classroom or to participate fully in society.

[~~G~~]E. "USOE" means the Utah State Office of Education.[

~~H. "SEP or SEOP" means a student educational plan or a student educational occupational plan which is cooperatively developed by the student, the student's parents and designated school personnel. The plan is guided by general Core Curriculum requirements and individual student interests and goals.~~

~~I. "Core Curriculum" means minimum academic standards provided through courses as established by the Board which shall be completed by all students, K-12, as a requisite for graduation from Utah's secondary schools.~~

~~J. "OCR" means Office for Civil Rights, a federal agency. OCR has jurisdiction over the enforcement of Title VI of the Civil Rights Act of 1964, its implementing regulations and various other antidiscrimination statutes.~~]

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R277-716-4. [~~Certification/~~]Endorsement Requirement.

By the completion of school year [~~1999~~]2000-200[~~0~~]1, teachers whose [~~are assigned~~]primary assignment is to provide English language instruction to LEP students shall have [~~certification with~~]an endorsement in [~~Bilingual Education or~~]English as a Second Language or in Bilingual Education.

R277-716-5. Program Components.

A. An ALS (Alternative Language Services) program shall include the following:

(1) The designation of procedures for identifying primary or home language of students.

(2) School district employee(s) trained for administering the language proficiency assessment instruments to students whose primary or home language is other than English.

(3) A program design using a model that is research-based and has demonstrated effectiveness in meeting the needs of LEP students.

(4) [~~Certificated~~]Licensed employees who are appropriately endorsed in accordance with the ALS program design(s) selected by the school district.

(5) Evaluation standards for measuring the progress of students including program exit criteria.

(6) Plans for monitoring student performance for a minimum of two years after students exit the program.

(7) A comprehensive system for staff development.

(8) Services to LEP students who qualify for special education. Services:

(a) shall be in compliance with IDEA 1997-(PL 105-17); and

(b) shall be provided with special education funds for students who qualify for special education.

(9) Appropriate language development and culturally relevant materials specifically designed for language acquisition.

(10) Procedures for parent involvement.

R277-716-6. Distribution of Funds and Reporting.

A. The USOE shall provide ALS funding to school districts based on the number of students identified as LEP in the district and based on the district's conformity with R277-716-5.

B. The USOE shall distribute $500,000 appropriated by the Legislature to school districts through a competitive request for proposal process. The funding shall support literacy/reading instruction for licensed or endorsed ESL or bilingual educators.

C. Applications for one-time funding shall be available through the USOE. Timelines stated in the application shall apply.

[~~B~~]D. A school district that accepts ALS funds shall provide the USOE with a year-end report as requested.

KEY: public education, alternative language services*
[~~June 3, 1999~~]2000 **Art X Sec 3**
Notice of Continuation January 14, 1998 **53A-1-401(3)**

Education, Administration
R277-750
Education Programs for Students with Disabilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22949
FILED: 06/15/2000, 18:20
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to reflect a new approval date for the State Board of Education Special Education rules, and to provide that students with disabilities shall be entitled to dual enrollment programs consistent with state law and rule.

SUMMARY OF THE RULE OR CHANGE: Changes the date from 1992 to 2000 and adds language regarding dual enrollment for students with disabilities.

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

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no cost or savings to state budget. The amendment changes a date and any costs for serving students with disabilities in dual enrollment will be borne by school districts.
❖LOCAL GOVERNMENTS: There may be some costs to school districts/schools because of the provision for dual enrollment for students with disabilities. More students with disabilities who are currently in private or home schools may participate in public school programs which may increase enrollment and the need for more educators and specific accommodations. Costs could vary from the minimal cost of having an additional one or two students in a program to thousands of dollars for specific accommodations.
❖OTHER PERSONS: Parents or guardians of students with disabilities may realize some costs when enrolling a student with disabilities in a public school program because of fees that may be associated with program, consistent with school fee laws and rules. The costs could range from $5-$500 a year per student.
COMPLIANCE COSTS FOR AFFECTED PERSONS: School districts may have increased enrollment and the need for more educators and accommodations, and parents or guardians may have costs associated with fees for their students.

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Carol B. Lear, Acting Coordinator, School Law

R277. Education, Administration.
R277-750. Education Programs for Students with Disabilities.

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R277-750-3. Standards and Procedures.

A. As its rules for programs for students with disabilities, the Board adopts and hereby incorporates by reference:

Education of the Handicapped Act, 20 U.S.C., Chapter 33, Section 1401 et seq. as amended by Public Law 102-119; and

B. The Board shall act in accordance with:

(1) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. 794, incorporated by reference in R277-112;

(2) The State Board of Education R277-750, "State Board of Education Special Education Rules," August, [~~1992~~]2000; and

(3) Utah State [~~Plan~~]Federal Application, as amended, for fiscal years 1993-1995, June 1992, under Part B of the Individuals with Disabilities Education Act, (20 U.S.C., Chapter 33, Section 1412) as amended by Public Law 102-119.

C. Students with disabilities shall be entitled to dual enrollment consistent with Section 53A-11-102.5 and R277-438.

KEY: special education
[~~1993~~]2000 **Art X Sec 3**
Notice of Continuation September 12, 1997 **53A-1-402(1)**
53A-17a-111
53A-15-301
53A-1-401(3)

Education, Administration
R277-916
Technology, Life, and Careers, and Work-Based Learning Programs

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22950
FILED: 06/15/2000, 18:20
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to make changes in terminology, changes in the manner in which funds are disbursed, and to delete pilot programs.

SUMMARY OF THE RULE OR CHANGE: Terminology changes, new language for disbursement of funds, and pilot programs have been deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-15-202

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no anticipated cost or savings to state budget because amendments are primarily changes in terminology.
❖LOCAL GOVERNMENTS: There is no anticipated cost or savings to state budget because amendments are primarily changes in terminology.
❖OTHER PERSONS: There is no anticipated cost or savings to state budget because amendments are primarily changes in terminology.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because amendments are primarily changes in terminology.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
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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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Carol B. Lear, Acting Coordinator, School Law

R277. Education, Administration.
R277-916. Technology, Life, and Careers, and Work-Based Learning Programs.
R277-916-1. Definitions.

A. "Board" means the Utah State Board of Education and the Utah State Board for Applied Technology Education.

B. "TLC" means Technology, Life, and Careers which is a middle/junior high school curriculum comprised of activities encouraging students to explore careers in [~~Business/Marketing, Technology Education/Agriculture, and Family and Consumer Sciences/Health Science and Health Technology~~]Agriculture, Business, Family and Consumer Sciences, Health Science and Health Technology, Marketing, Personal Economics, and Technology Education. Career development activities are integrated throughout the TLC curriculum. The TLC course is coordinated with the Comprehensive Guidance program.

C. "New TLC[~~-II~~]" means an advanced curriculum from the TLC program with additional practical activities. These standards apply to funding support, inservice training, curriculum development and refinement associated with [~~an updated version of~~]the new TLC.

D. "Cone" means a group of schools whose students feed a high school and schools and agencies which interact with the high school.

E. "Work-Based Learning" (WBL) means activities that involve actual work experience or connect classroom learning to work.

G. "Geographical Region" means one of the nine educational planning units: Bear River, Ogden/Weber, Davis/Morgan, Wasatch Front South, Mountainland, Uintah Basin, Central, Southeast, and Southwest.

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

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

R277-916-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public education system in the Board, by Section 53A-15-201 which designates the Utah State Board of Education as the Board for Applied Technology Education, Section 53A-15-202 which allows the Board to establish minimum standards for applied technology education programs and perform duties required by law, and Section 53A-17a-131.12 which directs the Board to distribute specific amounts of funds to school districts.

B. TLC programs currently operating shall continue while each middle/junior high school makes a transition to [~~TLC II~~]new TLC activities which shall replace the[~~original~~] TLC [~~program~~]activities.

C. This rule establishes standards and procedures for school districts seeking to qualify for Technology, Life, and Careers[~~II~~], and WBL Programs funds administered by the Board.

R277-916-3. Disbursement of Funds — Technology, Life, and Careers II Funds.

A. TLC[~~II~~] funds shall be utilized to update the TLC curriculum, purchase and maintain needed equipment and supplies, pilot/field test new TLC program modifications, and provide ongoing inservice training for teachers, counselors, and administrators.

B. [~~The revision of TLC shall enter its first phase during the 1999-2000 school year, with pilot middle/junior high schools. These pilot schools shall be selected from a list prioritized and submitted to the USOE from each district identifying schools conducting and revising TLC programs. Identified schools shall be in compliance with all basic TLC and TLC II program standards.~~]Schools shall meet all TLC and new TLC requirements in order to receive funding.

C. TLC funds shall be allocated to districts for approved schools [~~on a basis of five WPUs~~]using a base of $4,000 per school.

D. Funds remaining after funds are distributed for Section R277-916-3C, above, shall be distributed based on enrollment in grade 7 of the approved schools based on the October 1 enrollment report for the previous year.

E. [~~Districts shall identify a maximum of up to three individual schools indicating first, second, and third for program participation. Each district's first priority school shall be funded during the first year. Funding for second and third-ranked schools shall be allocated based on size of the district and depend upon the availability of funds.~~]Districts shall recommend schools to be funded. Each school shall annually complete a funding application with assurances of meeting TLC standards.

F. Personnel from each of the selected schools shall participate in mandatory USOE training.

G. [~~Schools shall receive continued USOE support and funding, and additional schools will receive funding as funds become available~~]Schools shall receive continued USOE support and funding based on meeting established standards.

R277-916-4. Technology, Life, and Careers II - Standards.

A. The Technology, Life, and Careers funds may be used to:

(1) update the TLC curriculum;

(2) purchase and maintain equipment and supplies, including consumables;

(3) pilot/field test for new TLC program modifications; and

(4) provide regular inservice training for teachers, counselors, and administrators.

B. Districts may qualify for Technology, Life, and Careers funds based on the following:

(1) TLC[~~II~~] program funds shall not be used for paying personnel costs during the period of the regular contract year;

(2) TLC[~~II pilot~~] schools shall teach 180 days of TLC[~~II~~] core curriculum which includes the components and objectives of [~~Business/Marketing, Technology Education/Agriculture, Family and Consumer Sciences/Health Science and Health Technology, and Career Guidance~~]Agriculture, Business, Family and Consumer Sciences, Health Science and Health Technology, Marketing, Personal Economics, Technology Education, and Career Guidance and Development;

(3) All TLC[~~II~~] teachers and counselors and at least one administrator shall attend initial USOE inservice training as a school team;

(4) All TLC[~~II~~] teachers and counselors at the[~~pilot~~] schools shall have appropriate licenses and endorsements;

(5) All TLC[~~II~~] team members shall agree to assist in the development, pilot testing, and implementation of new TLC[~~II~~] activities and materials;

(6) [~~Pilot s~~]Schools[~~, where feasible,~~] shall utilize the services of the WBL coordinator, where funded, to integrate grade level appropriate work-based learning activities into TLC[~~II~~];

(7) [~~Pilot s~~]Schools shall integrate grade level appropriate career development content into the TLC[~~II~~] activities and use the services of the counselor in the program;

(8) The district/school shall utilize the full allocation of funds as provided under R277-916-4. The district/school shall support inservice training activities necessary to the Core TLC[~~II~~] content as adopted by the Board; and

(9) All TLC[~~II~~]-related personnel in the school shall participate fully in evaluating the current program, recommending changes or modifications, and field testing new activities, materials, and resources.

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KEY: public schools, work-based learning programs*
[~~July 19, 1999~~]2000 **Art X Sec 3**
53A-15-201
53A-15-202
53A-17a-131.12

◆ ◆

Environmental Quality, Air Quality
R307-101-2
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22928
FILED: 06/15/2000, 11:22
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update definitions used in screening for hazardous air pollutants.

SUMMARY OF THE RULE OR CHANGE: Section R307-410-4 sets requirements for new or modified sources of certain kinds of hazardous air pollutants. Definitions of those hazardous air pollutants are found in Section R307-101-2, and are based on the definitions developed and updated annually by the American Conference of Government Industrial Hygienists (ACGIH). This amendment updates the definitions of "Acute Hazardous Air Pollutant," "Carcinogenic Hazardous Air Pollutant," "Chronic Hazardous Air Pollutant," "Threshold Limit Value-Ceiling (TLV-C)," and "Threshold Limit Value-Time Weighted Average (TLV-TWA)" to refer to the 2000 edition of the ACGIH indices.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time.
❖LOCAL GOVERNMENTS: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time.
❖OTHER PERSONS: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time--Dianne R. Nielson

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/31/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 07/20/2000, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/09/2000

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-101. General Requirements.
R307-101-2. Definitions.

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

"Actual Area of Nonattainment" means an area which is shown by monitored data or modeling actually to exceed the National Ambient Air Quality Standards (Boundaries are established in the Utah State Implementation Plan).

"Actual Emissions" means the actual rate of emissions of a pollutant from a source determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the source actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The Executive Secretary shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The Executive Secretary may presume that source-specific allowable emissions for the source are equivalent to the actual emissions of the source.

(3) For any source which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the source on that date.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents [~~,~~]and Biological Exposure Indices, pages 15 - 72 ([~~1998~~]2000)."

"Air Contaminant" means any particulate matter or any gas, vapor, suspended solid or any combination of them, excluding steam and water vapors (Section 19-2-102(1)).

"Air Contaminant Source" means any and all sources of emission of air contaminants whether privately or publicly owned or operated (Section 19-2-102(2)).

"Air Pollution" means the presence in the ambient air of one or more air contaminants in such quantities and duration and under conditions and circumstances, as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Air Quality Related Values" means, as used in analyses under R307-401-4(1), Public Notice, those special attributes of a Class I area, assigned by a federal Land Manager, that are adversely affected by air quality.

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-6.

"Ambient Air" means the surrounding or outside air (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.

"Asphalt or Asphalt Cement" means the dark brown to black cementitious material (solid, semisolid, or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Baseline Date":

(1) Major source baseline date means:

(a) In the case of particulate matter and sulfur dioxide, January 6, 1975, and

(b) In the case of nitrogen dioxide, February 8, 1988.

(2) Minor source baseline date means the earliest date after the trigger date on which the first complete application under 40 CFR 52.21 or R307-405 is submitted by a major source or major modification subject to the requirements of 40 CFR 52.21 or R307-405. The minor source baseline is the date after which emissions from all new or modified sources consume or expand increment, including emissions from major and minor sources as well as any or all general commercial, residential, industrial, and other growth. The trigger date is:

(a) In the case of particulate matter and sulfur dioxide, August 7, 1977, and

(b) In the case of nitrogen dioxide, February 8, 1988.

"Best Available Control Technology (BACT)" means an emission limitation and/or other controls to include design, equipment, work practice, operation standard or combination thereof, based on the maximum degree or reduction of each pollutant subject to regulation under the Clean Air Act and/or the Utah Air Conservation Act emitted from or which results from any emitting installation, which the Air Quality Board, on a case-by-case basis taking into account energy, environmental and economic impacts and other costs, determines is achievable for such installation through application of production processes and available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall applications of BACT result in emissions of any pollutants which will exceed the emissions allowed by Section 111 or 112 of the Clean Air Act.

"Board" means Air Quality Board. See Section 19-2-102(6)(a).

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Carbon Adsorption System" means a device containing adsorbent material (e.g., activated carbon, aluminum, silica gel), an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of all VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents [~~,~~]and Biological Exposure Indices, pages 15 - 72 ([~~1998~~]2000)."

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents [~~,~~]and Biological Exposure Indices, pages 15 - 72 ([~~1998~~]2000)."

"Clean Air Act" means federal Clean Air Act as amended in 1990.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is calculated by the National Weather Service from daily measurements of temperature lapse rates and wind speeds from ground level to 10,000 feet. The State has been divided into three separate air quality areas for purposes of the clearing index system:

(1) Area 1 includes those valleys below 6500 feet above sea level and west of the Wasatch Mountain Range and extending south through the Wasatch and Aquarius Plateaus to the Arizona border. Included are the Salt Lake, Utah, Skull and Escalante Valleys and valleys of the Sevier River Drainage.

(2) Area 2 includes those valleys below 6500 feet above sea level and east of the Wasatch Mountain Range. Included are Cache Valley, the Uintah Basin, Castle Valley and valleys of the Green, Colorado, and San Juan Rivers.

(3) Area 3 includes all valleys and areas above 6500 feet above sea level.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary pre-construction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Compliance Schedule" means a schedule of events, by date, which will result in compliance with these regulations.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

"Department" means Utah State Department of Environmental Quality. See Section 19-1-103(1).

"Emission" means the act of discharge into the atmosphere of an air contaminant or an effluent which contains or may contain an air contaminant; or the effluent so discharged into the atmosphere.

"Emissions Information" means, with reference to any source operation, equipment or control apparatus:

(1) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air quality of any air contaminant which has been emitted by the source operation, equipment, or control apparatus;

(2) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and

(3) A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

"Emission Limitation" means a requirement established by the Board or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction (Section 302(k)).

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Section 19-1-103(2).

"Executive Secretary" means the Executive Secretary of the Board.

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Facility" means machinery, equipment, structures of any part or accessories thereof, installed or acquired for the primary purpose of controlling or disposing of air pollution. It does not include an air conditioner, fan or other similar device for the comfort of personnel.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Heavy Fuel Oil" means a petroleum product or similar material with a boiling range higher than that of diesel fuel.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Indirect Source" means a building, structure or installation which attracts or may attract mobile source activity that results in emission of a pollutant for which there is a national standard.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

(1) routine maintenance, repair and replacement;

(2) use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(3) use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;

(4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) use of an alternative fuel or raw material by a source:

(a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or

(b) which the source is otherwise approved to use;

(6) an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;

(7) any change in ownership at a source.

"Major Source" means, to the extent provided by the federal Clean Air Act as applicable to R307:

(1) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation under the Clean Air Act; or

(a) any source located in a nonattainment area for carbon monoxide which emits, or has the potential to emit, carbon monoxide in the amounts outlined in Section 187 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 187 of the federal Clean Air Act; or

(b) any source located in Salt Lake or Davis Counties or in a nonattainment area for ozone which emits, or has the potential to emit, VOC or nitrogen oxides in the amounts outlined in Section 182 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 182 of the federal Clean Air Act; or

(c) any source located in a nonattainment area for PM10 which emits, or has the potential to emit, PM10 or any PM10 precursor in the amounts outlined in Section 189 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 189 of the federal Clean Air Act.

(2) any physical change that would occur at a source not qualifying under subpart 1 as a major source, if the change would constitute a major source by itself;

(3) the fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of these R307 rules whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum or reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

"Modification" means any planned change in a source which results in a potential increase of emission.

"National Ambient Air Quality Standards (NAAQS)" means the allowable concentrations of air pollutants in the ambient air specified by the Federal Government (Title 40, Code of Federal Regulations, Part 50).

"Net Emissions Increase" means the amount by which the sum of the following exceeds zero:

(1) any increase in actual emissions from a particular physical change or change in method of operation at a source; and

(2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. For purposes of determining a "net emissions increase":

(a) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences; and the date that the increase from the particular change occurs.

(b) An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a prior approval for the source which approval is in effect when the increase in actual emissions for the particular change occurs.

(c) An increase or decrease in actual emission of sulfur dioxide, nitrogen oxides or particulate matter which occurs before an applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM10 emissions will be used to evaluate this increase or decrease.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable at and after the time that actual construction on the particular change begins; and

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(iv) It has not been relied on in issuing any permit under R307-401 nor has it been relied on in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means for any pollutant, "an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator, EPA to be reliable) to exceed any National Ambient Air Quality Standard for such pollutant" (Section 171, Clean Air Act). Such term includes any area designated as nonattainment under Section 107, Clean Air Act.

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on such source by these regulations and/or the State Implementation Plan.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"PM10 Nonattainment Area" means Salt Lake County, Utah County, or Ogden City.

"PM10 Particulate Matter" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10. It includes sulfur dioxide and nitrogen oxides.

"Part 70 Source" means any source subject to the permitting requirements of R307-415.

"Peak Ozone Season" means June 1 through August 31, inclusive.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. (Subsection 19-2-103(4)).

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

"Production Equipment Exhaust System" means a device for collecting and directing out of the work area VOC fugitive emissions from reactor openings, centrifuge openings, and other vessel openings for the purpose of protecting employees from excessive VOC exposure.

"Reactor" means any vat or vessel, which may be jacketed to permit temperature control, designed to contain chemical reactions.

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the State Implementation Plan.

"Refuse" means solid wastes, such as garbage and trash.

"Regulated air pollutant" means any of the following:

(a) Nitrogen oxides or any volatile organic compound;

(b) Any pollutant for which a national ambient air quality standard has been promulgated;

(c) Any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;

(d) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection;

(e) Any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:

(i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act;

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Construction, Reconstruction and Modification) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

"Residence" means a dwelling in which people live, including all ancillary buildings.

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 6.10 cubic meters or 20 cubic feet, a minimum burn rate less than 5 kilograms per hour or 11 pounds per hour as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kilograms or 362.9 pounds. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air

starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 ton per year (tpy);

Nitrogen oxides: 40 tpy;

Sulfur dioxide: 40 tpy;

PM10 Particulate matter: 15 tpy;

Particulate matter: 25 tpy;

Ozone: 40 tpy of volatile organic compounds;

Lead: 0.6 tpy.

(2) For purposes of R307-405 it shall also additionally mean for:

(a) A rate of emissions that would equal or exceed any of the following rates:

Asbestos: 0.007 tpy;

Beryllium: 0.0004 tpy;

Mercury: 0.1 tpy;

Vinyl Chloride: 1 tpy;

Fluorides: 3 tpy;

Sulfuric acid mist: 7 tpy;

Hydrogen Sulfide: 10 tpy;

Total reduced sulfur (including H2S): 10 tpy;

Reduced sulfur compounds (including H2S): 10 tpy;

Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2 grams per year (3.5×10^{-6} tons per year);

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year);

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year);

Municipal solid waste landfill emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year);

(b) In reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Clean Air Act not listed in (1) and (2) above, any emission rate.

(c) Notwithstanding the rates listed in (1) and (2) above, any emissions rate or any net emissions increase associated with a major source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 ug/cubic meter, (24-hour average).

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions (Standard Temperature and Pressure) and which are used as dissolvers, viscosity reducers, or cleaning agents.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person or persons under common control. A building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standards of Performance for New Stationary Sources" means the Federally established requirements for performance and record keeping (Title 40 Code of Federal Regulations, Part 60).

"State" means Utah State.

"Synthesized Pharmaceutical Manufacturing" means the manufacture of pharmaceutical products by chemical synthesis.

"Temporary" means not more than 180 calendar days.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents [~~,~~]and Biological Exposure Indices[~~ (1998)~~], pages 15 - 72 (2000)."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents [~~,~~]and Biological Exposure Indices[~~ (1998)~~], pages 15 - 72 (2000)."

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air contaminant equal to a threshold limit value - ceiling (TLV- C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.

"Vertically Restricted Emissions Release" means the release of an air contaminant through a stack or opening whose flow is directed in a downward or horizontal direction due to the alignment of the opening or a physical obstruction placed beyond the opening, or at a height which is less than 1.3 times the height of an adjacent building or structure, as measured from ground level.

"Vertically Unrestricted Emissions Release" means the release of an air contaminant through a stack or opening whose flow is directed upward without any physical obstruction placed beyond the opening, and at a height which is at least 1.3 times the height of an adjacent building or structure, as measured from ground level.

"Volatile Organic Compound (VOC)" as defined in 40 CFR Subsection 51.100(s)(1), as published on July 1, 1998, is hereby adopted and incorporated by reference.

"Waste" means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Zero Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is zero.

KEY: air pollution, definitions*
[~~May 6, 1999~~]2000 **19-2-104**

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Environmental Quality, Air Quality
R307-150-2
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22929
FILED: 06/15/2000, 11:22
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update definitions used to determine whether emissions inventory information must be submitted to the state.

SUMMARY OF THE RULE OR CHANGE: Subsection R307-150-3(3)(b) sets requirements for inventory information about certain kinds of air contaminants. Definitions of those contaminants are found in Section R307-150-2, and are based on the definitions developed and updated annually by the American Conference of Government Industrial Hygienists (ACGIH). This amendment updates the definitions of "Acute Contaminant," "Carcinogenic Contaminant," and "Chronic Contaminant" to refer to the 2000 edition of the ACGIH indices.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time.
❖LOCAL GOVERNMENTS: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time.
❖OTHER PERSONS: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The 2000 edition is only slightly different from the 1998 edition, and no changes in cost are anticipated at this time--Dianne R. Nielson

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/31/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 07/20/2000, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/09/2000

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-150. Emission Inventories.
R307-150-2. Definitions.

The following additional definitions apply to R307-150:

"Acute Contaminant" means any noncarcinogenic air contaminant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents [~~-~~]and Biological Exposure Indices, pages 15 - [~~40~~]72 ([~~1997~~]2000)."

"Carcinogenic Contaminant" means any air contaminant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical

Substances and Physical Agents [~]and Biological Exposure Indices, pages 15 - [~~40~~]72 ([~~1997~~]2000)."

"Chronic Contaminant" means any noncarcinogenic air contaminant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents [~]and Biological Exposure Indices, pages 15 - [~~40~~]72 ([~~1997~~]2000)."

"Dioxins" and "Furans" mean total tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans.

KEY: air pollution, reports, inventories
[~~April 6,~~]2000 **19-2-104(1)(c)**

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-304
Income and Budgeting

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22921
FILED: 06/09/2000, 08:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is needed to exclude income received by temporary census takers for the Census Bureau. The intent is to encourage people to accept a short-term job with the Census Bureau without having to lose Medicaid benefits. The income received is excluded from earned income standards.

SUMMARY OF THE RULE OR CHANGE: The earned income section includes a provision excluding earned income of temporary census workers. The exclusion affects only those programs that use a percentage of the federal poverty guideline as an eligibility income limit. The section on unearned income provisions and the filing unit sections have been changed to better explain who is counted in the household size or BMS (basic maintenance standard) and how their income will be counted. The rule changes how the department determines household size for poverty-related programs.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5, and Title 26, Chapter 18
FEDERAL REQUIREMENT FOR THIS RULE: Pub. L. No. 104-204, Pub. L. No. 105-306 (1997)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Pub. L. Nos. 105-33(4735) (August 5, 1997); 104-204(1805)(c) and 104-204(1805)(d) (September 26, 1996); and 105-306(7)(a) and 105-306(7)(c) (October 28, 1998)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Only a small number of additional families will be eligible for 12 months of transitional Medicaid because of increased earned income. Based on previous analysis, perhaps an additional 15 families per year could qualify for 12 months of transitional Medicaid. The cost of an extra 12 months of coverage for 15 families would be approximately $74,520 (includes both federal and state funds). Actual budget impact would be closer to the cost of coverage of one adult for an extra 12 months, which would be approximately $36,000 (both federal and state funds).
❖LOCAL GOVERNMENTS: This rule has no application to local government, so there should not be a fiscal impact.
❖OTHER PERSONS: Medicaid recipients will retain more of their income and still qualify for Medicaid. With the lower spend-down for eligible Medicaid clients, there should be an average monthly saving of $18 per client. There is an average of 900 clients involved, for an estimated $16,200 aggregate monthly savings for the clients. Some recipients of VA (Veteran's Administration) income could experience a large increase in their monthly spenddown, which could average $300 to $900 monthly.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no involvement for affected persons other than that described under other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will support welfare to work policy and allow recipients to be employed and not lose Medicaid eligibility. Impact on business will be negligible--Rod L. Betit

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
PO Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gayle Six at the above address, by phone at (801) 538-6895, by FAX at (801) 538-6952, or by Internet E-mail at gsix@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-304. Income and Budgeting.
R414-304-1. Definitions.

The definitions in R414-1 and R414-301 apply to this rule. In addition:

(1) "Allocation for a spouse" means an amount of income that is the difference between the SSI federal benefit rate for a couple minus the federal benefit rate for an individual.

(2) "Basic maintenance standard (BMS)" means the income level for eligibility based on the number of family members who are counted in the medical assistance unit.

(3) "Benefit month" means a month in which an individual is eligible for Medicaid.

(4) "Federal poverty guidelines" means the U.S. federal poverty measure issued annually by the Department of Health and Human Services that is used to determine financial eligibility for means tested federal pograms.

(5) Household size" means the number of family members, including the client, who are counted based on the criteria of the particular program to decide what level of income to use to determine eligibility.

([~~4~~]6) "Poverty-related program" means a medical assistance program that uses a percentage of the federal poverty guideline for the household size involved to determine eligibility

R414-304-2. A, B and D Medicaid and A, B and D Institutional Medicaid Unearned Income Provisions.

(1) The Department adopts 42 CFR 435.725 through 435.8[~~45~~]32, 1998 ed., and 20 CFR 416.1102, 416.1103, 416.1120 through 416.1148, 416.1150, 416.1151, 416.1163 through 416.1166, and Appendix to Subpart K of 416, 1998 ed., which are incorporated by reference. The Department adopts Pub. L. No. 105-33(4735) enacted August 5, 1997 which is incorporated by reference. The Department adopts Pub. L. No. 104-204(1805)(c) and (d) enacted September 26, 1996 and 105-306(7)(a) and (c) enacted October 28, 1998 which is incorporated by reference.

(2) The following definitions apply to this section:

(a) "Deeming" or "deemed" means a process of counting income from a spouse of an aged, blind, or disabled person or from a parent of a blind or disabled child to decide what amount of income after certain allowable deductions, if any, must be considered income to an aged, blind, or disabled person or child.

([~~a~~]b) "Eligible spouse" means the member of a married couple who is either aged, blind, or disabled.

([~~b~~]c) "In-kind support donor" means an individual who provides food or shelter without receiving full market value compensation in return.

([~~c~~]d) "Presumed maximum value" means the allowed maximum amount an individual is charged for the receipt of food and shelter. This amount shall not exceed 1/3 of the SSI payment plus $20.

(3) Only the portion of a VA check to which the client is legally entitled is countable income. VA payments for aid and attendance do not count as income. The portion of a VA payment which is made because of unusual medical expenses is not countable income. Other VA income based on need is countable income, but is not subject to the $20 general income disregard.

(4) The value of special circumstance items is not countable income if the items are paid for by donors.

(5) For A, B and D Medicaid two-thirds of child support received a month is countable unearned income. It does not matter if the payments are voluntary or court-ordered. It does not matter if the child support is received in cash or in-kind.

(6) For A, B and D Institutional Medicaid court-ordered child support payments must be paid to the Office of Recovery Services (ORS) when the child resides out-of-home in a Medicaid 24-hour care facility. If the child has no income or insufficient income to provide for a personal needs allowance, ORS will allow the parent to retain up to the amount of the personal needs allowance to send to the child for personal needs. All other child support payments received by the child or guardian that are not subject to collection by ORS shall count as unearned to the child.

(7) The interest earned from a sales contract on either or both the lump sum and installment payments is countable unearned income when it is received or made available to the client.

(8) If the client, or the client and spouse do not live with an in-kind support donor, in-kind support and maintenance is the lesser of the value or the presumed maximum value of food or shelter received. If the client, or the client and spouse live with an in-kind support donor and do not pay a prorated share of household operating expenses, in-kind support and maintenance is the difference between the prorated share of household operating expenses and the amount the client, or the client and spouse actually pay, or the presumed maximum value, whichever is less.

(9) SSA reimbursements of Medicare premiums are not countable income.

(10) Reimbursements of a portion of Medicare premiums made by the state Medicaid agency to an individual eligible for QI-Group 2 coverage are not countable income.

(11) Payments under a contract, retroactive payments from SSI and SSA reimbursements of Medicare premiums are not considered lump sum payments.

(12) Educational loans, grants, and scholarships guaranteed by the U.S. Department of Education are not countable income if the recipient is an undergraduate. Income from service learning programs is not countable income if the recipient is an undergraduate. Deductions are allowed from countable educational income if receipt of the income depends on school attendance and if the client pays the expense. Allowable deductions include:

(a) tuition;

(b) fees;

(c) books;

(d) equipment;

(e) special clothing needed for classes;

(f) travel to and from school at a rate of 21 cents a mile, unless the grant identifies a larger amount;

(g) child care necessary for school attendance.

(13) The following provisions apply to non-institutional medical assistance:

(a) For A, B, or D Medicaid, the income of a spouse [~~is~~]shall not be considered in determining Medicaid eligibility of a person who receives SSI. SSI recipients who meet all other Medicaid eligibility factors [~~are~~]shall be eligible for Medicaid without spending down.

(b) If an ineligible spouse of an aged, blind, or disabled person has more income after deductions than the allocation for a spouse, that income [~~is~~]shall be deemed to be income to the aged, blind, or disabled spouse to determine eligibility.

(c) The Department shall determine household size and whose income counts for A or D Medicaid as described below.

(i) If only one spouse is aged or disabled:

(A) income of the ineligible spouse [~~is~~]shall be deemed to be inco[~~o~~]me to the eligible spouse when it exceeds the allocation for a spouse. The combined income [~~is~~]shall then be compared to 100% of the federal poverty guideline for a two-person household. If the combined income exceeds that amount, it [~~is~~]shall be compared, after allowable deductions, to the BMS for two to calculate the spenddown.

(B) If the ineligible spouse's income does not exceed the allocation for a spouse, the ineligible spouse's income shall not be counted and the ineligible spouse shall not be included in the household size or the BMS. [~~o~~]Only the eligible spouse's income [~~is~~]shall be compared to 100% of the federal poverty guideline for one. If the income exceeds that amount, it [~~is~~]shall be compared, after allowable deductions, to the BMS for one to calculate the spenddown.

(ii) If both spouses are either aged or disabled, the income of both spouses is combined and compared to 100% of the federal poverty guideline for a two-person household. SSI income is not counted.

(A) If the combined income exceeds that amount, and one spouse receives SSI, only the income of the non-SSI spouse, after allowable deductions, [~~is~~]shall be compared to the BMS for a one-person household to calculate the spenddown.

(B) If neither spouse receives SSI and their combined income exceeds the federal poverty guideline, then the income of both spouses, after allowable deductions, [~~is~~]shall be compared to the BMS for a two-person household to calculate the spenddown.

(C) If neither spouse receives SSI and only one spouse will be covered under the applicable program, income of the non-covered spouse shall be deemed to the covered spouse when it exceeds the spousal allocation. If the non-covered spouse's income does not exceed the spousal allocation, then only the covered spouse's income shall be counted. In both cases, the countable income shall be compared to the two-person poverty guuideline. If it exceeds the limit, then income shall be compared to the BMS.

(I) If the non-covered spouse has deemable income, the countable income shall be compared to a two-person BMS to calculate a spenddown.

(II) If the non-covered spouse does not have deemable income, then only the covered spouse's income shall be compared to a one-person BMS to calculate the spenddown.

(iii) If an aged or disabled person has a spouse who is blind, then income of the blind spouse shall be deemed to the aged or disabled person when this income exceeds the allocation for a spouse to determine eligibility for the poverty-related Aged or Disabled Medicaid programs. If the deemed income of the blind spouse does not exceed the allocation for a spouse, none of the blind spouse's income shall be counted. In either case, countable income shall be compared to the poverty guideline for a two-person household to determine eligibility for the aged or disabled spouse.

(A) If the countable income does not exceed the two-person poverty guideline, then the aged or disabled spouse shall be eligible under the poverty-related Aged or Disabled Medicaid program.

(B) If the countable income exceeds the two-person poverty guideline, then eligibility under the spenddown program shall be determined as described in (ii)(A) if the blind spouse receives SSI or as in (ii)(B)or (ii)(C)(I) or (II) if the blind spouse does not receive SSI.

(d) The Department shall determine household size and whose income counts for B Medicaid as described below.

(i) If the spouse of a blind client is aged, blind, or disabled and does not receive SSI, income of both spouses [~~is~~]shall be combined and, after allowable deductions, compared to the BMS for a two-person household to calculate the spenddown.[~~—If the spouse of a blind client receives SSI, then only the income of the blind spouse is compared to the BMS for one.~~]

(A) If only one spouse will be covered, or the aged or disabled spouse is eligible under the A or D poverty-related program, income of the non-covered spouse shall be deemed when it exceeds the allocation for a spouse. The total countable income shall then be compared to the BMS for a two-person household to calculate the spenddown.

(B) If the non-covered spouse's income does not exceed the allocation for a spouse, then only the covered spouse's income shall be counted and compared to the BMS for a one-person household.

(C) If the spouse of a blind client receives SSI, then only the income of the blind spouse shall be compared to the BMS for one.

(ii) If the spouse is not aged, blind, or disabled, income [~~is~~]shall be deemed to the blind spouse when it exceeds the allocation for a spouse, and, after allowable deductions, the combined income [~~is~~]shall be compared to the BMS for two. If the ineligible spouse's income does not exceed the allocation for a spouse, only the blind spouse's income, after allowable deductions, [~~is~~]shall be compared to the BMS for one person to calculate the spenddown.

(e) The Department shall determine household size and whose income counts for QMB, SLMB, and QI assistance as described below.

(i) If both spouses receive Part A Medicare[~~, or one does and the other is aged, blind, or disabled, their income is combined and compared to the applicable percentage of the federal poverty guideline for a household of two.~~] and both want coverage, income shall be combined and compared to the applicable percentage of the poverty guideline for a two-person household. SSI income [~~is~~]shall not be counted.

[~~(ii) If only one spouse receives Part A Medicare, and the other is not aged, blind, or disabled, income of the ineligible spouse is deemed to the eligible spouse when it exceeds the allocation for a spouse, and is compared to the applicable percentage of the federal poverty guideline for a household size of two. If the ineligible spouse's income does not exceed the allocation for a spouse, only the income of the eligible spouse is compared to the applicable percentage of the federal poverty guideline for a household size of one.~~](ii) If one spouse receives Part A Medicare, and the other spouse is aged, blind, or disabled, does not receive Part A Medicare, or does not want coverage, then income of the ineligible spouse shall be deemed to the eligible spouse when it

exceeds the allocation for a spouse. If the income of the ineligible spouse does not exceed the allocation for a spouse, then only the income of the eligible spouse shall be counted. In both cases, the countable income shall be compared to the applicable percentage of the federal poverty guideline for a two-person household.

(f) If any parent in the home receives SSI, the income of neither parent [~~is~~]shall be considered to determine a child's eligibility for B or D Medicaid.

(g) Payments for providing foster care to a child are countable income. The portion of the payment that represents a reimbursement for the expenses related to providing foster care is not countable income.

(14) For institutional Medicaid, [~~T~~]the Department shall only count the client in the household size and only count the client's income to determine contribution to cost of care.

R414-304-3. Family Medicaid and Institutional Family Medicaid Unearned Income Provisions.

(1) The Department adopts 42 CFR 435.725 through 435.832, 1998 ed., and 45 CFR 233.20(a)(1), 233.20(a)(3)(iv), 233.20(a)(3)(v), 233.20(a)(3)(xxi), 233.20 (4)(ii), and 233.51, 1998 ed., which are incorporated by reference. The Department adopts Pub. L. No. 105-33 (4735) enacted August 5, 1997 which is incorporated by reference.

(2) The following definitions apply to this section:

(a) A "a bona fide loan" is a loan that has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment.

(b) "Unearned income" means cash received for which the individual performs no service.

(c) "Quarter" means any three month period that includes January through March, April through June, July through September or October through December.

(3) Bona fide loans are not countable income.

(4) Support and maintenance assistance provided in-kind by a non-profit organization certified by the Department of Human Services is not countable income.

(5) The value of food stamp assistance is not countable income.

(6) SSI and State Supplemental Payments are income for children receiving Child, Family, Newborn, or Newborn Plus Medicaid.

(7) $30 is deducted from rental income if that income is consistent with community standards. Additional deductions are allowed if the client can prove greater expenses. The following expenses in excess of $30 may be allowed:

(a) taxes and attorney fees needed to make the income available;

(b) upkeep and repair costs necessary to maintain the current value of the property. This includes utility costs.

(c) only the interest can be deducted on a loan or mortgage made for upkeep or repair;

(d) if meals are provided to a boarder, the value of a one-person food stamp allotment.

(8) Cash gifts that do not exceed $30 a quarter per person in the assistance unit are not countable income. A cash gift may be divided equally among all members of the assistance unit.

(9) Deferred income is countable income when it is received by the client if receipt can be reasonably anticipated.

(10) The value of special circumstance items is not countable income if the items are paid for by donors.

(11) Home energy assistance is not countable income.

(12) All money received from an insurance settlement for destroyed exempt property is counted unless the income is used to purchase replacement property. If income received exceeds the money needed to replace the property, the difference is countable income.

(13) SSA reimbursements of Medicare premiums are not countable income.

(14) Payments from trust funds are countable income if the payments are not available on demand.

(15) FEP, Working Toward Employment Program payments, and Refugee Cash Assistance are not countable income.

(16) Only the portion of a Veteran's Administration check to which the client is legally entitled is countable income.

(17) When the entitlement amount of a check differs from the payment amount, the entitlement amount is countable income unless the deduction is involuntary.

(18) Deposits to joint checking or savings accounts are countable income, even if the deposits are made by a non-household member. Clients who dispute ownership of deposits to joint checking or savings accounts shall be given an opportunity to prove that the deposits do not represent income to them. Funds that are successfully disputed are not countable income.

(19) The income of an alien's sponsor is not countable income.

(20) The interest earned from a sales contract on either or both the lump sum and installment payments is countable unearned income when it is received or made available to the client.

R414-304-4. A, B and D Medicaid and A, B and D Institutional Medicaid Earned Income Provisions.

(1) The Department adopts 42 CFR 435.725 through 435.832, 1998 ed., and 20 CFR 416.1110 through 416.1112, 1998 ed., which are incorporated by reference. The department adopts Subsection 1612(b)(4)(A) and (B) of the Compilation of the Social Security Laws, in effect January 1, 1999, which is incorporated by reference.

(2) The Department shall allow SSI recipients, who have a plan for achieving self support approved by the Social Security Administration, to set aside income that allows them to purchase work-related equipment or meet self support goals. This income [~~is~~]shall be excluded and may include earned and unearned income.

(3) Expenses relating to the fulfillment of a plan to achieve self-support [~~are~~]shall not be allowed as deductions from income.

(4) For A, B and D Medicaid, earned income used to compute a needs-based grant is not countable.

(5) For A, B and D Institutional Medicaid, $125 shall be deducted from earned income before contribution towards cost of care is determined.

(6) For A, B and D Institutional Medicaid impairment-related work expenses [~~are~~]shall be allowed as an earned income deduction.

(7) Capital gains [~~are~~]shall be included in the gross income from self-employment. The cost of doing business [~~is~~]shall be deducted from the gross income to determine the countable net income from self-employment. However, no deductions [~~are~~]shall be allowed for the following business expenses:

(a) transportation to and from work;

(b) payments on the principal for business resources;

(c) net losses from previous periods;

(d) taxes;

(e) money set aside for retirement;

(f) work-related personal expenses;

(g) depreciation.

(8) Net losses of self-employment from the current tax year may be deducted from other earned income.

(9) Earned income paid by the U.S. Census Bureau to temporary census takers shall be excluded for any A, B, or D category programs that use a percentage of the federal poverty guideline as an eligibility income limit.

R414-304-5. Family Medicaid and Family Institutional Medicaid Earned Income Provisions.

(1) The Department adopts 42 CFR 435.725 through 435.8[~~45~~]32, 1998 ed. and 45 CFR 233.20(a)(6)(iii) through (iv), 233.20(a)(6)(v)(B), 233.20(a)(6)(vi) through (vii), and 233.20(a)(11), 1998 ed., which are incorporated by reference.

(2) The following definitions apply to this section:

(a) "Full-time student" means a person enrolled for the number of hours defined by the particular institution as fulfilling full-time requirements.

(b) "Part-time student" means a person who is enrolled for at least one-half the number of hours or periods considered by the institution to be customary to complete the course of study within the minimum time period. If no schedule is set by the school, the course of study must be no less than an average of two class periods or two hours a day, whichever is less.

(c) "School attendance" means enrollment in a public or private elementary or secondary school, a university or college, vocational or technical school or the Job Corps, for the express purpose of gaining skills that will lead to gainful employment.

(d) "Full-time employment" means an average of 100 or more hours of work a month or an average of 23 hours a week.

(e) "Ratable reduction" means a 25% deduction of net income allowed in the AFDC program as in effect on June 16, 1996.

(f) "Aid to Families with Dependent Children" (AFDC) means a state plan for aid that was in effect on June 16, 1996.

(g) "1931 Family Medicaid" means a medical assistance program that uses the AFDC eligibility criteria in effect on June 16, 1996 along with any subsequent amendments in the State Plan, except that 1931 Family Medicaid eligibility for recipients of TANF cash assistance follows the eligibility criteria of the Family Employment Program.

([~~g~~]h) "Temporary Assistance to Needy Families" (TANF) means a grant program providing financial assistance to eligible families with dependent children. It is also referred to as Family Employment Program (FEP).

(3) The income of a dependent child is not countable income if the child is:

(a) in school or training full-time;

(b) in school or training part-time, if employed less than 100 hours a month;

(c) in JTPA.

(4) For Family Medicaid the 30 and 1/3 deduction is allowed if the wage earner has received a TANF financial payment in one of the four previous months and this disregard has not been exhausted. The AFDC rateable reduction is not allowed for Medicaid.

(5) For Family Institutional Medicaid, the Department shall not allow the AFDC rateable reduction as a deduction.

(6) For Family Medicaid, the Department shall deduct child care costs from the earned income of clients working 100 hours or more in a calendar month. A maximum of up to $200.00 per child under age 2 and $175.00 per child age 2 and older may be deducted. A maximum of up to $160.00 per child under age 2 and $140.00 per child age 2 and older a month may be deducted from the earned income of clients working less than 100 hours in a calendar month.

(7) For Family Institutional Medicaid, the Department shall deduct child care costs from the earned income of clients working 100 hours or more in a calendar month. A maximum of up to $160 a month per child may be deducted. A maximum of up to $130 a month shall be deducted from the earned income of clients working less than 100 hours in a calendar month.

(8) Earned income paid by the U.S. Census Bureau to temporary census takers shall be excluded for any family Medicaid programs that use a percentage of the federal poverty guideline as an eligibility income limit, and for determining eligibility for 1931 Family Medicaid.

(9) Under 1931 Family Medicaid, for households that pass the 185% gross income test, if net income does not exceed the applicable BMS, the household shall be eligible for 1931 Family Medicaid. No health insurance premiums or medical bills shall be deducted from gross income to determine net income for 1931 Family Medicaid.

R414-304-6. A, B and D Medicaid and Family Medicaid Income Deductions.

(1) The Department adopts 42 CFR 435.831, 1998 ed., which is incorporated by reference.

(2) The Department shall allow[~~s~~] health insurance premiums providing coverage for anyone in the family or the BMS as deductions in the month of payment. The entire payment [~~is~~]shall be allowed as a deduction and [~~is~~]will not be prorated. The Department shall not allow health insurance premiums as a deduction for determining eligibility for the poverty-related medical assistance programs or 1931 Family Medicaid.

(3) Medicare premiums [~~are~~]shall not be allowed as deductions if the state reimburses the client.

(4) Medical expenses [~~are~~]shall be allowed as deductions only if the expenses meet all of the following conditions:

(a) The medical service was received by the client, client's spouse, parent of an unemancipated client or unemancipated sibling of an unemancipated client, a deceased spouse or a deceased dependent child.

(b) The medical bill shall not be paid by Medicaid or a third party.

(c) The medical bill remains unpaid or was paid during the month of application or at anytime in the three months immediately preceding the month of application. The date the medical service was provided on an unpaid expense does not matter.

(5) A medical expense [~~is~~]shall not be allowed as a deduction more than once.

(6) A medical expense allowed as a deduction must be for a medically necessary service. The Department of Health [~~is~~]shall be responsible for deciding if services are not medically necessary.

(7) The Department shall not allow as a medical expense, co-payments required under the State Medicaid Plan that are owed or paid by the client to receive Medicaid-covered services[~~, as a medical expense~~].

(8) For poverty-related medical assistance, an individual or household [~~is~~]shall be ineligible if countable income exceeds the applicable income limit. Medical costs are not allowable deductions for determining eligibility for poverty-related medical assistance programs. No spenddown [~~is~~]shall be allowed to meet the income limit for poverty-related medical assistance programs.

(9) As a condition of eligibility, clients must certify on Form 1049B that medical expenses in the benefit month are expected to exceed the spenddown amount. The client must do this when spenddown starts, at each review, and when the client chooses a different spenddown option. If medical expenses are less than or equal to the spenddown, the client [~~is~~]shall not be eligible for that month. The client may elect to use allowable medical expenses the client still owes from previous months to reduce the spenddown so that expected medical expenses for the benefit month exceed the remaining spenddown owed.

(10) Pre-paid medical expenses [~~are~~]shall not be allowed as deductions.

(11) The Department elects not to set limits on the amount of medical expenses that can be deducted.

(12) Clients may choose to meet their spenddown obligation by incurring medical expenses or by paying a corresponding amount to the Department.

(13) For A, B and D Medicaid institutional costs [~~are~~]shall be allowed as deductions if the services are medically necessary. The Department of Health [~~is~~]shall be responsible for deciding if services for institutional care are not medically necessary.

(14) No one [~~is~~]shall be required to pay a spenddown of less than $1.

(15) Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in an HMO. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown if the client will be eligible for Medicaid and lives in a county which has a single mental health provider under contract with Medicaid to provide services to all Medicaid clients who live in that county. Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown as long as the services were not provided by the mental health provider in the client's county of residence which is under contract with Medicaid to provide services to all Medicaid clients.

R414-304-7. A, B, and D Institutional Medicaid and Family Institutional Medicaid Income Deductions.

(1) The Department adopts 42 CFR 435.725 and 435.726, 1998 ed., which are incorporated by reference. The Department adopts Subsection 1902(r)(1) and 1924 of the Compilation of the Social Security Laws, in effect January 1, 1999, which are incorporated by reference.

(2) The following definitions apply to this section:

(a) "Family member" means a son, daughter, parent, or sibling of the client or the client's spouse who lives with the spouse.

(b) "Dependent" means earning less than $2,000 a year, not being claimed as a dependent by any other individual, and receiving more than half of one's annual support from the client or the client's spouse.

(3) Health insurance premiums:

(a) For institutionalized and waiver eligible clients, the Department shall allow health insurance premiums only for the institutionalized or waiver eligible client and only if paid with the institutionalized or waiver eligible client's funds. Health insurance premiums [~~are~~]shall be allowed as a deduction in the month due. The payment shall not be pro-rated.

(b) The Department shall allow the portion of a combined premium, attributable to the institutionalized or waiver-eligible client, as a deduction if the combined premium includes a spouse or dependent family member and is paid from the funds of the institutionalized or waiver eligible client.

(4) Medicare premiums [~~are~~]shall not be allowed as deductions if the state pays the premium or reimburses the client.

(5) Medical expenses [~~are~~]shall be allowed as deductions only if the expenses meet all of the following conditions:

(a) the medical service was received by the client;

(b) the unpaid medical bill shall not be paid by Medicaid or a third party;

(c) the paid medical bill can be allowed only in the month paid. No portion of any paid bill can be allowed after the month of payment.

(6) A medical expense [~~is~~]shall not be allowed as a deduction more than once.

(7) A medical expense allowed as a deduction must be for a medically necessary service. The Department of Health [~~is~~]shall be responsible for deciding if services are not medically necessary.

(8) Pre-paid medical expenses [~~are~~]shall not be allowed as deductions.

([~~10~~]9) The Department shall not allow as a medical expense, co-payments required under the State Medicaid Plan that are[~~a client owes or paid~~] owed or paid by a client to receive Medicaid-covered services[~~as a medical expense~~].

(10) The Department elects not to set limits on the amount of medical expenses that can be deducted.

(11) Institutionalized clients are to contribute all countable income remaining after allowable deductions to the institution as their contribution to the cost of their care.

(12) The personal needs allowance [~~is~~]shall be equal to $45.

(13) Except for an individual eligible for the Personal Assistance Waiver,[~~A~~]an [~~I~~]individual receiving assistance under the terms of a Home and Community-Based Services Waiver [~~is~~]shall be eligible to receive a deduction for a non-institutionalized, non-waiver-eligible spouse and dependent family member as if that individual were institutionalized.

(14) Income received by the spouse or dependent family member [~~is~~]shall be counted in calculating the deduction if that type of income is countable to determine Medicaid eligibility. No income disregards [~~are~~]shall be allowed. Certain needs-based income and state supplemental payments [~~are~~]shall not be counted in calculating the deduction. Tribal income [~~is~~]shall be counted.

(15) If the income of a spouse or dependent family member is not reported, no deduction shall be allowed for the spouse or dependent family member.

(16) A client [~~is~~]shall not be eligible for[~~given~~] Medicaid coverage if medical costs are not at least equal to the contribution required towards the cost of care.

(17) To determine a deduction for a community spouse, the standard utility allowance for households with heating costs [~~is~~]shall be equal to $150. For households without heating costs, actual utility costs [~~are~~]shall be used. The maximum allowance for

a telephone bill is $20. Clients [~~are~~]shall not be required to verify utility costs more than once in a certification period.

(18) Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in an HMO. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown if the client will be eligible for Medicaid and lives in a county which has a single mental health provider under contract with Medicaid to provide services to all Medicaid clients who live in that county. Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown as long as the services were not provided by the mental health provider in the client's county of residence which is under contract with Medicaid to provide services to all Medicaid clients.

R414-304-8. Budgeting.

(1) The Department adopts 42 CFR 435.601 and 435.640, 1998 ed., which are incorporated by reference. The Department adopts 45 CFR 233.20(a)(3)(iii), 233.31, and 233.33, 1998 ed., which are incorporated by reference.

(2) The following definitions apply to this section:

(a) "Best estimate" means that income is calculated for the upcoming certification period based on current information about income being received, expected income deductions, and household size.

(b) "Prospective eligibility" means that eligibility is determined each month for the immediately following month based on a best estimate of income.

(c) "Prospective budgeting" is the process of calculating income and determining eligibility and spenddown for future months based on the best estimate of income, deductions, and household size.

(d) "Income averaging" means using a history of past income and expected changes, and averaging it over a determined period of time that is representative of future monthly income.

(e) "Income anticipating" means using current facts regarding rate of pay and number of working hours to anticipate future monthly income.

(f) "Income annualizing" means using total income earned during one or more past years, or a shorter applicable time period, and anticipating any future changes, to estimate the average annual income. That estimated annual income is then divided by 12 to determine the household's average monthly income.

(g) "Factoring" means that a monthly amount shall be determined to take into account the months of pay where an individual receives a fifth paycheck when paid weekly or a third paycheck when paid every other week. Weekly income shall be factored by multiplying the weekly amount by 4.3 to obtain a monthly amount. Income paid every other week shall be factored by 2.15 to obtain a monthly amount.

(h) "Reportable income changes" are those that cause income to change by more than $25. All income changes must be reported for an institutionalized individual.

(3) The Department shall do prospective budgeting on a monthly basis.

(4) A best estimate of income based on the best available information [~~is~~]shall be an accurate reflection of client income in that month.

(5) The Department shall use the best estimate of income to be received or made available to the client in a month to determine eligibility and spenddown.

(6) Methods of determining the best estimate are income averaging, income anticipating, and income annualizing.

(7) The Department shall count income in the following manner:

(a) For QMB, SLMB, QI, and A, B, D, and Institutional Medicaid income shall be counted as it is received. Income that is received weekly or every other week shall not be factored.

(b) For Family Medicaid programs, income that is received weekly or every other week shall be factored.

(8) Lump sums are income in the month received. Any amount of a lump sum remaining after the end of the month of receipt is a resource. Lump sum payments can be earned or unearned income.

(9) Income paid out under a contract [~~is~~]shall be prorated to determine the countable income for each month. Only the prorated amount [~~is~~]shall be used to determine spenddown or eligibility for a month. If the income [~~is~~]will be received in fewer months than the contract covers, the income [~~is~~]shall be prorated over the period of the contract. If received in more months than the contract covers, the income [~~is~~]shall be prorated over the period of time in which the money [~~is~~]will be received.

(10) To determine the average monthly income for farm and self-employment income, the Department shall determine the annual income earned during one or more past years, or other applicable time period, and factor in any current changes in expected income for future months. Less than one year's worth of income may be used if this income has recently begun, or a change occurs making past information unrepresentative of future income. The monthly average income shall be adjusted during the year when information about changes or expected changes is received by the Department.

(11) Student income received other than monthly [~~is~~]shall be prorated to determine the monthly countable income. This is done by dividing the total amount by the number of calendar months classes are in session.

(12) Income from Indian trust accounts not exempt by federal law [~~is~~]shall be prorated to determine the monthly countable income when the income varies from month to month, or it is received less often than monthly. This is done by dividing the total amount by the number of months it covers.

(13) Eligibility for retroactive assistance [~~is~~]shall be based on the income received in the month for which retroactive coverage is sought. When income is being prorated or annualized, then the monthly countable income determined using this method [~~is~~]shall be used for retroactive benefit months, except when the income was not being received during, and was not intended to cover, the retroactive months.

R414-304-9. Income Standards.

(1) The Department adopts Sections 1902(a)(10)(E), 1902(l), 1902(m), 1903(f) and 1905(p) of the Compilation of the Social Security Laws, in effect January 1, 1999, which are incorporated by reference.

(2) The Aged and Disabled poverty-related Medicaid income standard [~~is~~]shall be calculated as 100% of the federal non-farm poverty guideline. If an Aged or Disabled person's income exceeds

this amount the current Medicaid Income Standards (BMS) shall apply.

(3) The income limit for pregnant women, and children under one year of age, [~~is~~]shall be equal to 133% of the federal poverty guideline for a family of the size involved. If income exceeds this amount, the current Medicaid Income Standards (BMS) shall apply.

(4) The current Medicaid income standards (BMS) are as follows:

TABLE

Household Size	Medicaid Income Standard (BMS)
1	382
2	468
3	583
4	683
5	777
6	857
7	897
8	938
9	982
10	1,023
11	1,066
12	1,108
13	1,150
14	1,192
15	1,236
16	1,277
17	1,320
18	1,364

R414-304-10. A, B and D Medicaid, QMB, SLMB, and QI Filing Unit.

(1) The Department adopts 42 CFR 435.601 and 435.602, 1998 ed., which are incorporated by reference. The Department adopts Subsections 1902(l)(1), (2), and (3), 1902(m)(1) and (2), and 1905(p) of the Compilation of the Social Security Laws, in effect January 1, 1999, which are incorporated by reference.

(2) The following individuals [~~are~~]shall be counted in the BMS for A, B and D Medicaid:

(a) the client;

(b) a spouse who lives in the same home, if the spouse is eligible for A, B, or D Medicaid, and is included in the coverage;

(c) a spouse who lives in the same home, if the spouse[~~, is also eligible for A, B, or D Medicaid, but~~] has deemable income above the allocation for a spouse.

(3) The following individuals [~~are~~]shall be counted in the [~~BMS~~]household size for A or D poverty-related Medicaid:

(a) the client;

(b) a spouse who lives in the same home, if the spouse is [~~also eligible for A or D Medicaid,~~]aged, blind, or diabled, regardless of the type of income the spouse receives, or whether the spouse is included in the coverage;

(c) a spouse who lives in the same home, if the spouse is not [~~eligible for A or D Medicaid~~]aged, blind or disabled, [~~if the spouse~~]but has deemable income above the allocation for a spouse.

(4) The following individuals [~~are~~]shall be counted in the [~~BMS~~]household size for a QMB, SLMB, or QI case:

(a) the client;

(b) a spouse living in the same home who receives Part A Medicare or is Aged, Blind, or Disabled, regardless of whether the spouse has any deemable income or whether the spouse is included in the coverage;

(c) a spouse living in the same home who does not receive Part A Medicare and is not Aged, Blind, or Disabled, if the spouse has deemable income above the allocation for a spouse.

(5) Eligibility for A, B and D Medicaid and the spenddown, if any; A and D poverty-related Medicaid; and [~~O~~]QMB, SLMB, and QI programs [~~is~~]shall be based on the income of the following individuals:

(a) the client;

(b) parents living with the minor client;

(c) a spouse[~~, if the spouse is counted in the BMS as defined in 2, 3, or 4 of this section~~] who is living with the client. Income of the spouse is counted based on R414-304–2.

(6) If a person is "included" in the BMS, it means that family member [~~is~~]shall be counted as part of the household and his or her income and resources [~~are~~]shall be counted to determine eligibility for the household, whether or not that family member receives medical assistance.

(7) If a person is "included" in the household size, it means that family member shall be counted as part of the household to determine what income limit applies, regardless of whether that family member's income will be counted or whether that family member will receive medical assistance.

R414-304-11. Family Medicaid Filing Unit.

(1) The Department adopts 42 CFR 435.601 and 435.602, 45 CFR 206.10(a)(1)(iii), 233.20(a)(1) and 233.20(a)(3)(vi), 1998 ed., which are incorporated by reference.

(2) Except for determinations under 1931 Family Medicaid, a[~~A~~]ny unemancipated minor child may be excluded from the Medicaid coverage group at the request of the specified relative responsible for the children. An excluded child [~~is~~]shall be considered an ineligible child and [~~is~~]shall not be counted as part of the [~~BMS~~]household size for deciding what income limit [~~is~~]will be applicable to the family. Income and resources of an excluded child [~~are~~]shall not be considered when determining eligibility or spenddown.

(3) The Department shall not use a grandparent's income to determine eligibility or spenddown for a minor child, and the grandparent [~~is~~]shall not be counted in the [~~BMS~~]household size. A cash contribution from the grandparents received by the minor child or parent of the minor child is countable income.

(4) Except for determinations under 1931 Family Medicaid, i[~~I~~]f anyone in the [~~BMS~~]household is pregnant, the unborn child [~~is~~]shall be included in the [~~BMS~~]household size. If a medical authority confirms that the pregnant woman will have more than one child, all of the unborn children [~~are~~]shall be included in the [~~BMS~~]household size.

(5) If a child is voluntarily placed in foster care and is in the custody of a state agency, the parents [~~are~~]shall be included in the [~~BMS~~]household size.

(6) Parents who have relinquished their parental rights [~~are~~]shall not be included in the [~~BMS~~]household size.

(7) If a court order places a child in the custody of the state, and the child is temporarily placed in an institution, the parents [~~are~~]shall not be included in the [~~BMS~~]household size.

(8) If a person is "included" in the [~~BMS~~]household size, it means that family member [~~is~~]shall be counted as part of the household and his or her income and resources [~~are~~]shall be counted to determine eligibility for the household, whether or not

that family member receives medical assistance. The household size determines which BMS level or, in the case of poverty-related programs, which poverty guideline level will apply to determine eligibility for the client or family.

. . . . . .

KEY: financial disclosure, income, budgeting
[~~November 16, 1999~~]2000 **26-18-1**
Notice of Continuation February 6, 1998

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-306
Program Benefits

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22922
FILED: 06/09/2000, 08:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The organization of the current rule does not group policy together for each subject area, making it difficult to understand. This revision organizes the rule to make UDOH (Utah Department of Health) policy clearer. Some transportation concepts are explained in more detail to help with understanding.

SUMMARY OF THE RULE OR CHANGE: The organizational structure has changed and the modes of nonemergency medical transportation are listed. Personal transportation reimbursement is currently limited to $150 per month without prior approval. The reference to prior approval was removed, and replaced with two specific times in which a personal transportation reimbursement may exceed $150. Monetary advances may be made if a documented need exists.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 42 CFR 431.52; 42 CFR 431.53; 42 CFR 431.625; 42 CFR 435.914; 42 CFR 440.240; and 42 CFR 441.56 (1999)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Costs for this revision should remain neutral. Exceptions to the $150 personal transportation limitation were already allowed under the previous prior approval process. Although nursing home and mental plan obligations regarding transportation are now listed, no savings will result for the department since the cost of assuming the obligations are factored into the provider agreements. Raising the lodging reimbursement to a maximum of $50 per night will cost from $4,000 to $5,000 per year, half of which will be from general funds.
❖LOCAL GOVERNMENTS: This rule does not apply to local government, so there would be no fiscal impact.
❖OTHER PERSONS: Raising the lodging reimbursement could save Medicaid recipients about $25 per occurrence, which would result in an aggregate of from $4,000 to $5,000 per year.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no fiscal impact on affected persons other than that described under "other persons."

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule rewrite does not make any changes that will have a fiscal impact on any regulated business--Rod L. Betit

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
PO Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gayle Six at the above address, by phone at (801) 538-6895, by FAX at (801) 538-6952, or by Internet E-mail at gsix@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-306. Program Benefits.
R414-306-[~~60~~]1. Medicaid Benefits.

[~~1.~~](1) The [~~d~~]Department adopts 42 CFR 440.240, 441.56, and 431.625, 199[~~1~~]9 ed., which are incorporated by reference.

[~~2. Current department practices.~~

~~a.~~](2) The [~~d~~]Department elects to coordinate Medicaid with Medicare Part B for all Medicaid recipients.

[~~b.~~](3) The Department of Health is responsible for defining emergency services which will be paid for by Medicaid for aliens who do not meet citizenship requirements for full Medicaid coverage. Emergency services include medical services given to prevent death or permanent disability. Emergency services do not include prenatal or postpartum services, prolonged medical support, long term care, or organ transplants. Prior authorization is required

if the client applies for medical assistance before receiving medical services.

[~~c.~~](4) Workers must inform applicants about the Child Health Evaluation and Care (CHEC) program. By signing the application form the client acknowledges receipt of CHEC program information.

R414-306-[~~60~~]2. QMB, SLMB, and QI Benefits.

[~~1.~~](1) The department adopts Subsection 1905(p) of the Compilation of the Social Security Laws, 1993 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference. The [~~d~~]Department adopts Pub. L. No. 105-33 (4732) which is incorporated by reference.

[~~2.~~](2) The [~~d~~]Department elects not to cover premiums for enrollment with any health insurance plans except for Medicare.

[~~3.~~](3) Benefits covered by the Qualifying Individuals-Group 2 program will be received in the form of a refund check to the individual selected for coverage.

R414-306-[~~60~~]3. QMB and SLMB Date of Entitlement.

The [~~d~~]Department adopts Subsection 1902(e)(8) of the Compilation of the Social Security Laws, 1995 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

R414-306-[~~60~~]4. Effective Date of Eligibility.

[~~1.~~](1) The [~~d~~]Department adopts 42 CFR 435.914, 199[~~1~~]9 ed., which is incorporated by reference.

[~~2. Current department practices:~~

~~a.~~](2) Eligibility shall begin no earlier than the third month before the month of application.

[~~b.~~](3) Eligibility shall begin on the first day of the month if the individual was eligible any time during that month.

[~~c.~~](4) UMAP eligibility shall begin on the first day of the month prior to the month of application, provided eligibility exists.

[~~d.~~](5) There is no provision for retroactive QMB assistance.

[~~e.~~](6) Institutional Medicaid shall begin on the date that the Department of Health receives verification of nursing home admission from the nursing home. Coverage does not begin earlier than the third month prior to the month of application.

[~~f.~~](7) Eligibility under a Home and Community Based Services waiver shall begin on the first day of the month in which the client meets the level-of-care criteria and home and community based services begin. Coverage does not begin earlier than the third month prior to the month of application.

[~~g.~~](8) Eligibility for benefits as a Qualifying Individual can begin no more than three months prior to the month of application, and in no case before January 1, 1998. An individual selected to receive QI benefits in a month of the year is entitled to receive such assistance for the remainder of the calendar year if the individual continues to be a qualifying individual. Receipt of benefits as a qualifying individual in one calendar year does not entitle the individual to continued assistance in any succeeding year.

R414-306-[~~60~~]5. Availability of Medical Services.

[~~1.~~](1) The [~~d~~]Department adopts 42 CFR 431.52, 199[~~1~~]9 ed., which is incorporated by reference.

[~~2. Current department practices:~~

~~a.~~](2) A person may receive medical services from an out-of-state provider if that provider accepts the Utah Medicaid reimbursement rate for the service.

[~~b.~~](3) If a medical service requires prior approval for reimbursement in-state, the medical service will require prior approval if received out-of-state.

[~~c.~~](4) If a person has a primary care provider, the person shall receive medical services from that provider, or obtain authorization from the primary care provider to receive medical services from another medical provider.

[~~d.~~](5) If a person has a Health Maintenance Organization as a primary care provider, the person shall receive medical services from the Health Maintenance Organization, or obtain authorization from the Health Maintenance Organization to receive medical services from another medical provider.

R414-306-[~~60~~]6. Medical Transportation.

[~~1. The department adopts 42 CFR 431.53, 1995 ed., which is incorporated by reference.~~

~~2. Current department practices:~~

~~a. Clients are reimbursed for the costs of transportation to get medical care outside their local area only if medical service is not available locally. The physician's office must verify the client's need to travel outside the local area for medical services.~~

~~b. Coverage of transportation cost is limited.~~

~~c. The local office will reimburse the client for the costs of transportation to get medical care if there is no other means of transportation available without cost and the most reasonable and economical means of transportation is selected.~~

~~d. Prior approval for reimbursement of costs of medical transportation outside of the client's region is given by the director designee, or the director of the Division of Health Care Financing (HCF).~~

~~e. To be eligible for reimbursement for overnight stays when receiving medical care outside of the client's region, one of the following situations must exist:~~

~~i. the person must travel over 100 miles and driving time would result in arriving home later than 8:00 p.m.;~~

~~ii. medical treatment requires an overnight stay;~~

~~f. If the client must stay overnight, the client is reimbursed at the rate of up to $25 per night. The director of HCF may approve a greater reimbursement amount.~~

~~g. Reimbursement is approved for a companion or attendant only if the client has a medical need for the assistance of the companion or attendant. Salary is included if the attendant is not a member of the client's family. Standby time is not included. One parent or guardian may qualify as the attendant if the parent or guardian must receive medical instructions to meet the client's needs.~~

~~h. Reimbursement may be made to the client, to a second party or to the client and second party jointly.~~

~~i. If payment is made to the client for the use of a private vehicle, the payment is made at the rate of $0.18 per mile. Total reimbursement for transportation to get medical care must not exceed $150 per month per household without prior approval.~~

~~j. If payment is made for transportation provided by a State agency or a non-profit organization, only the actual costs or billed charges are authorized.~~

~~k. Prior authorization is required for continuous routine taxi service. Taxi service will not be authorized for clients who own a vehicle or who live in a household with a family member who owns a vehicle unless the client verifies that the nature of the medical treatment being received or the client's disability makes driving inadvisable, and there is not a household member who can drive the client to appointments.~~]

(1) The Department adopts 42 CFR 431.53, 1999 ed., which is incorporated by reference.

(2) Non-emergency medical transportation is limited to transportation to and from a Medicaid provider to obtain a Medicaid covered service that is medically necessary.

(3) If transportation is available without cost, recipients shall use this transportation. Other modes of non-emergency medical transportation include bus passes, special bus services, personal transportation reimbursement, taxi service, non-specialized van transportation, and specialized van transportation. Recipients must use the most reasonable and economical mode of transportation available, or transportation shall not be reimbursed.

(a) Prior authorization is required for special bus services, taxi service, non-specialized van transportation, and specialized van transportation.

(b) Taxi service shall not be authorized for recipients who own a licensed vehicle, or who live in a household with a family member who owns a licensed vehicle, unless the recipient verifies that the nature of the recipient's medical condition or disability makes driving inadvisable and there is no household member who can drive the recipient to and from medical appointments. In the case of an urgent medical care need, if the recipient has no other way of getting needed care, Department staff may authorize taxi service when it is a reasonable and safe mode of transportation.

(c) When personal transportation is used, and it is the most reasonable and economical mode of transportation available, the local office shall reimburse actual mileage at the rate of $0.18 per mile. The Department may deny reimbursement for multiple trips in a day unless the client can demonstrate why multiple trips were necessary. Total reimbursement for mileage must not exceed $150.00 a month per household, unless:

(i) an eligibility worker determines that higher reimbursement is necessary because a recipient's medical condition requires frequent travel to a Medicaid provider to obtain Medicaid covered services that are medically necessary; or

(ii) an eligibility supervisor determines that higher reimbursement is necessary because a recipient had an unusual medical need in a given month that required frequent or long-distance travel to a Medicaid provider to obtain Medicaid covered services that were medically necessary.

(d) The local office supervisor can authorize advance payment for use of personal transportation, overnight stay costs, or both, if the provider verifies the medical appointment, and the client would be unable to obtain the necessary medical services without an advance.

(4) If a State agency or non-profit organization provides transportation, the only reimbursement will be for actual costs or billed charges.

(5) Transportation reimbursement may be made to the recipient, to a second party, or to the recipient and second party jointly.

(6) If more than one Medicaid recipient travel together in a personal vehicle, reimbursement shall be made to only one recipient, or to the driver, and only for the actual miles traveled.

(7) The Department will not provide non-emergency medical transportation to nursing home residents because the nursing home must provide the transportation as part of its contracted rate.

(8) The Department will not provide non-emergency medical transportation to and from mental health appointments for recipients covered by a prepaid Mental Health Plan because the prepaid Mental Health Plan must provide transportation, as part of its contracted rate, to recipients to obtain covered mental health services.

(9) If medical services are not available locally, a recipient may be reimbursed for transportation to obtain medical services outside of the recipient's local area. If the closest medical provider is out-of-state, a recipient may be reimbursed for transportation to the out-of-state provider if this travel is more cost effective than traveling to an in-state provider. The medical provider's office must verify that the recipient needs to travel outside the local area for medical services, unless:

(a) there are no Medicaid providers in the local area who can provide the services; or

(b) it is the custom in the local area to obtain medical services outside the local area or in neighboring states.

(10) If medical services are not available in-state, a recipient must receive prior authorization from Department to be reimbursed for transportation to obtain the medical services out-of-state.

(11) A recipient who receives medical treatment outside of the recipient's local area may receive reimbursement for lodging costs when staying overnight, if:

(a) the recipient is obtaining a Medicaid covered service that is medically necessary from the nearest Medicaid provider that can treat the recipient's medical condition; and

(b) the recipient must travel over 100 miles to obtain the medical treatment and would not arrive home before 8:00 p.m. due to the drive time; or

(c) the medical treatment requires an overnight stay.

(12) The Department shall reimburse actual lodging costs or $50.00 per night, whichever is less.

(13) If a recipient has a medical need for a companion or attendant when traveling outside of the recipient's local area, and the recipient is not staying in a medical facility, lodging costs for the companion or attendant may be reimbursed according to the rate specified in subsection (12). The reimbursement may also include salary if the attendant is not a member of the recipient's family, but not for standby time. One parent or guardian may qualify as an attendant if the parent or guardian must receive medical instructions to meet the recipient's needs, or the recipient is a minor child.

(14) Reimbursements for personal transportation shall not be made for trips made more than 12 months before the month the client requests reimbursement, with one exception. If a client is granted coverage for months more than one year prior to the eligibility decision, the client may request reimbursement and provide verification for personal transportation costs incurred during those months. In this case, client must make the request and verification within three months after receiving the eligibility decision.

R414-306-[~~60~~]7. State Supplemental Payments for Institutionalized SSI Recipients.

[~~1.~~](1) The [~~d~~]Department adopts Subsection 1616(a) through (d) of the Compilation of the Social Security Laws, 1993 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

[~~2. Current department practices:~~

~~a.~~](2) A State Supplemental payment equal to $15 shall be paid to a resident of a medical institution who receives a Supplemental Security Income (SSI) payment.

[~~b.~~](3) Recipients must be eligible for Medicaid benefits to receive the State Supplemental payment.

[~~c.~~](4) Recipients are eligible to receive the $15 State Supplemental payment beginning with the first month that their SSI assistance is reduced to $30 a month because they are residing in an institution in which Medicaid covers 50% or more of their costs.

[~~d.~~](5) The State Supplemental payment terminates effective the month the recipient no longer meets the eligibility criteria for receiving such supplemental payment.

KEY: program benefits
[~~April 1, 1998~~]2000 **26-18**
Notice of Continuation February 6, 1998

Human Services, Recovery Services
R527-332
Unreimbursed Assistance Calculation

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 22937
FILED: 06/15/2000, 15:42
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To define IV-A assistance, unreimbursed assistance, and the unreimbursed assistance calculation.

SUMMARY OF THE RULE OR CHANGE: The Office of Recovery Services will calculate the amount of unreimbursed assistance by comparing the amount of IV-A child support payments plus the amount of IV-A overpayment payments against the amount of lifetime IV-A benefits expended by the state of Utah to a benefit recipient.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-107
FEDERAL REQUIREMENT FOR THIS RULE: 45 CFR 302.32 and 45 CFR 302.51

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The State of Utah is reimbursed IV-A funds it has expended to benefit recipients through the collection of child support and IV-A benefit overpayments.
❖LOCAL GOVERNMENTS: None--the administrative rules of the Office of Recovery Services do not apply to local governments.
❖OTHER PERSONS: None--the benefit recipients, for whom an unreimbursed assistance calculation will be performed, will not incur a cost or receive a savings from the calculation. The calculation simply identifies the amount of unreimbursed assistance due to the state of Utah.
COMPLIANCE COSTS FOR AFFECTED PERSONS: All costs to comply with this rule will be incurred by the Office of Recovery Services. The operating budget for the Office of Recovery Services is comprised of both state and federal funds. Those funds are then reimbursed through the collection of child support and benefit overpayments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on any business. The calculation of unreimbursed assistance and all procedures involved in that process are performed by the Office of Recovery Services' staff and computer system.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Human Services
Recovery Services
Fourteenth Floor
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:
Laurie Anderson at the above address, by phone at (801) 536-8947, by FAX at (801) 536-8509, or by Internet E-mail at hsorsslc.landerso@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.
R527-332. Unreimbursed Assistance Calculation.
R527-332-1. Definitions.

1. IV-A Assistance means cash assistance which was issued based upon Title IV-A funding of AFDC or FEP programs.

2. Unreimbursed Assistance means the total lifetime amount of IV-A assistance that the State has expended on behalf of the IV-A household for which the State/Federal government have not been reimbursed.

R527-332-2. Unreimbursed Assistance Calculation.

The Office of Recovery Services shall calculate the amount of unreimbursed assistance. The calculation shall compare the amount of IV-A child support payments plus the amount of IV-A overpayment payments against the lifetime IV-A benefit amount.

In the event that the unreimbured assistance amount becomes zero, or greater than zero, collection of the IV-A overpayment amount will be suspended.

KEY: assistance, overpayments, child support
2000 **62A-11-107**
45 CFR 302.32
45 CFR 302.51

Human Services, Recovery Services
R527-928
Lost Checks

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22936
FILED: 06/15/2000, 15:40
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To distinguish departments and their specific policies regarding lost checks.

SUMMARY OF THE RULE OR CHANGE: The current rule has one section that addresses the replacement of lost checks for both the Department of Human Services and the Department of Workforce Services. The proposed amendment updates the rule so that there is a section for each department regarding their specific policies, types of checks issued, and reimbursement to cashing establishments.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 70A, Chapter 3; and Sections 35A-1-502, 62A-11-104, 62A-11-107, and 62A-11-201

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--the proposed changes do not affect the current process for the replacement of lost checks. Therefore, the proposed changes do not add any cost or create any savings in regards to that process.
❖LOCAL GOVERNMENTS: None--the administrative rules of the Office of Recovery Services do not apply to local governments.
❖OTHER PERSONS: None--the proposed changes will not change the current process for replacing lost checks. Because of this, there are no anticipated added costs or savings for a cashing establishment.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed changes are cost neutral. No costs have been added into the rule. The proposed changes to the rule simply clarify departments and delineate the circumstances in which the cashing establishments will be reimbursed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to this rule should have no fiscal impacts to businesses. The proposed changes do not change the current process or add any cost into the process. The rule clarifies the circumstances under which a cashing establishment will be reimbursed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Human Services
Recovery Services
Fourteenth Floor
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:
Laurie Anderson at the above address, by phone at (801) 536-8947, by FAX at (801) 536-8509, or by Internet E-mail at hsorsslc.landerso@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.
R527-928. Lost Checks.
R527-928-1. Responsibility for Collection and Investigation.

ORS shall be responsible for the collection and investigation of lost or stolen [~~d~~]Department of Human Services checks and Department of Workforce Services [~~public assistance~~]child care checks. The term check and warrant are used interchangeably.

R527-928-2. Cashing Department of Human Services[~~and Department of Workforce Services~~] Issued Checks.

The Department of Human Services [~~and the Department of Workforce Services have~~]has specific policy concerning the replacement of department issued checks which have been reported as lost or stolen and on which a stop payment has been placed or where the check has been returned as a forged check to the financial institution or store.

[~~A.~~]The Department[~~s~~] will only replace a department issued check for any bank or store if all of the following conditions have been met:

1. An employee of the [~~bank or store~~]cashing establishment personally observe[~~s~~]d the payee endorse the check. This includes the original payee and any third party to whom the payee may have made the check payable.

2. An employee of the cashing establishment examined a picture bearing governmental issued media presented by the payee and was satisfied that the person presenting the check is in fact the payee. Examples of acceptable identification are, a Utah Motor Vehicle Operator's License or a Utah Identification card. Identification must be obtained for all payees endorsing the check. The employee must note the source of the identification and the identification number on the check.

3. The employee who approve[~~s~~]d the cashing of the check must [~~make~~]have made an identifying mark, such as initials, which will identify the employee in the event legal action is initiated at a later date.

4. The replacement check to the [~~bank or store~~]cashing establishment must be requested within 120 days of the[~~ request on the "Check Return Without Entry" notice or the~~] date of notification of the stop payment.[

~~B. If all of the actions listed above are not taken, the Department will be unable to replace the check with one exception. In some cases, public assistance recipients who do not have a picture identification will be identified at the public assistance office. The office will stamp the recipient's check with a guaranteed for payment stamp. In the unlikely event that a check with this stamp is returned with a stop payment, the check will be replaced by contacting the check fraud agent.~~]

R527-928-3. Cashing Department of Workforce Services Issued Checks.

The Department of Workforce Services has specific policy concerning the replacement of department issued child care checks which have been reported as lost or stolen and on which a stop payment has been placed or where the check has been returned as a forged check to the financial institution or store.

The Department will only replace a department issued child care check for any cashing establishment if all of the following conditions have been met:

1. The check has been endorsed by each payee listed on the front of the check.

2. An employee of the cashing establishment personally observed the endorsement of the check by the payee whose name is listed as the second name on the front of the check.

3. An employee of the cashing establishment did examine a picture bearing governmental issued media presented by that payee and was satisfied that the person presenting the check is in fact the payee that is listed as the second name on the check. Examples of acceptable identification are, a Utah Motor Vehicle Operator's License or a Utah Identification card. Identification must be obtained for all payees endorsing the check. The employee must note the source of the identification and the identification number on the check.

4. The employee who approved the cashing of the check must make an identifying mark, such as initials, which will identify the employee in the event legal action is initiated at a later date.

5. The replacement check to the cashing establishment must be requested within 120 days of the date of notification of the stop payment.

KEY: public assistance programs, banks and banking, fraud
[~~February 17, 1998~~]2000 **70A-3**
Notice of Continuation December 15, 1997 **35A-1-502**
62A-11-104
62A-11-107
62A-11-201

◆ ◆

Insurance, Administration
R590-172
Notice to Uninsurable Applicants for Health Insurance

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22942
FILED: 06/15/2000, 17:06
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: We are at the five-year review of this rule and, as a result of our review, have made some changes to conform the rule more closely with the law and update phone numbers listed in the rule.

SUMMARY OF THE RULE OR CHANGE: Section R590-172-3 of the rule is where all of the changes have been made. In the second paragraph a dependant child, to conform to the code, is now an "unmarried" dependent child who is 25 years (not 24) or younger. Also, where "Utah Comprehensive Health Insurance Pool" is written out, it is now abbreviated to "HIP." The phone numbers to contact the Pool have been updated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-29-116

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The changes in this rule will not require insurers to change their policy rates or forms which would have increased the amount of fees coming into the department, nor will the changes require additional or reduced work on the part of the department.

❖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: Insurers will be required to modify their notice to applicants they decline to cover. This would be only a one page notice and be a minimal cost to the insurers which would probably not be passed on to insureds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers will be required to modify their notice to applicants they decline to

cover. This would be only a one page notice and be a minimal cost to the insurers which would probably not be passed on to insureds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This will be an insignificant fiscal impact on insurance businesses. It only deals with the 251 carriers that offer individual coverage plans.

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 idmain.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 08/01/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/02/2000

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-172. Notice to Uninsurable Applicants for Health Insurance.

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R590-172-3. Rule.

Every health insurer writing health insurance in the State of Utah will provide a written notice containing the following language to each applicant for health insurance coverage that is denied coverage by the insurer for reasons relating to health:

"You have been denied health insurance coverage due to a health condition which is uninsurable. The Utah Comprehensive Health Insurance Pool (HIP) was created to provide health insurance to residents of Utah who are denied health insurance and who are considered uninsurable. If you have lived in the State of Utah for 12 consecutive months prior to applying for insurance with this company or you are [~~a~~]an unmarried dependent child, [~~24~~]25- years of age or younger, of a person who qualifies, you may be eligible for health insurance coverage with the [~~Utah Comprehensive Health Insurance Pool~~]HIP.

To find out whether you qualify for pool coverage or to make application for pool coverage, Salt Lake City area residents should call [~~481-6063~~]333-5573. Residents of other areas in Utah should call 1-800-[~~462-2767~~]662-3398, toll free. The [~~Utah Comprehensive Health Insurance Pool's~~]HIP's mailing address is P.O. Box 27797, Salt Lake City, Utah 84127-0797."

The term, "health insurance," is defined in Subsection 31A-29-103(5)(a) as any hospital and medical expense-incurred policy; nonprofit health care service plan contract, and health maintenance organization subscriber contract. It does not include workers' compensation insurance, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is required by law to be contained in any liability insurance policy.

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KEY: insurance
[~~August 11, 1995~~]2000 **31A-29-116**

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Insurance, Administration
R590-186
Bail Bond Surety Business

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22943
FILED: 06/15/2000, 17:06
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to the fiduciary portion of this rule come as a result of S.B. 220, Bail Bond Related Amendments, that passed during this years legislative session. The other main portion that dealt with investigations comes at the request of the Bail Bond Board who wanted the assistants of the departments expertise.
(**DAR Note:** S.B. 220 is found at 2000 Utah Laws 259, and was effective May 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: a) The bonding limit requirements are increased with the option of a grandfather clause; and b) investigating unprofessional conduct allows the department to help the Bail Bond Surety Board with investigations of bail bond violations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-35-104, 31A-35-301, 31A-35-401, and 31A-35-406

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The changes in this rule will not require insurers to change their policy rates or forms which would have increased the amount of fees coming into the department, nor will the changes require additional or reduced work on the part of the department.
❖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: Consumers will not be affected financially by these changes. Current bail bond companies will have the option at renewal of filing an annual statement at their current net worth level or of increasing it to the new levels listed in the rule. If they choose the new levels then they can sell more bonds and make more money. Those who apply for licensure after this rule goes into effect will be required to file financial statements showing net worth at the new, higher limits. As noted before, the new limits allow the companies to sell more bonds. With the minimum limit going from $50,000 to $100,000 a very few may not qualify for a license.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Consumers will not be affected financially by these changes. Current bail bond companies will have the option at renewal of filing an annual statement at their current net worth level or of increasing it to the new levels listed in the rule. If they choose the new levels then they can sell more bonds and make more money. Those who apply for licensure after this rule goes into effect will be required to file financial statements showing net worth at the new, higher limits. As noted before, the new limits allow the companies to sell more bonds. With the minimum limit going from $50,000 to $100,000 a very few may not qualify for a license.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes this rule promulgates will not have a fiscal impact on the bail bond community, its customers or the state budget.

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 idmain.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 08/01/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/02/2000

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-186. Bail Bond Surety Business.

. . . . . .

R590-186-2. Authority.

This rule is promulgated pursuant to:

(1) Section 31A-35-104 which requires the commissioner to adopt by rule specific licensure, and certification guidelines and standards of conduct for the bail bond business;

(2) Subsection 31A-35-301(1) which authorizes the commissioner to adopt rules necessary to administer Chapter 35 of Title 31A;

(3) Subsection 31A-35-401(1)(c) which allows the commissioner to adopt rules governing the granting of [~~certificates of authority~~]licenses for bail bond surety companies;

(4) Subsection 31A-35-401(2) which allows the commissioner to require by rule additional information from bail bond applicants applying for [~~certificates of authority~~]licensure;

(5) Subsection 31A-35-406(1)(b) which allows the commissioner to establish by rule the annual renewal date for the renewal of a [~~certificate of authority~~]license as a bail bond surety company.

. . . . . .

R590-186-4. Initial Company License.

(1) Persons desiring to become licensed as bail bond surety companies shall file with the Bail Bond Surety Oversight Board (Board) [~~the application packet for a Certificate of Authority as a bail bond surety company~~]a bail bond company application which can be obtained from the Insurance Department[~~and requires the following information:~~

~~(a) the name, address, and telephone number of the bail bond surety company;~~

~~(b) the name, date of birth, social security number of the principals or officers in the company;~~

~~(c) a statement whether the applicant:~~

~~(i) is doing business under only one name in the State of Utah and has complied with state and local business regulations, including filing with the appropriate authority, if doing business under an assumed name;~~

~~(ii) has ever been refused a license or had a license revoked by any public authority;~~

~~(iii) has engaged in any unprofessional conduct as described in this rule;~~

~~(iv) is the subject of any outstanding civil judgement, or has been convicted of any felony or of any misdemeanor that involves the misappropriation of money or property, dishonesty or perjury;~~

~~(v) has failed to report, or to preserve, or to retain separately, any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral;~~

~~(vi) has an outstanding judgement on a bail forfeiture, which judgement is or has been subject to execution; and~~

~~(vii) is the holder of real or personal property within the state.~~

~~(d) a statement of the number of years the applicant has done business as a bail bond agent or as a bail bond surety company in this or another state;~~

~~(e) a statement affirming that the applicant has not willfully misstated or negligently reported any material fact in the application or procured a misstatement in the documents supporting the application~~].

(2) The applicant shall pay the annual license fee of $500 and provide at least one of the following:

(a) If the applicant relies on a letter of credit as the basis for issuing a bail bond, the applicant shall provide an irrevocable letter of credit with a minimum face value of [~~$250,000~~]$300,000 assigned to the State of Utah from a an entity qualified by state or

federal regulators to do business as a financial institution in the state of Utah.

(b) If the applicant relies on the ownership of real or personal property located in Utah as the basis for issuing bail bonds, the applicant shall provide a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year. The financial statement must show a net worth of at least [~~$250,000~~]$300,000, including a minimum of [~~$50,000~~]$100,000 in liquid assets. The applicant shall also provide a copy of the applicant's federal income tax returns for the prior two years and, for each parcel of real property owned by the applicant and included in the applicant's net worth calculation, a preliminary title report dated not more than one month prior to the date of the application and an appraisal dated not more than two years prior to the date of the application.

(c) If the applicant relies on their status as the agent of a bail bond surety insurer as the basis for issuing bail bonds, the applicant shall provide:

(i) a Qualifying Power of Attorney issued by the bail bond surety insurer; and

(ii) a copy of the bail bond surety insurer's Utah Certificate of Authority indicating that the insurance company is in good standing and is authorized to write bail bond policies in this state.

(3) Applications approved by the Board will be forwarded to the insurance commissioner for the issuance of a certificate of authority.

(4) Applications disapproved by the Board may be appealed to the insurance commissioner within 15 days of mailing the notice of disapproval.

R590-186-5. Company License Renewal.

A licensed bail bond surety company shall renew its [~~Certificate of Authority~~]license on or before July 15 of each year by meeting the following requirements:

(1) file with the insurance commissioner a renewal application [~~packet in a form approved by the commissioner~~] and pay the required annual licensing fee. The renewal [~~packet~~]application contains all of the information required in the initial application [~~packet~~]described in R590-186-[~~4(1)~~]4(1)and (2), plus the additional information described in this section[~~;~~].

(2) [~~if~~]If the applicant relies on the ownership of real or personal property as the financial basis for issuing bail bonds[~~,~~]:

(a) a statement that no material changes have occurred negatively affecting the property's title, including any liens or encumbrances that have occurred since the last license renewal;

[~~(3) property bail bond surety companies shall also provide:~~

~~(a)~~](b) a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year showing a net worth of at least [~~$250,000,~~]$300,000, at least [~~$50,000~~]$100,000 of which must consist of liquid assets and a copy of the applicant's federal income tax return for the prior year; and

[~~(b)~~](c) every third renewal, a preliminary title report dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant; or

[~~(c)~~](d) every sixth renewal, a preliminary title report and a current appraisal dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant.

(3) Renewal applicants who were licensed as a bail bond surety company prior to December 31, 1999, may opt to apply under the lower limits in effect at that date.

(a) For renewal applicants relying on a letter of credit as the financial basis for issuing bail bonds, the amount is reduced to $250,000.

(b) For renewal applicants relying on real or personal property as the basis for issuing bail bonds, the amount is reduced to a net worth of at least $250,000, at least $50,000 of which must consist of liquid assets;

(c) Renewal applicants opting for lower limits are limited to the 5 to 1 ratio of outstanding bond obligations as shown in R590-186-9.

. . . . . .

R590-186-7. Unprofessional Conduct.

Persons in the bail bond surety business may not engage in unprofessional conduct. For purposes of this rule, unprofessional conduct means the violation of any applicable insurance law, rule, or valid order of the commissioner, or the commission of any of the following acts by bail bond sureties, by bail bond surety agents or by bail bond enforcement agents:

(1) having a license as a surety revoked in this or any other state;

(2) being involved in any transaction which shows unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a trustee or other fiduciary;

(3) willfully misstating or negligently reporting any material fact in the initial or renewal[~~Certificate of Authority~~] application or procuring a misstatement in the documents supporting the initial or renewal application;

(4) being the subject of any outstanding civil judgment which would reduce the surety's net worth below the minimum required for licensure, or being convicted of any felony or of any misdemeanor that involves the misappropriation of money or property, dishonesty or perjury. If the bail bond surety company or one of its bail bond surety agents or bail bond enforcement agents has been convicted of such an offense or the subject of any such judgment, they may present evidence regarding the circumstances of the conviction or judgment. The Board may take this evidence into consideration in determining whether such conviction requires referral to the commissioner;

(5) failing to report any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral;

(6) failing to preserve, or to retain separately, or both, any collateral taken as security on any bond;

(7) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten business days of having been notified of the exoneration of the bond and upon payment of all fees owed to the bail bond agent, whichever is later;

(8) having an outstanding judgment on a bail forfeiture, which judgment is or has been subject to execution;

(9) failing to advise the insurance commissioner of any change that has reduced the surety's net worth below the minimum required for licensure;

(10) using a relationship with any person employed by a jail facility or incarcerated in a jail facility to obtain referrals;

(11) offering consideration or gratuities to jail personnel or peace officers or inmates under any circumstances which would permit the inference that said consideration was offered to induce bonding referrals or recommendations;

(12) failing to deliver to the incarcerated person, or the person arranging bail on behalf of the incarcerated person, prior to the time the incarcerated person is released from jail, a one page disclosure form which at a minimum includes:

(a) the amount of the bail;

(b) the amount of the surety's fee, including bail bond premium, preparation fees, and credit transaction fees;

(c) the additional collateral, if any, that will be held by the surety;

(d) the incarcerated person's obligations to the surety and the court;

(e) the conditions upon which the bond may be revoked;

(f) any additional charges or interest that may accrue

(g) any co-signors or indemnitors that will be required; and

(h) the conditions under which the bond may be exonerated and the collateral returned.

(13) using an unlicensed bail bond agent or unlicensed bail bond enforcement agent;

(14) using a bail bond agent not contracted and appointed by the bail bond surety company;

(15) charging excessive or unauthorized premiums, excessive fees or other unauthorized charges;

(16) requiring unreasonable collateral security;

(17) failing to provide an itemized statement of all expenses deducted from collateral, if any;

(18) requiring as a condition of his executing a bail bond that the principal agree to engage the services of a specified attorney;

(19) preparing or issuing fraudulent or forged bonds or power of attorney;

(20) signing, executing, or issuing bonds by an unlicensed person;

(21) executing bond without countersignature by a licensed agent at time of issue;

(22) failing to account for and to pay any premiums held by the licensee in a fiduciary capacity to the bail bond surety company, bail bond surety insurer or other person who is entitled to receive them; and

(23) failing to comply with the provisions of the laws of this state, or rule, or order of the insurance commissioner for which issuance of the certificate of authority could have been refused had it then existed and been known to the Board.

R590-186-8. Investigating Unprofessional Conduct.

The Board and the commissioner shall investigate allegations of unprofessional conduct on the part of any bail bond surety, bail bond surety agent, or bail bond surety enforcement agent. Complaints alleging unprofessional conduct shall be made in writing, signed by the complainant, and addressed to the Board at the Department of Insurance.

1. Investigations performed by the Board shall be completed in the following manner:

a. Upon receipt of a complaint of unprofessional conduct, the Board shall provide a copy of the complaint to the commissioner for preliminary investigation. The commissioner shall provide a copy of the complaint to the person against whom the complaint was made, and, if warranted, to the person's surety. The Board or the commissioner may make redactions to the copy of the complaint mailed under this subsection that may be necessary to protect the identity or interests of the person making the complaint if the complainant so requests.

b. The subject of the complaint shall provide to the [~~Board~~]commissioner a written response to the complaint within 15 days of the date the complaint was mailed to him.

c. At the next meeting of the Board [~~after the expiration of 15 days after mailing the complaint or after receiving the~~]following receipt of written response to the complaint[~~, which ever is earlier,~~] the Board shall review the complaint and the response to determine whether the allegations appear to have merit. If the Board determines that the complaint has no merit, it may close its file on the matter without further action. If the Board determines that the allegations appear to have merit, the Board or the commissioner shall conduct further investigation of the matter.

d. In investigating allegations that appear to have merit, the Board or the commissioner may take and record witness statements under oath and may request any documents or other evidence from any person, including necessary financial records. Witnesses may be compensated for their appearances as specified in 31A-2-301. The Board may request a Subpoena from the [~~Commissioner~~]commissioner to compel the production of documents or other evidence or to compel the testimony of a witness.

e. After the Board or the commissioner completes its investigation, it shall:

i. close the investigation without further action if the allegations have been shown to be unfounded or if the matter complained of is satisfactorily resolved and the Board believes that no further action is necessary; or

ii. if the investigation shows that unprofessional conduct did occur that requires the imposition of sanctions, it shall compile the evidence necessary to pursue the matter in an administrative proceeding by the Department of Insurance, and shall make a written report of its findings and of its recommendations for the penalties to be applied, and forward the report and evidence to the [~~Commissioner~~]commissioner for further action within 15 days of the conclusion of the investigation.

2. Except for matters referred to the [~~Commissioner~~]commissioner for further proceedings, the Board shall retain in the Utah Insurance Department a file on each of the investigations it conducts concerning unprofessional conduct for a period of 5 years. Files regarding investigations conducted by the Board shall be classified as protected under Governmental Records Access and Management Act (GRAMA).

R590-186-9. Bonding Limits.

(1) An insurance bondsman may not maintain outstanding bail bond obligations in excess of the amount allowed by the insurance company.

(2) A letter of credit bondsman and/or a property bondsman may not maintain outstanding bail bond obligations in excess of the amounts provided in the table below:

TABLE

[~~Months Licensed~~] Financial Requirements [~~In Utah~~]	Ratio of Outstanding Bond Obligations to Letter of Credit[~~Limit~~] or Net Worth and Liquidity Amounts
[~~0 to 36~~	~~5 to 1~~
~~Over 36~~	~~10 to 1~~]
$250,000 line of credit or net worth/$50,000 liquidity)	licensed 0 to 36 months: 5 to 1 licensed over 36 months: 5 to 1
300,000 or more line of credit limit or net worth/ at least $100,000 liquidity	licensed 0 to 36 months: 5 to 1 licensed over 36 months: 10 to 1

(3) The commissioner may reduce the bonding limit of a letter of credit or a property bail bond company who has qualified for the 10 to 1 ratio if that bail bond company's line of credit limit or net worth or liquidity limit falls below the limits stated in Subsection(2) above.

. . . . . .

KEY: insurance
[~~September 25, 1998~~]2000 **31A-35-104**
31A-35-301
31A-35-401
31A-35-406

Insurance, Administration
R590-200
Diabetes Treatment and Management

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 22923
FILED: 06/09/2000, 11:06
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish minimum standards of coverage for diabetes.

SUMMARY OF THE RULE OR CHANGE: This rule applies to all health insurance policies sold within the state of Utah. Section R590-200-4 (Definitions) defines six diabetes related terms. Section R590-200-5 (Minimum Standards and General Provisions), is the heart of the rule. It requires that deductibles, copayments, and coinsurance, for the treatment of diabetes, are equitable or identical to those required for the treatment of other illnesses or diseases. This section also sets the standards for self-management and patient management training to be covered by all health policies, as well as the medical equipment and supplies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-626

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The changes in this rule will require insurers to file policy rate and form changes with the department. There is a fee of $20 per filing. The number of filings will depend on the number of policies the company is actively soliciting in the state. This will not require the department to hire additional people or employees.
❖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: Insurers actively soliciting health policies within the state will need to file form and rate changes with the department, at a cost of $20 per filing. It should be noted that there are 240 active health insurers licensed to do business in Utah. The work involved in making these rate and form filings will be assimilated as a natural course of business. The cost may be passed on to the consumer in the form of increased rates. Rates will go up as a result of the increased diabetes benefits. This will affect 35% of the health insurance market. The other 65% are covered under self-insured plans that are not regulated by this law and rule. Insurers were already providing coverage for a majority of the diabetic's needs. The new law and rule will require additional coverage for management training as well as modern enhancements to diabetic care. It has been estimated by an actuary with the Utah Health Insurance Association that premiums will be expected to increase no less than 1.5%.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers actively soliciting health policies within the state will need to file form and rate changes with the department, at a cost of $20 per filing. It should be noted that there are 240 active health insurers licensed to do business in Utah. The work involved in making these rate and form filings will be assimilated as a natural course of business. The cost may be passed on to the consumer in the form of increased rates. Rates will go up as a result of the increased diabetes benefits. This will affect 35% of the health insurance market. The other 65% are covered under self-insured plans that are not regulated by this law and rule. Insurers were already providing coverage for a majority of the diabetic's needs. The new law and rule will require additional coverage for management training as well as modern enhancements to diabetic care. It has been estimated by an actuary with the Utah Health Insurance Association that premiums will be expected to increase no less than 1.5%.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As a result of this new law and rule, additional money will flow into the General Fund from rate and form filings by companies who are required to change their policies. The cost to insurers of covering the additional coverage will impact consumers with an increase in their health insurance premiums. We will need to wait two to three years to see what the actual impact of this rule is going to be.

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 idmain.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 08/04/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 07/27/2000, 10:00 a.m., 4112 State Office Building (behind the Capitol), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/05/2000

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-200. Diabetes Treatment and Management.
R590-200-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. The authority to set minimum standards by rule for coverage of diabetes is provided in Section 31A-22-626.

R590-200-2. Purpose.

The purpose of this rule is to establish minimum standards of coverage for diabetes. Diabetes includes individuals with:

(1) complete insulin deficiency or type 1 diabetes;

(2) insulin resistance with partial insulin deficiency or type 2 diabetes; and

(3) elevated blood glucose levels induced by pregnancy or gestational diabetes.

This coverage will be provided at the levels consistent with the coverage provided for the treatment of other illnesses or diseases.

R590-200-3. Applicability and Scope.

(1) This rule applies to all Health care insurance policies sold in Utah.

(2) This rule does not prohibit an insurer from requesting additional information required to determine eligibility of a claim under the terms of the policy, certificate or both, as issued to the claimant.

R590-200-4. Definitions.

For purposes of this rule the commissioner adopts the definitions as particularly set forth in Section 31A-1-301 and in addition, the following:

(1) "Health care insurance" means insurance providing health care benefits or payment of health care expenses incurred, including prescription insurance. "Health care insurance" does not include accident and health insurance providing benefits for:

(a) dental and vision;
(b) income replacement;
(c) short term accident;
(d) fixed indemnity;
(e) credit accident and health;
(f) supplements to liability;
(g) workers compensation;
(h) automobile medical payments;
(i) no fault automobile;
(j) equivalent self-insurance; and
(k) any type of accident and health insurance that is a part of or attached to another type of policy.

(2) "Diabetes" means diabetes mellitus a common chronic, serious systemic disorder of energy metabolism that includes a heterogenous group of metabolic disorders that can be characterized by an elevated blood glucose level. The terms diabetes and diabetes mellitus are considered synonymous and defined to include persons using insulin, persons not using insulin, individuals with elevated blood glucose levels induced by pregnancy, or persons with other medical conditions or medical therapies which wholly or partially consist of elevated blood glucose levels.

(3) "Diabetes self-management training" means a program designed to help individuals to learn to manage their diabetes in an outpatient setting. They learn self-management skills that include making lifestyle changes to effectively manage their diabetes and to avoid or delay the complication, hospitalizations and emergency room visits associated with this illness. This training includes medical nutrition therapy.

(4) "Medical equipment" means non-disposable/durable equipment used to treat diabetes. For purposes of this section, insulin pumps and related supplies will not be defined as "durable medical equipment" and will be treated per the standard deductibles, copayments and coinsurance of the policy.

(5) "Medical nutrition therapy" means the assessment of patient nutritional status followed by therapy including diet modification, planning and counseling services which are furnished by a registered licensed dietitian.

(6) "Medical supplies" means disposable supplies used to treat diabetes.

R590-200-5. Minimum Standards and General Provisions.

The commissioner will require that deductibles, copayments and coinsurance of coverage for the treatment of diabetes are equitable or identical to those deductibles, copayments and coinsurance of coverage required for the treatment of other illnesses or diseases.

(1) All health care insurance policies will cover diabetes self-management training and patient management, including medical nutrition therapy, when deemed medically necessary and prescribed by an attending physician. Training will be provided by an accredited or certified diabetes self-management education program upon diagnosis, and comprehensive education upon a significant change in condition or treatment. These services must be provided by an accredited or certified program:

(a) recognized by the federal Health Care Financing Agency; or

(b) certified by the Department of Health; or

(c) approved or accredited by a national organization certifying standards of quality in the provision of diabetes self-management education.

(2) All health care policies will cover the following medical equipment and medical supplies while treating diabetes when medically necessary:

(a) blood glucose monitors, including commercially available blood glucose monitors designed for patients use and for persons who have been diagnosed with diabetes;

(b) blood glucose monitors to the legally blind which includes commercially available blood glucose monitors designed for patient use with adaptive devices and for persons who are legally blind and have been diagnosed with diabetes;

(c) test strips for glucose monitors, which includes test strips whose performance shall achieve clearance by the FDA for marketing;

(d) visual reading and urine testing strips, which includes visual reading strips for glucose, urine testing strips for ketones, or urine test strips for both glucose and ketones. Using urine test strips for glucose only is not acceptable as the sole method of monitoring blood sugar levels;

(e) lancet devices and lancets for monitoring glycemic control;

(f) insulin, which includes commercially available insulin preparations including insulin analog preparations available in either vial or cartridge;

(g) injection aides, including those adaptable to meet the needs of the legally blind, to assist with insulin injection;

(h) syringes, which includes insulin syringes, pen-like insulin injection devices, pen needles for pen-like insulin injection devices and other disposable parts required for insulin injection aids;

(i) insulin pumps, which includes insulin infusion pumps and supplies such as skin preparations, adhesive supplies, infusion sets, cartridges, batteries and other disposable supplies needed to maintain insulin pump therapy. Includes durable and disposable devices used to assist in the injection of insulin;

(j) prescriptive oral agents of each class approved by the FDA for treatment of diabetes, and a variety of drugs, when available, within each class; and

(k) glucagon kits.

R590-200-6. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such validity shall not affect any other provisions 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 law
2000 **31A-2-201**
31A-22-626

◆ ◆

Insurance, Administration
R590-202
Condition-Specific Exclusion Riders in Individual Health Insurance Policies

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 22944
FILED: 06/15/2000, 17:06
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish minimum standards and a list of non-life-threatening and nondegenerative physical conditions that may be the subject of a condition-specific exclusion rider.

SUMMARY OF THE RULE OR CHANGE: Section R590-202-4 adopts the definitions in Sections 31A-1-301 and 31A-30-103, and provides definitions for five terms used in the rule. Section R590-202-5 (Minimum Standards and General Provisions) sets rules that must be met before conditions may be excluded from an individual health benefit plan, makes a list of non-life-threatening and nondegenerative conditions that can be excluded and describe how these exclusions are to be identified in the rider.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-202, and 31A-30-107

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Exclusion waiver forms will need to be filed with the department which will bring in revenue of $20 per filing. There are 251 individual carriers that may choose to issue a waiver form. These filings will not require the department to add or reduce personnel.

❖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: Uninsured individuals will now have more options to obtain individual health insurance. Insurers will be able to insure people that they were unable to before the exclusion waiver option. The 251 individual carriers doing business in Utah will have a $20 filing fee if they choose to offer exclusion waivers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Uninsured individuals will now have more options to obtain individual health insurance. Insurers will be able to insure people that they were unable to before the exclusion waiver option. The 251 individual carriers doing business in Utah will have a $20 filing fee if they choose to offer exclusion waivers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This will have a positive effect on Utah consumers and insurers who offer individual health insurance.

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 idmain.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 08/04/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 07/27/2000, 9:00 a.m., 4112 State Office Building (Behind the Capitol), Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2000

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-202. Condition-Specific Exclusion Riders in Individual Health Insurance Policies.
R590-202-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-202(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title, and to make administrative rules to implement the provisions of this title. The authority to establish a list of non-life threatening and non-degenerative physical conditions that may be the subject of a condition-specific exclusion rider is provided by Subsection 31A-30-107(5)(a)(iv) and (v).

R590-202-2. Purpose.

The purpose of this rule is to establish minimum standards and a list of non-life threatening and non-degenerative physical conditions that may be the subject of a condition-specific exclusion rider.

R590-202-3. Applicability and Scope.

This rule shall apply to a health benefit plan marketed on an individual basis even though the health benefit plan may be offered under or provided through a "group" policy or trust arrangement of any size sponsored by an association or a discretionary group.

R590-202-4. Definitions.

For the purposes of this rule the Commissioner adopts the definitions as set forth in Sections 31A-1-301, 31A-30-103 and the following:

(1) "Condition-Specific Exclusion Rider" means an addendum to the contract that specifically excludes coverage for a specified physical condition that is considered to be non-degenerative and non-life-threatening.

(2) "ICD-9 Code" means a code as listed and described in "The International Classification of Diseases, Ninth Revision, Clinical Modification, ICD-9-CM," which is a publication describing a classification system that groups related disease entities and procedures.

(3) "Non-degenerative" means a physical condition which typically does not naturally deteriorate or worsen over time.

(4) "Non-life-threatening" means a physical condition which does not typically result in a shortened life expectancy.

(5) "Secondary medical condition" means a condition that may or may not be directly related to or caused by the excluded physical condition.

R590-202-5. Minimum Standards and General Provisions.

(1) When selling an individual health benefit plan subject to this rule, an insurer shall first offer a plan that is in compliance with the requirements of Subsections 31A-30-107(5)(a)(i) and (ii). The insurer may then also offer an individual health benefit plan that excludes a specific physical condition, subject to the following provisions:

(a) the condition-specific exclusion rider must be mutually agreed to in writing and signed by both parties before the effective date of the policy;

(b) multiple physical conditions may be addressed under the provisions of this rule, through the use of separate exclusion riders;

(c) an insurer and its representatives must explain to the applicant the exact nature of the exclusion rider and how it affects the coverage under the policy; and

(d) a condition-specific exclusion rider may be reviewed periodically for possible removal subject to mutual agreement of the insurer and the insured.

(2) Any physical condition that is non-life-threatening and non-degenerative may be a condition-specific exclusion. This list includes, but is not limited to:

(a) acne,
(b) benign skin lesions,
(c) bunions,
(d) deviated nasal septum,
(e) dyspepsia,
(f) fibrocystic breast disorder,
(g) hammer toe,
(h) hay fever,
(i) impotence,
(j) infertility
(k) migraine headaches,
(l) nasal polyps,
(m) rhinitis,
(n) tendonitis,
(o) tenosynovitis,
(p) topical dermatitis,
(q) uncorrected fractures,
(r) warts.

(3) The specific condition being excluded must be identified in the rider by the appropriate ICD-9-CM code, including category and written description.

(4) A condition-specific exclusion rider shall be limited to one specific excluded condition and shall not extend to any secondary medical condition that may or may not be directly related to the excluded condition.

R590-202-6. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such validity shall 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 law
2000 **31A-2-201**
31A-2-202
31A-30-107

Natural Resources, Wildlife Resources
R657-5-15
Crossbows

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22938
FILED: 06/15/2000, 16:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R657-5-15 is being amended to allow a person to obtain a COR to hunt pronghorn with a crossbow.

SUMMARY OF THE RULE OR CHANGE: Section R657-5-15 is being amended to add "pronghorn" to the provision that allows a person who has a permanent, physical disability to obtain a Certificate of Registration (COR) to use a crossbow to hunt deer and elk.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This amendment adds "pronghorn" to the provision that allows a person who has a permanent, physical disability to obtain a COR to use a crossbow to hunt. The division does not charge a fee for this COR. Therefore, this amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget.
❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
❖OTHER PERSONS: This amendment adds "pronghorn" to the provision that allows a person who has a permanent, physical disability to obtain a COR to use a crossbow to hunt. This amendment does not generate a cost or savings impact to other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: A person applying for a certificate of registration to use a crossbow for hunting pronghorn will not incur any additional costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.
R657-5. Taking Big Game.
R657-5-15. Crossbows.

(1)(a) A disabled person who has a permanent, physical disability may use a crossbow to hunt deer[~~-or~~], elk or pronghorn during the respective archery hunt dates provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, provided that person:

(i) applies for and obtains a certificate of registration authorizing the use of a crossbow; and

(ii) provides a physician's statement confirming the disability as defined in Subsection (b).

(b) "Disabled person" means a person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be unable to use conventional archery equipment.

(2)(a) Any crossbow used to hunt deer, elk or pronghorn must have:

(i) a stock that is at least 18 inches long;

(ii) a minimum draw weight of 125 pounds;

(iii) a draw length that is at least 18 inches from the front of the crossbow to the back of the string in a cocked position; and

(iv) a positive safety mechanism.

(b) Arrows or bolts used must be at least 18 inches long and must have a broadhead with two or more sharp cutting edges that cannot pass through a 7/8 inch ring.

(3) Arrows or bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4) A cocked crossbow may not be carried in or on a vehicle.

KEY: wildlife, game laws, big game seasons*
2000 **23-14-18**
Notice of Continuation June 23, 1997 **23-14-19**
23-16-5
23-16-6

Natural Resources, Wildlife Resources
R657-41
Conservation and Sportsman Permits

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22939
FILED: 06/15/2000, 16:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to allow the division and conservation organizations to use the revenue from conservation permits for other species of protected wildlife, other than the species for which the permit is issued. This rule is also being amended to allow a conservation organization to designate an alternate person to receive the conservation permit if the first designated person is unable to use the permit.

SUMMARY OF THE RULE OR CHANGE: This amendment allows the division and conservation organizations to use the revenue from conservation permits for other species of protected wildlife, other than the species for which the permit is issued, provided the division and conservation organization agree that there is a higher priority use for the other species of protected wildlife. Also, this amendment allows a conservation organization to designate an alternate person to receive the conservation permit if the first designated person is unable to use the permit provided: 1) the conservation organization selects the new recipient of the permit; 2) the amount of money received by the division for the permit is not decreased; 3) the conservation organization relinquishes to the division 90% of all proceeds generated from the alternate permit transfer, or uses the funds for projects authorized by the division pursuant to the rule; 4) the conservation organization and the initial designated recipient of the permit must sign an affidavit indicating the initial designated recipient is not profiting from transferring the right to the permit; and 5) the permit has not been issued by the division to the first designated person.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This rule is being amended to allow the division and conservation organizations to use the revenue from conservation permits for other species of protected wildlife, other than the species for which the permit is issued. This rule is also being amended to allow a conservation organization to designate an alternate person to receive the conservation permit if the first designated person is unable to use the permit. Therefore, this amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget.
❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is being amended to allow the division and conservation organizations to use the revenue from conservation permits for other species of protected wildlife, other than the species for which the permit is issued. This rule is also being amended to allow a conservation organization to designate an alternate person to receive the conservation permit if the first designated person is unable to use the permit. Therefore, the amendment does not impose any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.
R657-41. Conservation and Sportsman Permits.
R657-41-1. Purpose and Authority.

(1) Under the authority of Section 23-14-18 and 23-14-19, this rule provides the standards and procedures for issuing:

(a) conservation permits to conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities; and

(b) sportsman permits.

(2) The division shall use all revenue derived from conservation permits for the benefit of the species for which the permit is issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

R657-41-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a specific species, and may include an extended season, or legal weapon choice, or both, beyond the general season.

(b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting wildlife conservation and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.

(c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division [~~to generate revenue for the benefit of the species for which the permit is authorized and issued.~~]for purposes identified in Section R657-41-1(2).

(d) "Sportsman Permit" means a harvest permit authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(e) "Statewide Conservation Permit" means a permit which allows a permittee to hunt:

(i) big game species on any open unit from September 1 through December 31, except pronghorn and moose from September 1 through October 31;

(ii) turkey on any open unit from April 1 through May 31;

(iii) any other small game species on any open unit during the season authorized by the Wildlife Board;

(iv) bear on any open unit during the season authorized by the Wildlife Board for that unit; and

(v) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective.

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R657-41-4. Obtaining Conservation Permits.

(1) Statewide and area conservation permits are available to eligible conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities.

(2) Conservation organizations may apply for conservation permits by sending an application to the division for each permit requested.

(3) The application must be submitted to the division by September 1 to be considered for the following year's conservation permits. Each application must include:

(a) the name, address and telephone number of the conservation organization;

(b) a copy of the conservation organization's mission statement;

(c) verification of the conservation organization's tax exempt status under Internal Revenue Code, Section 501C-3 as amended;

(d) the name of the president or other individual responsible for the administrative operations of the conservation organization;

(e) the type of permit and species for which the permit is requested; and

(f) any requested variances for an extended season or legal weapon choice for area conservation permits.

(4)(a) Conservation organizations must include the information as provided in Subsection (b) or (c).

(b) The estimated revenue expected to be returned to the division.

(i) The estimated revenue must be based on 90% of the auction or fund raising activity amount being submitted to the division, or the recommended minimum amount listed in the following table, whichever is greater.

(ii) The basis for the estimated revenue to the division must include the conservation organization's experience in similar activities, and details of the marketing plan.

(iii) The remaining 10% of the auction or fund raising activity amount may be retained by the conservation organization for administrative expenses. If the conservation organization is paying the permit and Wildlife Habitat Authorization fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization.

TABLE 2
RECOMMENDED MINIMUM PERMIT BID AMOUNT

Species	Statewide	Area
Rocky Mountain Bighorn (Ram)	$40,000	$20,000
Desert Bighorn (Ram)	30,000	20,000
Buck Deer	10,000	2,000
Bull Elk	10,000	4,000
Bull Moose	10,000	3,000
Bison (Hunter's Choice)	5,000	5,000
Rocky Mountain Goat (Hunter's Choice)	5,000	3,000
Buck Pronghorn	2,000	1,000
Black Bear	2,000	1,000
Cougar	2,000	500
Turkey	350	250

(c) A specific project proposal that includes:

(i) a schedule for project completion;

(ii) the benefits to the [~~affected~~]identified species;

(iii) justification for the conservation organization retaining more than ten percent of the revenue, showing increased benefit to the species, over remitting the funds to the division. Under this option, the division must receive the cost of the permit.

(iv) Proposals which integrate well with the division's species plans and objectives will be given emphasis in the evaluation.

(5) An application which is incomplete or completed incorrectly may be rejected.

(6) The application of a conservation organization that has not fully reported on the preceding years conservation permits may be rejected.

(7) The division shall recommend the conservation organization to receive each of the conservation permits based on:

(a) first, the bid amount pledged to the species, adjusted by:

(i) the performance of the organization over the previous two years in meeting proposed bids;

(ii) if returning the bid amount to the division, the percent of the proposed bid, at least 90%, returned to the division; and

(iii) if retaining the bid amount for projects, the increased monetary benefit of the projects, which cannot include any other conservation permit revenue or division funding sources, at least 100% of the bid amount, multiplied by the percent the project integrates with species plans and objectives;

(b) second, if two or more conservation organizations are tied using the criteria in Subsection (a), the closeness of the organization's purpose to the species of the permit; and

(c) third, if two or more conservation organizations are tied using the criteria in Subsection (a) and (b), the geographic closeness of the organization to the location of the permit.

(8) Between the time the division recommends that a conservation permit be awarded to a conservation organization and the time the Wildlife Board approves that recommendation, a conservation organization may withdraw their application for any given permit or exchange their application with another conservation organization without penalty, provided the bid amount upon which the permit application was evaluated is not changed.

(9) The Wildlife Board will make the final assignment of conservation permits at a meeting prior to December 1 annually, based on the:

(a) division recommendation;

(b) benefit to the species;

(c) historical contribution of the organization to the conservation of wildlife; and

(d) previous performance of the conservation organization.

(10) The division and conservation organization receiving the permits shall enter into a contract.

(11)(a) The conservation organization receiving permits shall certify that the permits are distributed by lawful means.

(b) The conservation organization must notify the division of the proposed permit recipient within 10 days of the recipient selection or the permit may be forfeited.

(c) If a person is selected by a qualified organization to receive a conservation permit and is also successful in obtaining a permit for the same species in the same year through the Bucks, Bulls and Once-In-A-Lifetime Drawing, that person may designate another person to receive the conservation permit, provided the conservation permit has not been issued by the division to the first selected person.

(d) If a person is selected by a qualified organization to receive a conservation permit, but is unable to use the permit, the conservation organization may designate another person to receive the permit provided:

(i) the conservation organization selects the new recipient of the permit;

(ii) the amount of money received by the division for the permit is not decreased;

(iii) the conservation organization relinquishes to the division 90% of all proceeds generated from the alternate permit transfer or uses the funds for projects authorized by the division pursuant to this rule;

(iv) the conservation organization and the initial designated recipient of the permit, must sign an affidavit indicating the initial designated recipient is not profiting from transferring the right to the permit; and

(v) the permit has not been issued by the division to the first designated person.

(e) Except as otherwise provided under Subsection (c) and (d), a person designated by a conservation organization as a recipient of a conservation permit, may not sell or transfer the rights to that designation to any other person. This does not preclude a person from bidding or otherwise lawfully acquiring a permit from a conservation organization on behalf of another person who will be identified as the original designated recipient.

(12) By September 1 annually, the conservation organization receiving the permit shall report to the division the distribution of each permit and the status of each project contained in the application.

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KEY: wildlife, wildlife permits
[~~April 4,~~]2000 **23-14-18**
23-14-19

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Natural Resources, Wildlife Resources
R657-47
Trust Fund Permits

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22940
FILED: 06/15/2000, 16:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to allow a conservation organization to designate an alternate person to receive the trust fund permit if the first designated person is unable to use the permit.

SUMMARY OF THE RULE OR CHANGE: This amendment allows a conservation organization to designate an alternate person to receive the trust fund permit if the first designated person is unable to use the permit, provided that: 1) the conservation organization selects the new recipient of the permit; 2) the amount of money received by the division for the permit is not decreased; 3) the conservation organization relinquishes to the division 90% of all proceeds generated

from the alternate permit transfer or uses the funds for projects authorized by the division pursuant to the rule; 4) the conservation organization and the initial designated recipient of the permit sign an affidavit indicating the initial designated recipient is not profiting from transferring the right to the permit; and 5) the permit has not been issued by the division to the first designated person.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This rule is being amended allow a conservation organization to designate an alternate person to receive the conservation permit if the first designated person is unable to use the permit. Therefore, this amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget.
❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is being amended to allow a conservation organization to designate an alternate person to receive the conservation permit if the first designated person is unable to use the permit. Therefore, the amendment does not impose any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@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 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.
R657-47. Trust Fund Permits.

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R657-47-5. Surrender or Transfer of Trust Fund Permit Designation.

(1) If a person is designated by a qualified organization to receive a trust fund permit and is also successful in obtaining a Utah permit for the same species in the same year through a limited entry drawing, that person may designate another person to receive the trust fund permit, provided the trust fund permit has not been issued by the division to the first selected person.

(2) If a person is selected by a qualified organization to receive a conservation permit, but is unable to use the permit, the conservation organization may designate another person to receive the permit provided:

(a) the conservation organization selects the new recipient of the permit;

(b) the amount of money received by the division for the permit is not decreased;

(c) the conservation organization relinquishes to the division 90% of all proceeds generated from the alternate permit transfer or uses the funds for projects authorized by the division pursuant to this rule;

(d) the conservation organization and the initial designated recipient of the permit, must sign an affidavit indicating the initial designated recipient is not profiting from transferring the right to the permit; and

(e) the permit has not been issued by the division to the first designated person.

(3) Except as otherwise provided in Subsection (1) and (2), a person designated by a conservation organization as a recipient of a trust fund permit, may not sell or transfer the rights to that designation to any other person. This does not preclude a person from bidding or otherwise lawfully acquiring a permit from a conservation organization on behalf of another person who will be identified as the original designated recipient.

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KEY: wildlife, wildlife permits
[~~February 1,~~]2000 **23-14-18**
23-14-19

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Regents (Board of), Administration
R765-171
Postsecondary Proprietary School Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22951
FILED: 06/15/2000, 19:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To make amendments to the rule in order to implement changes made by S.B. 80, Utah Postsecondary Proprietary School Act Amendments, enacted by the 2000 Legislature, to eliminate obsolete provisions relating to school agents, and to revise the tuition refund requirements.
(**DAR Note:** S.B. 80 is found at 2000 Utah Laws 58, and was effective May 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: The amendments clarify the Board of Regents authority to make criminal background checks of persons operating schools, establish a graduated structure for registration fees, and establish a program of surety bonds or equivalent security instruments to protect student tuition and equipment costs. They also eliminate obsolete provisions relating to school agents, and revise the tuition refund requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53B, Chapter 5

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Increased registration fees will partially offset the increased costs of administering the criminal background checks and surety bond programs.
❖LOCAL GOVERNMENTS: None--the Utah Postsecondary Proprietary School Act and these amendments do not involve any local government action.
❖OTHER PERSONS: Some schools may increase student tuition in order to offset additional costs of higher registration fees and surety bonds.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The annual registration fee will be based on a percent of gross tuition income and will vary between $100 and $1,000. The cost to the affected proprietary schools to obtain required surety bonds will vary depending on the total amount of annual gross income from student tuition and instruction related charges.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The registration fee and surety bond requirement are based on the annual gross income of each school. The rates are similar or less than those charged in most other states and should not be a burden to the schools.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Regents (Board of)
Administration
3 Triad Center, Suite 550
355 West North Temple
3 Triad Center, Suite 550
Salt Lake City, UT 84180, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Harden R. Eyring at the above address, by phone at (801) 321-7106, by FAX at (801) 321-7199, or by Internet E-mail at heyring@utahsbr.edu.

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 08/01/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/02/2000

AUTHORIZED BY: Harden R. Eyring, Executive Assistant to the Commissioner

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R765. Regents (Board of), Administration.
R765-171. Postsecondary Proprietary School Act Rules.

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R765-171-3. Definitions in addition to those in 53B-5-103.

3.1. A "course" is a unit subject within a program of education that must be successfully mastered before an educational credential can be awarded.

3.2. An "institution" operates for profit or nonprofit, is degree or non-degree granting, maintains a place of business within the state of Utah, solicits students from the general public, charges tuition and/or fees, offers instruction to students for entry-level employment or for upgrading in a specific field of endeavor, affords students legitimate and pedagogical methods that will logically culminate in a lawful educational credential, and is not exempt in accordance with this Title 53B, Chapter.

3.3. A "resident institution" is one where the courses and programs offered are predominantly conducted in a classroom or a class laboratory, with an instructor.

3.4. A "correspondence institution" is one in which the instruction is conducted predominantly through the means of home study. It is expected to maintain a stability of faculty and other resources sufficient for the completion of the program(s) offered, in order that the credential awarded will be of the caliber accepted by recognized authorities in the field.

3.5. A "branch or extension" is a freestanding location that is apart from the main campus, where resident instruction is provided on a regular, continuing basis.[

~~3.6. A "permit" consists of a nontransferable pocket identification card issued to an agent or sales representative by the board, stating that he has been authorized to solicit students in behalf of his employing institution.~~]

3.[~~7~~]6. "Probation" is a negative action of the board which specifies a stated period for an institution[~~ or agent~~] to correct stipulated deficiencies; but does not imply any impairment of operational authority.

3.[~~8~~]7. A "program of education" consists of a series of courses which when completed, lead to an educational credential.

3.[~~9~~]8. "Revocation" is a negative action of the board which orders an institution[~~ or agent~~] to surrender its certificate[~~ or permit~~] and cease operations, including advertising, enrolling students and teaching classes, for whatever reason.

3.[~~10~~]9. "Suspension" is a negative action of the board which places stipulated limitations upon usage of a permit or certificate of registration for a stated period of time during which the deficiencies must be corrected or the certificate may be revoked.

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R765-171-6. Rules Relating to 53B-5-106.

6.1. The registration statement combined with an attached current catalog or information bulletin as outlined in subsection 4.4 of this chapter shall provide information and assertions as follows:

6.1.1. the institution's name, address, and telephone number;

6.1.2. the names of all persons involved in the operation of the institution and a stipulation that the resumes are on file at the institution and available to the students.

6.1.3. a current financial report, as described in subsection 7.9;

6.1.4. that its articles of incorporation have been registered and accepted by the Lieutenant Governor's office and it has a local business license, if necessary;

6.1.5. that its facilities, equipment, and materials meet minimum standards for the training and assistance necessary to prepare students for employment;

6.1.6. that it maintains accurate attendance records, progress and grade reports, and information on tuition and fee payments appropriately accessible to students;

6.1.7. that its maintenance and operation is in compliance with all ordinances, laws, and codes relative to the safety and health of all persons upon the premises; and

6.1.8. that it maintains adequate insurance continuously in force to protect its assets.

6.2. The institution provides copies of the following documents:

6.2.1. a sample of the credential(s) awarded upon completion of a program;

6.2.2. a sample of current advertising including radio, television, newspaper and magazine advertisements, and listings in telephone directories; and

6.2.3. a copy of the student enrollment agreement.

6.3. A new institution not previously in operation in Utah and which intends to solicit and enroll students in this state, shall demonstrate as part of its registration statement that there is:

6.3.1. sufficient student interest in Utah in its courses; and

6.3.2. reasonable employment potential in those areas of study in which credentials will be awarded.

6.4. In addition, a branch institution whose parent campus is located outside of the state of Utah shall:

6.4.1. provide a copy of the authorization granted by the state of the parent institution;

6.4.2. designate a Utah resident[~~ with an agent's permit from the board~~] as a permanent contact authorized to legally accept the responsibility to respond to student inquiries; and

6.4.3. make available a listing of which programs are offered in whole or in part in Utah and whether the student can complete his or her program without having to take residence at the parent campus;

6.5. Correspondence institutions, within or without the state of Utah shall demonstrate that:

6.5.1. their educational objectives can be achieved through home study;

6.5.2. their programs, instructional material, and methods are sufficiently comprehensive, accurate, and up-to-date to meet the announced institutional course and program objectives;

6.5.3. they provide adequate interaction between student and instructor, through the submission and correction of lessons, assignments, examinations, and such other methods as are recognized as characteristic of this particular learning technique and

6.5.4. any degrees and certificates earned through correspondence study meet the requirements and criteria of 4.1.

6.6. An authorized officer of each institution not exempted from this chapter shall sign a statement that:

6.6.1. discloses whether the institution, or any owner, administrator, faculty, staff, or agent of the institution has violated laws, federal regulations or state rules related to the operation of educational institutions as determined in a criminal, civil or administrative proceeding within five years preceding the filing of the registration statement; and

6.6.2. the information which the institution has provided in its registration statement is true and correct.

6.7. Upon receipt of a registration statement and its attachments, the board, within thirty (30) days, shall either issue a certificate, request further information or conduct a site visit to the institution as detailed in subsection 11.1.

6.8. A certificate of registration shall be issued by the board, if after review of an institution's registration statement, it is satisfied that the interests of the public will be served. This certificate is valid until it expires or is renewed, supplemented, canceled, or forfeited.

6.9. A registered institution shall notify the Board of circumstances that will result in a change in any information contained on the certificate, including name, type of institution, ownership or management, exemption status, academic programming, facilities, new or additional locations, etc. The Board shall determine whether the change necessitates a new registration application.

6.10. An institution ceasing its operations shall inform the board and provide the board with student records in accordance with 53B-5-109.

R765-171-7. Rules Relating to 53B-5-107.

7.1. An authorized officer of the institution to be registered under this chapter shall sign a certificate as to whether the institution or an owner, administrator, faculty, staff, or agent of the institution has violated laws, federal regulations or state rules[~~ related to the operation of educational institutions~~] as determined in a criminal, civil or administrative proceeding[~~ within five years preceding the filing of the registration statement~~].

7.2. The Board shall refuse to register an institution when it determines that the institution or an owner, administrator, faculty, staff, or agent of the institution has violated laws, federal regulations or state rules[~~ related to the operation of educational institutions~~] as determined in a criminal, civil or administrative proceeding and as a consequence of such violation(s) the Board

determines the violation(s) to be relevant to the appropriate operation of the school and has a reasonable doubt that the institution will function in accordance with these laws and rules or provide students with an appropriate learning experience.

7.3. A change in the ownership of an institution, as defined in subsection 53B-5-103(8), occurs when there is a merger or change of ownership or partnership or stock or assets of more than 50 percent within a three-year period. When this occurs the following information is submitted to the board for its review:

7.3.1. a copy of any new articles of incorporation;

7.3.2. a current financial statement, as outlined in subsection 7.9;

7.3.3. a listing of all institutional personnel that have changed as a result of the ownership transaction, together with complete resumes and qualifications;

7.3.4. a detailed description of any material modifications to be made in the operation of the institution; and

7.3.5. payment of the appropriate fee.

7.4. Procedures for filing a renewal application consist of:

7.4.1. the board will notify the institution approximately sixty (60) days prior to the expiration date of its certificate of registration of the requirements for re-registration;

7.4.2. prior to thirty (30) days before expiration date, the institution shall submit the new registration statement with its attachments to the board, along with the appropriate fee.

7.4.3. within thirty (30) days after receipt of the new registration form and its attachments, the board shall either issue a certificate, request further information or conduct a site visit to the institution; and

7.4.4. when all requirements have been satisfied, a new certificate shall be issued.

7.5. If an institution fails to comply with the requirements to re-register stated above, its registration may be suspended or revoked.

7.6. To be reinstated an institution must submit evidence of compliance, together with payment of a penalty fee of $50, in addition to any other fees owed in accordance with 7.8.

7.7. Although a certificate of registration is valid for two (2) years, the board may request periodic updates of financial statements and the following statistical information:

7.7.1. number of students enrolled from September 1 through August 31;

7.7.2. number of students who completed and received a credential;

7.7.3. number of students who terminated or withdrew;

7.7.4. number of administrators, faculty, supporting staff, and agents; and

7.7.5. new catalog, information bulletin, or supplements.

7.8. The board collects the following fees in accordance with Section 53B-5-107(5):

7.8.1. initial registration[~~ statement and renewal~~] application fees will be based on the [~~number of students enrolled.~~

~~TABLE~~

~~Number of Students~~	~~Registration Fee~~
~~0-25 students per year,~~	~~$50~~
~~26 students and over per year~~	~~$100~~

]expected gross income of the registered program during the first year of operation. The initial application fee shall be computed as one-half of one percent of the gross tuition income of the registered program(s) expected during the first year, but not less than $100 or more than $1,000. The institution shall provide documentation to substantiate the amount of the fee, in a form specified by the Board.

7.8.2. the board also collects annual registration fees computed as one-half of one percent of the gross tuition income of the registered program(s) during the previous year, but not less than $100 or more than $1,000. The institution shall provide documentation to substantiate the amount of the fee, in a form specified by the Board. The annual registration fee is due on the anniversary date of the institution's certificate of registration.

7.9. The institution must have, in addition to other criteria contained in this chapter, sufficient financial resources to fulfill its commitments to students and staff members, and to meet its other obligations as evidenced by the following financial statements:

7.9.1. a current financial report prepared in accordance with generally accepted accounting principles including a balance sheet and an income statement for the most recent fiscal year with all applicable footnotes;

7.9.2. pro forma financial statements until actual information is available when an institution has not operated long enough to complete a fiscal year; and/or

7.9.3. a certified fiscal audit of its operations or such other documentation of financial status as may be required by the board.

7.10. Before an institution is registered or re-registered, a surety bond must be provided by the institution. The obligation of the bond will be that the institution, its officers, agents, and employees will (1) faithfully perform the terms and conditions of contracts for tuition and other instructional fees entered into between the institution and persons enrolling as students, and (2) conform to the provisions of the Utah Postsecondary Proprietary School Act and Rules. The bond must be executed by the institution and issued by a surety company authorized to do business in Utah. The bond must be payable to the Board, in such form as approved by the Board, and is to be used only for payment of a refund of tuition, book fees, supply fees, equipment fees, and other instructional fees due to a student or potential student, enrollee, or his or her parent or guardian.

7.11. The bond company may not be relieved of liability on the bond unless it gives the institution and the Board ninety calendar days notice by certified mail of the company's intent to cancel the bond. The cancellation or discontinuance of bond coverage after such notice does not discharge or otherwise affect any claim filed by a student, enrollee or his/her parent or guardian for damage resulting from any act of the institution alleged to have occurred while the bond was in effect, or for an institution's ceasing operations during the term for which tuition had been paid while the bond was in force. If at any time the company that issued the bond cancels or discontinues the coverage, the institution's registration is revoked as a matter of law on the effective date of the cancellation or discontinuance of bond coverage unless a replacement bond is obtained and provided to the Board.

7.12. Before an original registration is issued, the institution shall secure and submit to the Board a surety bond in an amount of seventy-five thousand dollars ($75,000) for schools expecting to enroll more than 100 separate individual students (non-duplicated enrollments) during the first year of operation, fifty thousand dollars

($50,000) for schools expecting to enroll between 50 and 99 separate individual students during the first year, and twenty-five thousand dollars ($25,000) for institutions expecting to enroll less than 50 separate individual students during the first year. Institutions that submit evidence acceptable to the board that the school's gross tuition income from any source during the first year will be less than ten thousand dollars ($10,000) may provide a bond of five thousand dollars ($5,000) for the first year of operation.

7.13. The minimum amount of surety bond to be submitted annually after the first year of operation will be based on ten percent of the annual gross tuition income from registered program(s) for the previous year, with a minimum bond amount of five thousand dollars ($5,000) and a maximum bond amount of seventy-five thousand dollars ($75,000). The institutional surety bond must be renewed each year by the anniversary date of the school's certificate of registration, and also included as a part of each two-year application for registration renewal. No additional programs may be offered without appropriate adjustment to the bond amount.

7.14. The institution shall provide a statement by a school official regarding the calculation of gross tuition income and written evidence confirming that the amount of the bond meets the requirements of this rule. The Board may require that such statement be verified by an independent certified public accountant if the Board determines that the written evidence confirming the amount of the bond is questionable.

7.15. Instead of the surety bond, the institution may pledge certificates of deposit, irrevocable letters of credit, or other means of collateral acceptable to the Board, in an aggregate market value of the required bond.

7.16. An institution with a total cost per program of five hundred dollars or less and a length of each such program of less than one month shall not be required to have a bond.

7.[~~10~~]17. The board will not register a program at a proprietary institution if it determines that the educational credential associated with the program may be interpreted by employers and the public to represent the undertaking or completion of educational achievement that has not been undertaken and earned.

7.[~~11~~]18. Acceptance of registration statements and the issuing of certificates of registration to operate a school signifies that the legal requirements prescribed by statute and regulations have been satisfied. It does not mean that the board supervises, recommends, nor accredits institutions whose statements are on file and who have been issued certificates of registration to operate.

R765-171-8. Rules Relating to 53B-5-108.

8.1. The information required by 53B-5-108(1) shall be contained in the institution's catalog or information bulletin as set forth in subsection 4.4.

8.2. An institution, as part of its assessment for enrollment, shall consider the applicant's basic skills, aptitude, and physical qualifications, as these relate to the choice of program and to anticipated employment and shall not admit a student to a program unless there is a reasonable expectation that the student will succeed, as prescribed by 4.3.

8.3. Financial dealings with students shall reflect standards of ethical practice and provide for the following:

8.3.1. a three-day cooling-off period, commencing with the day the contract with the applicant is signed until midnight of the third business day following such date, exclusive of Sundays and holidays, during which time the contract may be rescinded.

8.3.2. a fair and equitable refund policy [~~that considers the interests of a student who withdraws as well as the institution itself. The refund must include a pro rata part of prepaid tuition and fees for the student who withdraws from the institution after only an initial exposure to its educational and/or housing program;~~]including:

8.3.2.1. a three-business-day cooling-off period, commencing with the day an enrollment agreement with the applicant is signed or an initial deposit or payment toward tuition and fees of the institution is made, until midnight of the third business day following such date or from the date that the student first visits the institution, whichever is later, during which time the contract may be rescinded and all monies paid refunded. Evidence of personal appearance at the institution or deposit of a written statement of withdrawal for delivery by mail or other means shall be deemed as meeting the terms of the cooling off period.

8.3.2.2. a student enrolled for non-traditional instruction may withdraw from enrollment following the cooling off period, prior to submission by the student of any lesson materials or within a ten-day review period after receipt of course materials, whichever comes first, and effective upon deposit of a written statement of withdrawal for delivery by mail or other means, and the institution shall be entitled to retain no more than $200 in tuition or fees as registration charges or an alternative amount that the institution can demonstrate to have been expended in preparation for that particular student's enrollment.

8.3.2.3. after the three-business-day cooling-off period or after a student enrolled for non-traditional instruction has submitted lesson materials or been in receipt of course materials for a period of ten days, the withdrawn or dismissed student shall be refunded, within thirty days of his/her discontinuing, a percentage of all tuition paid over and above a nonrefundable registration fee not to exceed $200 or an alternative amount that the institution can demonstrate to have been expended in undertaking that particular student's instruction. The balance due the student, over and above the nonrefundable registration fee will be calculated using the following schedule:

TABLE

Date of Withdrawal as a Percent of the Enrollment Period for Which the Student was Obligated	Portion of Tuition and Fees Obligated and Paid that are Eligible to be Retained by the Institution
Within 1st 10%	10%
Within 2nd 10%	25%
Within 3rd 10%	40%
Within 4th 10%	50%
Within 5th 10%	70%
Within 6th 10%	100%

8.3.[~~4~~]3. [~~when there is~~]a written enrollment agreement, to be signed by the student and a representative of the institution,[~~promissory note or other obligation, such documents shall contain provisions which detail~~] that clearly describes the cooling-off period, nonrefundable registration fee, and refund policy and schedule, including the rights of both the student and the institution, with copies provided to each, and.

8.3.[~~3~~]4. complete written information on repayment obligations to all applicants for financial assistance before an applicant student assumes such responsibilities[~~; and~~].

8.4. Following the satisfactory completion of his or her training and education, a student is provided with appropriate educational credentials that show the program in which he or she was enrolled, together with a transcript of courses completed and grades or other performance evaluations received.

8.5. No institution shall use the designation of 'college' nor 'university' in its title nor in conjunction with its operation unless it actually confers a standard college degree as one of its credentials.

8.5.1. Such an institution which has, prior to the effective date of this chapter, used the designation of 'college' or 'university' in its title or in conjunction with its operation, may continue that practice.

8.5.2. The name of the institution shall not contain any reference that could mislead potential students or the general public as to the type or nature of its educational services, affiliations or structure.

8.6. Advertising standards consist of the following:

8.6.1. the institution's chief administrative officer assumes all responsibility for the content of public statements made on behalf of the institution and instructs all personnel, including agents, as to this chapter and other appropriate laws regarding the ethics of advertisement and recruitment;

8.6.2. advertising shall be clear, factual, supportable, and shall not include any false or misleading statements with respect to the institution, its personnel, its courses and programs, its services, nor the occupational opportunities for its graduates;

8.6.3. the institution shall not advertise in conjunction with any other business or establishment, nor advertise in "help wanted" nor in "employment opportunity" columns of newspapers, magazines or similar publications in such a way as to lead readers to believe that they are applying for employment rather than education and training. It must disclose that it is primarily operated for educational purposes, if this is not apparent from its legal name;

8.6.4. an institution, its employees and agents, shall refrain from other forms of ambiguous or deceptive advertising, such as:

8.6.4.1. claims as to endorsement by manufacturers or businesses or organizations until and unless written evidence supporting this fact is on file; and

8.6.4.2. representations that students completing a course or program may transfer either credits or credentials for acceptance by another institution, state agency, or business, unless written evidence supporting this fact is on file;

8.6.5. an institution shall maintain a file of all promotional information and related materials for a period of three (3) years;

8.6.6. the board may require an institution to submit its advertising prior to its use; and

8.6.7. pursuant to subsections 53B-5-107(8) and 7.11, the only statement authorized for use in advertising is 'Registered under the Utah Postsecondary Proprietary School Act. UCA 53B-5-107(8)'.

8.7. Recruitment standards include the following:

8.7.1. recruiting efforts shall be conducted in a professional and ethical manner and free from 'high pressure' techniques; and

8.7.2. an institution shall not use loans, scholarships, discounts, or other such enrollment inducements, where such result in unfair or discriminatory practices.

8.8. An agent or sales representative may not be directly or indirectly portrayed as 'counselor,' 'advisor,' or any other similar title to disguise his or her sales function.[

~~8.9. General requirements for all agents or sales representatives shall consist of the following:~~

~~8.9.1. no individual representing any institution offering programs or courses in this state may solicit students without first obtaining a permit, as set forth in sections 8.12 to 8.15.~~

~~8.9.2. a permit shall not be issued to an individual who has been convicted of a felony or misdemeanor or has been enjoined for violations of any state or federal laws relating to education within five (5) years preceding the filing of a permit application;~~]

8.9.[~~3~~]. an agent or representative is responsible to have a clear understanding and knowledge of the programs and courses, tuition, enrollment requirements, enrollment agreement, support services, and the general operational procedures thereof;[

~~8.9.4. a person may render information about an institution without securing a permit if:~~

~~8.9.4.1. he or she does not mention the specific price of a program or course and does not seek to solicit students; or~~

~~8.9.4.2. he or she participates in a high school career day or college day program and only explains the institution's offerings.~~

~~8.9.5. an agent shall surrender his or her permit to the board upon termination of his or her employment with the institution, or in the event that his or her permit is revoked or suspended before its expiration.~~]

8.10. An institution is responsible to provide indemnification to any student suffering loss as a result of any fraud or other form of misrepresentation used by an agent in the recruitment process.

8.11. An institution operating in Utah but domiciled outside the state shall designate a Utah resident as its contact as set forth in subsection 6.4.2.[

~~8.12. The agent's permit application shall include:~~

~~8.12.1. the name, Utah address, and telephone number of the applicant;~~

~~8.12.2. the name and address of the institution(s) the agent seeks to represent;~~

~~8.12.3. a letter of authority by the institution's chief administrative officer;~~

~~8.12.4. three (3) letters of reference from third persons or businesses who know the applicant and his work;~~

~~8.12.5. a complete record of the applicant's past five (5) years of employment;~~

~~8.12.6. a signed statement that the applicant has not been convicted, as set forth in subsection 8.9.2 above, and will fairly and honestly represent the institution(s) consistent with the instructions issued by it and the information which is contained on its registration statement.~~

~~8.13. Permits are restricted as follows:~~

~~8.13.1. a permit is issued to a specific individual, residing at a specific address, to represent a specific institution(s);~~

~~8.13.2. an agent, upon a material change in any of the information contained in his application, shall within thirty (30) days submit a supplementary application to the board for approval, and detail all particulars; and~~

~~8.13.3. although a permit is issued for two (2) years, the board may request interim information as to the agent's activities.~~

~~8.14. Procedure for filing a renewal permit includes:~~

~~8.14.1. the board will notify each agent prior to the expiration date of his permit and provide information as to the requirements for renewal;~~

~~8.14.2. the agent shall submit the renewal application with attachments to the board.~~

~~8.14.3. within thirty (30) days after receipt of the information and any attachments, the board will issue another permit, request further information, or conduct an investigation;~~

~~8.14.4. when all requirements have been satisfied, a new permit will be issued;~~

~~8.14.5. should an agent fail to comply, as stated above, he or she may be suspended, or his or her authorization revoked; and~~

~~8.14.6. in order for an agent to be reinstated, he or she must provide evidence of compliance with these law and rules.~~]

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R765-171-11. Rules Relating to 53B-5-111.

11.1. The Board may perform on-site evaluations to verify information submitted by an institution or an agent, or to investigate complaints filed with the Board.

11.2. Representative circumstances which provide just cause for negative actions are:

11.2.1. the award of credentials by a nonexempt institution without a filed and accepted registration statement and an issued certificate of registration;

11.2.2. a registration statement[~~ or permit~~] application that contains material representations which are incomplete, improper, or incorrect;

11.2.3. failure to maintain facilities and equipment in a safe and healthful manner;

11.2.4. failure to perform the services, failure to meet the reasonable expectations of students for faculty instruction, teaching materials, equipment and facilities, failure to perform any commitment made in the registration statement or permit application, offering programs or services not contained in the registration statement currently on file, or violations of the conditions of the certificate of registration[~~ or permit~~];[

~~11.2.5. utilization of agents without permits;~~]

11.2.[~~6~~]5. failure to maintain sufficient financial capability, as set forth in section 7.9;

11.2.[~~7~~]6. to confer, or attempt to confer, a fraudulent credential, as set forth in 53B-5-201;

11.2.[~~8~~]7. employment of students for commercial gain, if such fact is not contained in the current registration statement;

11.2.[~~9~~]8. promulgation to the public of fraudulent or misleading statements relating to a program or service offered;

11.2.[~~10~~]9. failure to correct a deficiency or act of noncompliance under this chapter and regulations;

11.2.[~~11~~]10. withdrawal of the authority to operate in the home state of an institution whose parent campus or headquarters is not domiciled in this state;

11.2.[~~12~~]11. failure of a Utah institution to comply with applicable laws in another state; and

11.2.[~~13~~]12. failure to provide reasonable information to the board as requested from time to time.

11.3. The board, when aware of either one or a combination of the above causes shall:

11.3.1. promptly notify the attorney general or the county attorney of any county in which the activity is believed to have occurred so that he can instigate an action; and

11.3.2. regularly keep the attorney general or county attorney apprised of all significant developments as the matter evolves. The attorney general or the country attorney may proceed on his or her own initiative.

11.4. To be considered, a student complaint against an institution must be filed with the board within one year of the last date of the student's attendance. The following alternative procedures for handling student complaints are available to the board:

11.4.1. the board may conduct an investigation into the matter. If the evidence suggests probable violations because of unauthorized practices, it:

11.4.1.1. may make oral communication with the institution or agent and advise it or the agent of the discrepancies suspected, together with specific counsel and instructions for improvement;

11.4.1.2. may send a written communication which sets forth the details of the matter;

11.4.2. may set an informal conference of the complainant, the defendant, and authorized representatives of the board to seek a resolution in which all parties involved agree; or

11.4.3. may convene a hearing. Hearings shall be conducted according to recognized due process procedures;

11.4.4. regardless of which of the above procedures is followed, the board's representative, upon careful deliberation, shall render a decision predicated upon the evidence. The board may dismiss the complaint or take action(s) including:

11.4.4.1. "probation," as defined in subsection 3.7;

11.4.4.2. "suspension" as defined in subsection 3.10; and

11.4.4.3. "revocation" as defined in subsection 3.9;

11.4.5. all interested parties shall be advised of the decision.

11.5. Review of decisions consist of the following:

11.5.1. within ten days after the issuance of a decision, any party may file a written request for reconsideration, stating the specific grounds upon which relief is requested. The filing of the request is not a prerequisite for seeking judicial review of the decision;

11.5.2. the request for reconsideration shall be filed with the board and one copy sent by mail to each party;

11.5.3. the Commissioner or his designee shall issue a written order denying the request or granting the request. The request is deemed to have been denied if the decision is not made within 20 days after the request is filed; and

11.5.4. a party may obtain judicial review of final board action.

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KEY: education, postsecondary proprietary school*, registration
[~~July 2, 1997~~]2000 53B-5
Notice of Continuation December 3, 1997

NOTICES OF
CHANGES IN PROPOSED RULES

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

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

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

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends July 31, 2000. At its option, the agency may hold public hearings.

From the end of the waiting period through October 29, 2000, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Environmental Quality, Air Quality
R307-801
Asbestos

NOTICE OF CHANGE IN PROPOSED RULE
DAR FILE NO.: 22668
FILED: 06/15/2000, 11:29
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are made as a result of public comment to clarify the meaning of the original proposal.

SUMMARY OF THE RULE OR CHANGE: 1) In the definition of "Asbestos Survey Report," found in Section R307-801-3, correct the internal citation from Subsection R307-801-15(6) to Subsection R307-801-10(6); 2) in the definition of "Asbestos Waste" found in Section R307-801-3, delete "mill tailings or" because the rule does not apply to mill tailings; 3) amend the definition of "Friable Asbestos Containing Material (Friable ACM)" found in Section R307-801-3 to conform with the federal NESHAPs (National Emissions Standards for Hazardous Air Pollutants) definition (40 CFR 61, Subpart M); 4) amend the definition of "inaccessible" found in Section R307-801-3 to include obstructed areas; 5) amend Subsection R307-801-6(2)(b)(ii) to require that an asbestos worker, supervisor, inspector, project designer or management planner must supply a current certificate in order to renew certification; 6) in Subsection R307-801-10(4), delete the option of using sampling procedures found in 40 CFR 763, Subpart E, because they are not intended for renovation or demolition; 7) amend Subsection R307-801-10(6) to require that asbestos survey information be submitted in a format approved by the executive secretary instead of requiring that information appear in a specific order; 8) amend Subsection R307-801-10(7), clarify that floor plans or architectural drawings are optional, but if they are submitted they must be appended to the asbestos survey report; 9) in Subsection R307-801-11(2)(d), change "may" to "shall" because the notification is already required under 40 CFR 61, Subpart M; 10) amend Subsection R307-801-13(1) to clarify that a supervisor must be on site while work is ongoing, not round the clock; 11) amend Subsection R307-801-14(1)(d), delete Subsection R307-801-14(1)(e), and renumber the following subsections. This clarifies that all Regulated Asbestos-Containing Material must be promptly containerized; 12) amend Subsection R307-801-14(2)(f)(v) to clarify that polyethylene sheeting is not needed when a wall or floor is removed as part of an asbestos project, but may be needed in other situations; 13) amend Subsection R307-801-14(2)(j)(3) to use correct terminology for pressure measurement.
(**DAR Note:** The original proposed repeal and reenact upon which this change in proposed rule is based was published in the March 1, 2000, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-2-104(1)(d), and 19-2-104(3)(r) through 19-2-104(3)(t)
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 61, Subpart M; 40 CFR 763, Subpart E

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The changes clarify the original proposal and there is no change in cost.
❖LOCAL GOVERNMENTS: The changes clarify the original proposal and there is no change in cost.
❖OTHER PERSONS: The changes clarify the original proposal and there is no change in cost.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes clarify the original proposal and there is no change in cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes clarify the original proposal and there is no change in cost--Dianne R. Nielson

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 07/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2000

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-801. Asbestos.

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R307-801-3. Definitions.

The following definitions apply to R307-801:

"Adequately Wet" means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

"Amended Water" means a mixture of water and a chemical wetting agent that provides control of asbestos fiber release.

"AHERA" means the federal Asbestos Hazard Emergency Response Act of 1986 and the Environmental Protection Agency implementing regulations, 40 CFR Part 763, Subpart E - Asbestos-Containing Materials in Schools.

"Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.

"Asbestos Containing Material (ACM)" means any material containing more than one percent (1%) asbestos by the method specified in Appendix A, Subpart F, 40 CFR Part 763 Section 1, Polarized Light Microscopy (PLM), or, if the asbestos content is less than 10%, the asbestos concentration must be determined by point counting using PLM procedure.

"Asbestos Inspection" means any activity undertaken to determine the presence or location, or to assess the condition, of asbestos-containing material or suspected asbestos-containing material, whether by visual or physical examination, or by taking samples of the material. This term includes re-inspections of the type described in AHERA, 40 CFR 763.85(b), of known or assumed asbestos-containing material which has been previously identified. The term does not include the following:

(a) Periodic surveillance of the type described in AHERA, 40 CFR 763.92(b), solely for the purpose of recording or reporting a change in the condition of known or assumed asbestos-containing material;

(b) Inspections performed by employees or agents of federal, state, or local government solely for the purpose of determining compliance with applicable statutes or regulations; or

(c) Visual inspections of the type described in AHERA, 40 CFR 763.90(i), solely for the purpose of determining completion of response actions.

"Asbestos Project" means any activity involving the removal, renovation, repair, demolition, salvage, disposal, cleanup, or other disturbance of regulated asbestos-containing material greater than small scale short duration.

"Asbestos Removal" means the stripping of friable asbestos-containing material from surfaces or components of a structure or taking out structural components that contain or are covered with friable ACM from a structure.

"Asbestos Survey Report" means a written report as specified in R307-801-1[~~5~~]0(6) describing an asbestos inspection performed by a certified asbestos inspector.

"Asbestos Waste" means [~~mill tailings or~~]any waste that contains asbestos. This term includes filters from control devices, friable asbestos-containing waste material, and bags or other similar packaging contaminated with asbestos. As applied to demolition and renovations, this term includes materials contaminated with asbestos including disposable equipment and clothing.

"Containerized" means sealed in a leak-tight and durable container.

"Debris" means asbestos-containing material that has been dislodged and has fallen from its original substrate and position or which has fallen while remaining attached to substrate sections or fragments, and is friable or regulated in its current condition.

"Demolition" means the wrecking, salvage, or removal of any load-supporting structural member of a structure together with any related handling operations, or the intentional burning of any structure. This includes the moving of an entire building.

"Disturb" means to disrupt the matrix of ACM or regulated asbestos-containing material, crumble or pulverize ACM or regulated asbestos-containing material, or generate visible debris from ACM or regulated asbestos-containing material.

"Division" means the Division of Air Quality.

"Emergency Renovation Operation" means any asbestos project which was not planned and results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden as determined by the Division. This term includes operations necessitated by non-routine failure of equipment and does not include situations caused by the lack of planning.

"Encapsulant" means a permanent coating applied to the surface of friable ACM for the purpose of preventing the release of asbestos fibers. The encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building, including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential co-operative; any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to the NESHAP is not excluded, regardless of its current use or function. Public building and commercial building have the same meanings as they do in TSCA Title II.

"Friable Asbestos Containing Material (Friable ACM)" means any asbestos-containing material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure[~~, can crumble, pulverize, or reduce to powder when dry~~].

"Glovebag" means an impervious plastic bag-like enclosure, not more than a 60 x 60 inches, affixed around an asbestos-containing material, with glove-like appendages through which material and tools may be handled.

"HEPA Filtration" means the high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering particles greater than 0.3 micron in diameter with 99.97% efficiency, designed for use in asbestos-contaminated environments.

"Inaccessible" means in a physically restricted or obstructed area or covered in such a way that detection or removal is prevented or severely hampered.

"Management Plan" means a document that meets the requirements of AHERA for management plans for asbestos in schools.

"Management Planner" means a person who prepares a management plan for a school building subject to AHERA.

"Model Accreditation Plan (MAP)" means 40 CFR Part 763, Subpart E, Appendix C, Asbestos Model Accreditation Plan.

"NESHAP" means the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subpart M, the National Emission Standard for Asbestos.

"NESHAP Amount" means combined amounts in a project that total:

(a) 260 linear feet (80 meters) of pipe covered with RACM;

(b) 160 square feet (15 square meters) of RACM used to cover or coat any duct, boiler, tank, reactor, turbine, equipment, structure, structural member, or structural component; or

(c) 35 cubic feet (one cubic meter) of RACM removed from structural members or components where the length and area could not be measured previously.

"NESHAP-Sized Asbestos Project" means any asbestos project that involves at least a NESHAP amount of ACM.

"Regulated Asbestos-Containing Material (RACM)" means friable ACM, Category I nonfriable ACM that has become friable, Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

"Renovation" means the alteration in any way of one or more structural components, excluding demolition.

"Small-Scale, Short-Duration (SSSD) Asbestos Project" means an asbestos project that removes or disturbs less than 3 square feet or 3 linear feet of RACM in a facility or structure.

"Strip" means to take off ACM from any part of a structure or structural component.

"Structural Component" means any pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a structure, or any structural member of the structure.

"Structural Member" means any load-supporting member of a structure, such as beams and load-supporting walls or any non-load-supporting member, such as ceilings and non-load-supporting walls.

"Structure" means, for the purposes of R307-801, any institutional, commercial, residential, or industrial building, equipment, building component, installation, or other construction.

"TSCA Accreditation" means successful completion of training as an inspector, management planner, project designer, contractor-supervisor, or worker, as specified in the TSCA Title II.

"TSCA Title II" means 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, and 40 CFR Part 763, Subpart E - Asbestos-Containing Materials in Schools, including appendices, as in effect on July 1, 1999.

"Unrestrained Access" means without fences, closed doors, personnel, or any other method intended to restrict public entry.

"Waste Generator" means any owner or operator of an asbestos project covered by R307-801 whose act or process produces asbestos waste.

"Working Day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

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R307-801-6. Individual Certification.

(1) To obtain certification as a worker, supervisor, inspector, project designer, or management planner, each person shall first:

(a) Provide personal identifying information;

(b) Pay the appropriate fee;

(c) Fill out the appropriate form provided by the executive secretary;

(d) Provide certificates of initial and current training that demonstrate accreditation in the corresponding discipline. Any of the following TSCA accreditation courses is acceptable unless the executive secretary has determined that the course does not meet the requirements of TSCA accreditation training required by R307-801: courses approved by the executive secretary, approved in a state that has a Contractor Accreditation Program that meets the TSCA Title II Appendix C Model Plan, or approved by EPA under TSCA Title II.

(2) Duration and Renewal of Certification.

(a) Unless revoked or suspended, a certification shall remain in effect until the expiration date of the current certificate of TSCA accreditation for the specific discipline.

(b) To renew certification, the individual shall first:

(i) Submit a completed application for renewal on a form provided by the executive secretary; and

(ii) Submit a current certificate of TSCA accreditation for initial or refresher training in the appropriate discipline.

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R307-801-10. Renovation and Demolition: Asbestos Inspection Procedures.

Asbestos inspectors shall use the following procedures when conducting an asbestos inspection of facilities to be demolished or renovated.

(1) Determine the scope of demolition or renovation activities.

(2) Inspect the affected facility or part of the facility where the demolition or renovation operation will occur.

(3) Identify all accessible suspect ACM building materials in the affected facility or part of the facility where the demolition or renovation operation will occur.

(4) Follow [~~the~~]a sampling [~~procedures outlined in TSCA Part 763, SubPart E, or follow a~~]method approved by the executive secretary, to demonstrate that suspect ACM does not contain asbestos.

(5) Assume that unsampled suspect ACM contains asbestos and is ACM; and

(6) Complete an asbestos survey report containing all of the following information in a format approved by the executive secretary[~~the following order~~]:

(a) A brief description of the affected area;

(b) A list of all suspect materials identified in the affected area. For each suspect material provide the following information:

(i) The amount of material in linear feet, square feet, or cubic yards;

(ii) A clear description of the distribution of the material in the affected area;

(iii) A statement of whether the material was assumed to contain asbestos, sampled and shown to contain asbestos, or sampled and demonstrated to not contain asbestos; and

(iv) A determination of whether the material is RACM or may become RACM when subjected to the proposed renovation or demolition activities.

(c) A list of samples collected from suspect materials in the affected area. For each sample provide the following information:

(i) Which suspect material, in the above list, the sample represents;

(ii) A clear description of the original location of the sample;

(iii) The types of analyses performed on the sample;

(iv) The amounts of each type of asbestos in the sample as indicated by the analytical results.

(d) A list of potential locations of suspect materials that were not accessible to inspection that may be part of the affected area.

(7) Floor plans or architectural drawings and similar representations may be used to aid in conveying the location of suspect materials or samples, but if so, they must be appended to the asbestos survey report.

R307-801-11. Renovation and Demolition: Notification and Asbestos Removal Requirements.

(1) Demolitions.

(a) If the amount of RACM in the structure is less than the SSSD amount, the operator shall submit a notification of demolition at least 10 working days before the start of demolition, and remove the RACM before commencing demolition.

(b) If the amount of RACM in the structure is greater than or equal to the SSSD amount but less than the NESHAP amount, the operator shall submit an asbestos notification at least 10 working days before the start of demolition and at least one working day before commencing removal, and shall remove the RACM according to the work practice provisions of R307-801 before demolition proceeds.

(c) If the amount of RACM in the structure is greater than or equal to the NESHAP amount, the operator shall submit an asbestos notification at least 10 working days before the asbestos removal begins. Demolition shall not proceed until after all RACM has been removed from the structure.

(d) If any structure is to be demolished by intentional burning, the operator, in addition to the notification specified in (a), (b) or (c), shall ensure that all ACM, including non friable ACM and RACM, is removed from the structure before burning.

(e) If the structure has been ordered to be demolished because it is found by a local jurisdiction to be structurally unsound and in danger of imminent collapse, the operator shall submit a notification of demolition as soon as possible, but no later than the next working day after demolition begins.

(2) Renovations.

(a) If the amount of RACM that would be disturbed or rendered inaccessible by renovation activities is less than the SSSD amount, the operator shall remove the RACM before commencing the renovation.

(b) If the amount of RACM that would be disturbed or rendered inaccessible by renovation activities is greater than the SSSD amount but smaller than NESHAP amount, the operator shall submit an asbestos notification at least one working day before asbestos removal begins, unless the removal was properly included in an annual asbestos notification submitted pursuant to (d) below, and shall remove RACM according to general work practices of R307-801 before performing renovation activities.

(c) If the amount of RACM that would be disturbed or rendered inaccessible by renovation activities is greater than or equal to the NESHAP amount, then the operator shall submit an asbestos notification as described below, and shall ensure that RACM that would be disturbed by renovation activities and non-friable ACM that may be rendered friable or regulated by renovation activities is removed according to the work practice and disposal requirements of R307-801. The operator shall not commence renovation activities until the asbestos removal process is completed.

(i) If the renovation is an emergency renovation operation, then the notification shall be submitted as soon as possible before and no later than the next business day after asbestos removal begins.

(ii) If the renovation is not an emergency renovation operation, then the notification shall be submitted at least ten working days before asbestos removal begins.

(d) The operator [~~may~~]shall submit an annual notification according to the requirements of 40 CFR 61.145(a)(4)(iii) no later than 10 working days before the first day of January of the year during which the work is to be performed in the following circumstances:

(i) The asbestos projects are unplanned operation and maintenance activities;

(ii) The asbestos projects are less than NESHAP-sized; and

(iii) The total amount of asbestos to be disturbed in a single facility during these asbestos projects is expected to exceed the NESHAP amount in a calendar year.

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R307-801-13. Renovation and Demolition: Requirements for Certified Workers.

(1) A supervisor who has been certified under R307-801 shall be on site during [~~all phases of~~]asbestos project setup, asbestos removal, stripping, cleaning and dismantling of the project, [~~or~~]and other handling of uncontainerized RACM.

(2) All persons handling greater than the SSSD amount of uncontainerized RACM shall be workers or supervisors certified under R307-801.

R307-801-14. Renovation and Demolition: Asbestos Work Practices.

(1) Persons performing any asbestos project shall follow the work practices in this subsection. Where the work practices in R307-801-14(1) and (2) are required, wrap and cut, open top catch bags, glove bags, and mini-enclosures may be used in combination with those work practices.

(a) Adequately wet RACM with amended water before exposing or disturbing it.

(b) Install barriers and post warning signs to prevent access to the work area. Warning signs shall conform to the specifications of 29 CFR 1926.1101(k)(7).

(c) Keep RACM adequately wet until it is containerized and disposed of in accordance with R307-801-15.

(d) Ensure that RACM that is stripped or removed is [~~immediately~~]promptly containerized[~~; avoid dropping RACM to the ground.~~

~~(e) Remove any RACM debris that falls to the ground promptly; ensure that all RACM is cleared from the floor at the end of each shift~~].

([~~f~~]e) Prevent visible particulate matter and uncontainerized asbestos-containing debris and waste originating in the asbestos work area from being released outside of the negative pressure enclosure or designated work area.

([~~g~~]f) Filter all waste water to 5 microns before discharging it to a sanitary sewer.

([~~h~~]g) Decontaminate the outside of all persons, equipment and waste bags before they leave the work area.

([~~i~~]h) Apply encapsulant to RACM that is exposed but not removed during stripping.

([~~j~~]i) Clean the work area, drop cloths, and other interior surfaces of the enclosure using HEPA vacuum and wet cleaning techniques until there is no visible residue before dismantling barriers.

([~~k~~]j) After cleaning and before dismantling enclosure barriers, mist the space and surfaces inside of the enclosure with a penetrating encapsulant designed for that purpose.

([~~l~~]k) Handle and dispose of friable ACM or RACM according to the disposal provisions of R307-801.

(2) All operators of NESHAP-sized asbestos projects shall install a negative pressure enclosure using the following work practices.

(a) All openings to the work area shall be covered with at least one layer of 6 mil or thicker polyethylene sheeting sealed with duct tape or an equivalent barrier to air flow.

(b) If RACM debris is present, the site shall be prepared by removing the debris using the work practice and disposal requirements of R307-801. If the total amount of loose visible RACM debris throughout the entire work area is less than the SSSD amount, then site preparation may begin after notification and before the end of the ten-day waiting period.

(c) All persons shall enter and leave the negative pressure enclosure or work area only through the decontamination unit.

(d) All persons subject to R307-801 shall shower before entering the clean-room of the decontamination unit when exiting the enclosure.

(e) No materials may be removed from the enclosure or brought into the enclosure through any opening other than a waste load-out or a decontamination unit.

(f) The negative pressure enclosure of the work area shall be constructed with the following specifications:

(i) Apply at least two layers of 6 mil or thicker polyethylene sheeting or its equivalent to the floor extending at least one foot up every wall and seal in place with duct tape or its equivalent;

(ii) Apply at least 2 layers of 4 mil or thicker polyethylene sheeting or its equivalent to the walls without locating seams in wall or floor corners;

(iii) Seal all seams with duct tape or its equivalent; and

(iv) Maintain the integrity of all enclosure barriers.

(v) Where a wall or floor will be removed as part of the asbestos project, polyethylene sheeting need not be applied to that component.

(g) View ports shall be installed in the enclosure or barriers where feasible. View ports shall be:

(i) At least one foot tall and one foot wide;

(ii) Made of clear material that is impermeable to the passage of air, such as an acrylic sheet;

(iii) Positioned so as to maximize the view of the inside of the enclosure from a position outside the enclosure; and

(iv) Accessible to a person outside of the enclosure.

(h) A decontamination unit shall be constructed according to the following specifications:

(i) The unit shall be attached to the enclosure or work area;

(ii) The decontamination unit shall consist of at least 3 chambers as specified by 29 CFR 1926.1101(j)(1);

(iii) The clean room, which is the chamber that opens to the outside, shall be no less than 3 feet wide by 3 feet long;

(iv) The dirty room, which is the chamber that opens to the negative pressure enclosure or the designated work area, shall be no less than 3 feet wide by 3 feet long;

(v) The dirty room shall be provided with an accessible waste bag at any time that asbestos work is being done.

(i) A separate waste load-out following the specifications below may be attached to the enclosure for removal of decontaminated waste containers and decontaminated or wrapped tools from the enclosure.

(i) The waste load-out shall consist of at least one chamber constructed of 6 mil or thicker polyethylene walls and 6 mil or thicker polyethylene flaps or the equivalent on the outside and inside entrances;

(ii) The waste load-out chamber shall be at least 3 feet long, 3 feet high, and 3 feet wide; and

(iii) The waste load-out supplies shall be sufficient to decontaminate bags, and may include a water supply with filtered drain, clean rags and clean bags.

(j) Negative air pressure and flow shall be established and maintained within the enclosure by:

(i) Maintaining four air changes per hour in the enclosure;

(ii) Routing the exhaust from HEPA filtered ventilation units to the outside of the structure whenever possible;

(iii) Maintaining [~~at least~~]a minimum of 0.02 column inches of water pressure differential relative to outside [~~air~~]pressure; and

(iv) Maintaining a monitoring device to measure the negative pressure in the enclosure.

(3) In lieu of two layers of polyethylene on the walls and the floors as required by R307-801-(2)(f)(i) and (ii), the following work practices and controls may be used only under the circumstances described below:

(a) If an asbestos project is conducted in a crawl space or pipe chase and the available space is less that 6 feet high or is less than 3 feet wide, then the following may be used:

(i) Drop cloths extending at least 6 feet around all RACM to be removed, or extended to a wall and attached with duct tape or equivalent; and

(ii) Either glovebags, wrap and cut, or the open top catch bag method must be used. The open top catch bag method may be used only if the material to be removed is pre-formed RACM pipe insulation.

(b) Scattered ACM. If the RACM is scattered in small patches, such as isolated pipe fittings, the following procedures may be used.

(i) Glovebags, mini-enclosures as described in R307-801-14(5), or wrap and cut methods with drop cloths large enough to capture all RACM fragments that fall from the work area may be used.

(ii) If all asbestos disturbance is limited to the inside of negative pressure glovebags or mini-enclosure, then openings need not be sealed and negative pressure need not be maintained outside of the glovebags or mini-enclosure during the asbestos removal operation.

(iii) A remote decontamination unit may be used as described in R307-801-14(5)(d) only if an attached decontamination unit is not feasible.

(4) During outdoor asbestos projects, the work practices of R307-801-8 shall be followed, with the following modifications:

(a) Negative pressure need not be maintained if there is not an enclosure;

(b) Six mil polyethylene or equivalent drop cloth large enough to capture all RACM fragments that fall from the work area shall be used; and

(c) A remote decontamination unit as described in R307-801-14(5)(d) may be used.

(5) Special work practices.

(a) If the wrap and cut method is used:

(i) The component shall be cut at least 6 inches from any RACM on that component;

(ii) If asbestos will be removed from the component to accomodate cutting, the asbestos removal shall be done using a single glove bag for each cut, and no RACM shall be disturbed outside of a glove bag;

(iii) The wrapping shall be leak tight and shall consist of two layers of 6 mil polyethylene, each individually sealed with duct tape, and all RACM between the cuts shall be sealed inside wrap; and

(iv) The wrapping shall remain intact and leak-tight throughout the removal and disposal process.

(b) If the open top catch bag method is used:

(i) Asbestos waste bags that are leak tight and strong enough to hold contents securely shall be used;

(ii) The bag shall be placed underneath the stripping operation to minimize ACM falling onto the drop cloth;

(iii) All material stripped from the component shall be placed in the bag;

(iv) One worker shall hold the bag and another worker shall strip the ACM into the bag; and

(v) A drop cloth large enough to capture all RACM originating in the work area shall be used.

(c) If glove bags are used, they shall be negative pressure, and the procedures required by 29 CFR 1926.1101(g)(5) shall be followed.

(d) A remote decontamination unit may be used under the conditions set forth in R307-801-14(3)(b) or (4), or when approved by the executive secretary. The remote decontamination unit and procedures shall include:

(i) Outerwear shall be HEPA vacuumed or removed, and additional clean protective outerwear shall be put on;

(ii) Either polyethylene sheeting shall be placed on the path to the decontamination unit and the path shall be blocked or taped off to prevent public access, or workers shall be conveyed to the remote decontamination unit in a vehicle that has been lined with two layers of 6 mil or thicker polyethelene sheeting or its equivalent; and

(iii) The polyethylene path or vehicle liner shall be removed at the end of the project, and disposed of as asbestos waste.

(e) Mini-enclosures, when used under approved conditions, shall conform to the requirements of 29 CFR 1926.1101(g)(5)(vi).

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KEY: air pollution, asbestos, asbestos hazard emergency response*, schools
2000 19-2-104(1)(d)
Notice of Continuation June 2, 1997 19-2-104(3)(r) through (t)
40 CFR Part 61, Subpart M
40 CFR Part 763, Subpart E

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End of the Notices of Changes in 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).

Agriculture and Food, Animal Industry
R58-17
Aquaculture and Aquatic Animal Health

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 22931
FILED: 06/15/2000, 14:14
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 4-37-101 and 4-37-503, and Subsection 4-2-2(j) authorize the Department of Agriculture and Food to establish rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes a program for the registration and fish health monitoring of aquaculture facilities.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kent Hauck at the above address, by phone at (801) 538-7025, by FAX at (801) 538-7126, or Internet E-mail at agmain.khauck@state.ut.us.

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 06/15/2000

Human Services, Recovery Services
R527-394
Posting Bond or Security

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 22916
FILED: 06/02/2000, 10:35
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 62A-11-321(1) of the Utah Code requires the Office of Recovery Services to establish rules for determining when it is appropriate to seek a court order requiring an obligor (a person who owes support) to post a bond or provide other security for the payment of a support debt. The federal regulation at 45 CFR 303.104(c) requires each state to develop guidelines available to the public for determining when it is not appropriate to require an obligor to post security, bond, or some other guarantee of payment of overdue support. The criteria listed in Section R527-394-1 meet these requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because state law and federal regulations require it, and to ensure that legal action to require an obligor to post bond or other security is only taken when circumstances clearly warrant it.

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

Human Services
Recovery Services
Fourteenth 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 Internet E-mail at hsadmin.hsorsslc.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 06/02/2000

Insurance, Administration
R590-172
Notice to Uninsurable Applicants for Health Insurance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 22941
FILED: 06/15/2000, 17:06
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-29-116 allows the commissioner to make rules governing notice of availability which is to be given by insurers to applicants whom they have turned down for coverage due to uninsurability. The notice tells the applicant about the Health Insurance Pool and how to contact them. The rule gives specific wording to be used in the notice so that the individual will know what qualifies an individual for coverage with the pool and how to contact them by phone or letter.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments for or against this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Because there are people who are being turned down daily because of a health condition it is important that they know that there is coverage available to them in the Health Insurance Pool. This notice may very well be the only way they will know about the existence of the pool since it is not advertised in the media.

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 Internet E-mail at idmain.jwhitby@state.ut.us.

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 06/15/2000

End fo the Five-Year Revew and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services
Purchasing and General Services
No. 22678 (AMD): R33-3. Source Selection and Contract Formation.
Published: March 15, 2000
Effective: June 15, 2000

No. 22679 (AMD): R33-5. Construction and Architect-Engineer Selection.
Published: March 15, 2000
Effective: June 15, 2000

Commerce
Occupational and Professional Licensing
No. 22801 (AMD): R156-63. Security Personnel Licensing Act Rules.
Published: May 15, 2000
Effective: June 15, 2000

No. 22792 (AMD): R156-71-202. Naturopathic Physician Formulary.
Published: May 15, 2000
Effective: June 15, 2000

Environmental Quality
Drinking Water
No. 22732 (AMD): R309-113 (Changed to R309-600). Drinking Water Source Protection.
Published: May 1, 2000
Effective: June 12, 2000

No. 22709 (AMD): R309-114 (Changed to R309-710). Drinking Water Source Protection Funding.
Published: April 15, 2000
Effective: June 12, 2000

No. 22704 (NEW): R309-605. Source Protection: Drinking Water Source Protection for Surface Water Sources.
Published: April 1, 2000
Effective: June 12, 2000

Water Quality
No. 22699 (AMD): R317-1-4. Utilization and Isolation of Domestic Wastewater Treatment Works Effluent.
Published: March 15, 2000
Effective: June 13, 2000

Fair Corporation (Utah State)
Administration
No. 22647 (CPR): R325-2-2. Selection of Exhibitors.
Published: April 15, 2000
Effective: June 5, 2000

Insurance
Administration
No. 22760 (AMD): R590-140. Reference Filings of Rate Service Organization Prospective Loss Costs.
Published: May 1, 2000
Effective: June 8, 2000

No. 22748 (AMD): R590-182. Risk Based Capitol Instructions.
Published: May 1, 2000
Effective: June 8, 2000

No. 22749 (AMD): R590-196. Bail Bond Surety Fee Standards, Collateral Standards and Disclosure Form.
Published: May 1, 2000
Effective: June 8, 2000

Judicial Conduct Commission
Administration
No. 22788 (AMD): R595-1-6. Notice After Finding of Reasonable Cause.
Published: May 15, 2000
Effective: June 15, 2000

No. 22789 (AMD): R595-1-9. Informal Resolution of Complaints.
Published: May 15, 2000
Effective: June 15, 2000

Labor Commission
Safety
No. 22782 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.
Published: May 1, 2000
Effective: June 2, 2000

Natural Resources
Wildlife Resources
No. 22783 (AMD): R657-27. License Agent Procedures.
Published: May 1, 2000
Effective: June 8, 2000

Regents (Board of)
Administration
No. 22816 (AMD): R765-605. Utah Centennial Opportunity Program for Education.
Published: May 15, 2000
Effective: June 15, 2000

End of the Notices of 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 June 15, 2000, the effective dates of which are no later than July 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
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*

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
Facilities Construction and Management					
R23-2	Procurement of Architectural and Engineering Services	22821	5YR	05/04/2000	2000-11/101
Fleet Operations					
R27-1 (Changed to R27-10)	Identification Mark for State Motor Vehicles	22728	AMD	06/01/2000	2000-9/2
R27-2	Fleet Operations Adjudicative Proceedings	22807	NSC	05/23/2000	Not Printed
Fleet Operations, Surplus Property					
R28-1	State Surplus Property Disposal	22729	AMD	06/01/2000	2000-9/3
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	22809	NSC	05/23/2000	Not Printed
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R58-17	Aquaculture and Aquatic Animal Health	22931	5YR	06/15/2000	2000-13/73
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R68-2	Utah Commercial Feed Act Governing Feed	22753	NSC	05/01/2000	Not Printed
R68-8-7	Labeling of Agricultural Seed Varieties	22646	AMD	05/30/2000	2000-5/4
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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
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R81-1-7	Disciplinary Hearings	22639	AMD	03/27/2000	2000-4/4
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R131-1	Procurement of Architectural and Engineering Services	22572	NEW	03/13/2000	2000-2/5
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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

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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
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R156-55b	Electricians Licensing Rules	22740	AMD	06/01/2000	2000-9/20
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R156-56	Utah Uniform Building Standard Act Rules	22398	CPR	02/15/2000	2000-2/21
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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
R156-63	Security Personnel Licensing Act Rules	22801	AMD	06/15/2000	2000-10/24
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
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R277-462	Comprehensive Guidance Program	22669	AMD	04/03/2000	2000-5/6
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R277-473	Testing Procedures	22717	NEW	05/16/2000	2000-8/3
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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
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R307-110-19	Section XI, Other Control Measures for Mobile Sources	22660	NSC	02/25/2000	Not Printed
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R307-121-2	Amount of Credit	22686	NSC	03/20/2000	Not Printed
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R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	22704	NEW	06/12/2000	2000-7/8
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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
R315-2-9	Characteristics of Hazardous Waste	22794	NSC	05/25/2000	Not Printed
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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
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R317-506	Discharge to Absorption System	22496	REP	02/16/2000	99-23/63
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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
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R590-140	Reference Filings of Rate Service Organization Prospective Loss Costs	22760	AMD	06/08/2000	2000-9/172
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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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R623-1	Lieutenant Governor's Procedure for Regulation of Lobbyist Activities	22612	AMD	03/03/2000	2000-3/89
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R645-301-500	Engineering	22214	CPR	02/01/2000	2000-1/64
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R652-70-2400	Recreational Use of Navigable Rivers	22428	AMD	02/29/2000	99-21/47
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R657-5	Taking Big Game	22519	CPR	02/01/2000	2000-1/66
R657-6	Taking Upland Game	22520	AMD	01/18/2000	99-24/35
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R710-7	Concerns Servicing Automatic Fire Suppression Systems	22560	AMD	02/01/2000	2000-1/54
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R994-308-106	Interest Earned on Cash Deposits	22827	NSC	05/25/2000	Not Printed
R994-315-105	Waiver of Penalty for Failure to Report	22614	AMD	04/21/2000	2000-4/66
R994-403	Claim for Benefits	22828	NSC	05/25/2000	Not Printed
R994-404	Wage Freeze Following Workers' Compensation	22829	NSC	05/25/2000	Not Printed

RULES INDEX - BY KEYWORD (SUBJECT)

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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	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
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	22519	R657-5	CPR	02/01/2000	2000-1/66
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	22881	R657-15	5YR	05/22/2000	2000-12/59
	22651	R657-46	AMD	04/04/2000	2000-5/51
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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
	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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Commerce, Occupational and Professional Licensing	22737	R156-65	NSC	05/01/2000	Not Printed
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	22692	R527-10	5YR	03/01/2000	2000-6/48
	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
	22556	R527-200	AMD	02/01/2000	2000-1/37
	22754	R527-200	NSC	05/01/2000	Not Printed
	22488	R527-475	AMD	01/10/2000	99-23/87
	22708	R527-475	5YR	03/24/2000	2000-8/34
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	22815	R512-41	EMR	05/01/2000	2000-10/58
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	22214	R645-301-500	AMD	see CPR	99-16/32
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	22907	R645-400	5YR	06/01/2000	2000-12/58
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	22771	R162-107	AMD	06/01/2000	2000-9/27
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	22671	R686-100	AMD	04/03/2000	2000-5/53
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	22740	R156-55b	AMD	06/01/2000	2000-9/20
	22398	R156-56	AMD	see CPR	99-20/15
	22398	R156-56	CPR	02/15/2000	2000-2/21
	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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	22378	R414-303	CPR	01/26/2000	99-24/52

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	22674	R606-2-2	NSC	03/202000	Not Printed
	22675	R606-3-2	NSC	03/20/2000	Not Printed
	22676	R606-5-2	NSC	03/20/2000	Not Printed
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	22645	R156-1-308a	AMD	03/20/2000	2000-4/12
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	22659	R510-302	AMD	05/16/2000	2000-5/43
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	22709	R309-114 (Changed to R309-710)	AMD	06/12/2000	2000-8/9
	22730	R309-302	5YR	04/10/2000	2000-9/184
	22604	R309-405	NEW	04/17/2000	2000-3/25
	22704	R309-605	NEW	06/12/2000	2000-7/8
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Commerce, Real Estate	22768	R162-103	AMD	06/01/2000	2000-9/21
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Education, Administration	22609	R277-501	NEW	03/03/2000	2000-3/8
	22718	R277-501	AMD	05/16/2000	2000-8/4
EDUCATIONAL TESTING					
Education, Administration	22717	R277-473	NEW	05/16/2000	2000-8/3
	22719	R277-702	AMD	05/16/2000	2000-8/8
EDUCATION FACILITIES					
Education, Administration	22563	R277-404	REP	02/01/2000	2000-1/8
EDUCATOR LICENSE RENEWAL					
Education, Administration	22609	R277-501	NEW	03/03/2000	2000-3/8
	22718	R277-501	AMD	05/16/2000	2000-8/4
EDUCATOR LICENSURE					
Education, Administration	22528	R277-507	AMD	02/01/2000	2000-1/11
EDUCATORS					
Professional Practices Advisory Commission, Administration	22505	R686-103	AMD	01/05/2000	99-23/105
EFFLUENT STANDARDS					
Environmental Quality, Water Quality	22699	R317-1-4	AMD	06/13/2000	2000-6/16
ELDERLY					
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
ELECTRICIANS					
Commerce, Occupational and Professional Licensing	22740	R156-55b	AMD	06/01/2000	2000-9/20
ELIGIBILITY					
Human Services, Child and Family Services	22814	R512-1	EMR	05/01/2000	2000-10/56
EMERGENCY MEDICAL SERVICES					
Health, Health Systems Improvement, Emergency Medical Services	22534	R426-6	AMD	04/30/2000	2000-1/31
EMISSION FEE					
Environmental Quality, Air Quality	22606	R307-415-5a	AMD	04/06/2000	2000-3/23
EMPLOYMENT					
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
	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
	22824	R994-202-103	NSC	05/25/2000	Not Printed

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Labor Commission, Antidiscrimination and Labor, Antidiscrimination	22676	R606-5-2	NSC	03/20/2000	Not Printed
EMPLOYMENT TESTS					
Workforce Services, Workforce Information and Payment Services	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
	22825	R994-204-303	NSC	05/25/2000	Not Printed
ENDANGERED SPECIES					
Natural Resources; Forestry, Fire and State Lands	22835	R652-120	5YR	05/09/2000	2000-11/102
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Human Services, Recovery Services	22755	R527-800	NSC	05/01/2000	Not Printed
ENGINEERS					
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
ENVIRONMENTAL HEALTH					
Environmental Quality, Drinking Water	22732	R309-113 (Changed to R309-600)	AMD	06/12/2000	2000-9/30
	22709	R309-114 (Changed to R309-710)	AMD	06/12/2000	2000-8/9
	22704	R309-605	NEW	06/12/2000	2000-7/8
ENVIRONMENTAL PROTECTION					
Environmental Quality, Air Quality	22688	R307-115	NSC	03/20/2000	Not Printed
	22606	R307-415-5a	AMD	04/06/2000	2000-3/23
Environmental Quality, Drinking Water	22730	R309-302	5YR	04/10/2000	2000-9/185
	22604	R309-405	NEW	04/17/2000	2000-3/25
ETHICS					
Natural Resources, Wildlife Resources	22521	R657-38	AMD	01/18/2000	99-24/38
	22649	R657-38	AMD	04/04/2000	2000-5/46
EXEMPTIONS					
Environmental Quality, Radiation Control	22598	R313-12	AMD	03/10/2000	2000-3/27
EXPERIENCE					
Commerce, Real Estate	22769	R162-104	AMD	06/01/2000	2000-9/23
EXTINGUISHERS					
Public Safety, Fire Marshal	22557	R710-1	AMD	02/01/2000	2000-1/44
FACILITIES USE					
Capitol Preservation Board (State), Administration	22568	R131-2	NEW	03/13/2000	2000-1/4
FAIR HOUSING					
Labor Commission, Antidiscrimination and Labor, Fair Housing	22591	R608-1-3	NSC	01/25/2000	Not Printed

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Fair Corporation (Utah State), Administration	22647	R315-2-2	AMD	See CPR	2000-5/31
	22647	R315-2-2	CPR	06/05/2000	2000-8/32
FEED CONTAMINATION					
Agriculture and Food, Plant Industry	22753	R68-2	NSC	05/01/2000	Not Printed
FEES					
Natural Resources, Parks and Recreation	22474	R651-611	AMD	01/03/2000	99-22/17
	22706	R651-611-4	AMD	05/16/2000	2000-8/18
FILING DEADLINES					
Workforce Services, Workforce Information and Payment Services	22828	R994-403	NSC	05/25/2000	Not Printed
FINANCIAL AID					
Regents (Board of), Administration	22816	R765-605	AMD	06/15/2000	2000-10/39
FINANCIAL ASSISTANCE					
Environmental Quality, Drinking Water	22711	R309-351 (Changed to R309-351)	AMD	05/16/2000	2000-8/11
FINANCIAL DISCLOSURE					
Health, Health Care Financing, Coverage and Reimbursement Policy	22703	R414-304	EMR	03/09/2000	2000-7/19
FINANCIAL INFORMATION					
Human Services, Recovery Services	22692	R527-10	5YR	03/01/2000	2000-6/48
FINANCIAL INSTITUTIONS					
Financial Institutions, Administration	22830	R331-9	NSC	05/25/2000	Not Printed
FIREPLACE					
Environmental Quality, Air Quality	22687	R307-122-2	NSC	03/20/2000	Not Printed
FIRE PREVENTION					
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
FIREWORKS					
Public Safety, Fire Marshal	22558	R710-2	AMD	02/01/2000	2000-1/50
FISH					
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
FISHING					
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
FOOD INSPECTION					
Agriculture and Food, Regulatory Services	22657	R70-310	5YR	02/10/2000	2000-5/64
	22658	R70-310	AMD	04/03/2000	2000-5/5
	22707	R70-310-2	NSC	05/01/2000	Not Printed

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	22596	R70-630	5YR	01/11/2000	2000-3/91
	22597	R70-630	AMD	03/03/2000	2000-3/5
FOOD STAMPS					
Workforce Services, Employment Development	22834	R986-418-812	NSC	05/25/2000	Not Printed
FOSTER CARE					
Human Services, Administration, Administrative Services, Licensing	22629	R501-12	AMD	03/17/2000	2000-4/38
GAME LAWS					
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
	22712	R657-19	5YR	03/30/2000	2000-8/34
	22733	R657-19	NSC	05/01/2000	Not Printed
	22713	R657-19	AMD	05/17/2000	2000-8/20
	22714	R657-33	AMD	05/17/2000	2000-8/23
GENERAL CONFORMITY					
Environmental Quality, Air Quality	22688	R307-115	NSC	03/20/2000	Not Printed
GOOD CAUSE					
Human Services, Recovery Services	22487	R527-24	REP	01/10/2000	99-23/86
GOVERNMENT DOCUMENTS					
Administrative Services, Records Committee	22787	R35-2	NSC	05/23/2000	Not Printed
GOVERNMENT HEARINGS					
Commerce, Administration	22761	R151-46b	AMD	06/01/2000	2000-9/4
Financial Institutions, Administration	22830	R331-9	NSC	05/25/2000	Not Printed
Workforce Services, Employment Development	22834	R986-418-812	NSC	05/25/2000	Not Printed
GOVERNMENT PURCHASING					
Administrative Services, Purchasing and General Services	22678	R33-3	AMD	06/15/2000	2000-6/3
	22679	R33-5	AMD	06/15/2000	2000-6/10
School and Institutional Trust Lands, Administration	22618	R850-11	R&R	03/17/2000	2000-4/53
GRANTS					
Health, Health Systems Improvement, Primary Care and Rural Health	22622	R434-20	AMD	03/24/2000	2000-4/31
HAZARDOUS WASTE					
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
	22794	R315-2-9	NSC	05/25/2000	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

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	22543	R315-8	NSC	01/25/2000	Not Printed
	22544	R315-13	NSC	01/25/2000	Not Printed
	22545	R315-16	NSC	01/25/2000	Not Printed
	22546	R315-50	NSC	01/25/2000	Not Printed
	22547	R315-101	NSC	01/25/2000	Not Printed
HEALTH FACILITIES					
Health, Health Systems Improvement, Health Facility Licensure	22630	R432-7	5YR	02/01/2000	2000-4/70
	22631	R432-8	5YR	02/01/2000	2000-4/70
	22632	R432-9	5YR	02/01/2000	2000-4/71
	22633	R432-10	5YR	02/01/2000	2000-4/72
	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
	22637	R432-14	5YR	02/01/2000	2000-4/74
	22638	R432-30	5YR	02/01/2000	2000-4/74
	22655	R432-270	5YR	02/09/2000	2000-5/64
	22743	R432-270	NSC	05/01/2000	Not Printed
HEALTH INSURANCE					
Human Services, Recovery Services	22692	R527-10	5YR	03/01/2000	2000-6/48
HEARINGS					
Labor Commission, Adjudication	22764	R602-2-1	NSC	05/01/2000	Not Printed
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
HIGHER EDUCATION					
Regents (Board of), Administration	22052	R765-604	NEW	see CPR	99-11/63
	22052	R765-604	CPR	02/04/2000	99-20/53
	22816	R765-605	AMD	06/15/2000	2000-10/39
	22822	R765-626	5YR	05/05/2000	2000-11/103
HIV					
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	22837	R388-802	NSC	05/25/2000	Not Printed
HOUSING					
Labor Commission, Antidiscrimination and Labor, Fair Housing	22591	R608-1-3	NSC	01/25/2000	Not Printed
HOUSING FINANCE					
Housing Finance Agency, Administration	22682	R460-1	5YR	02/23/2000	2000-6/46
	22683	R460-4	5YR	02/23/2000	2000-6/46
	22684	R460-6	5YR	02/23/2000	2000-6/47
	22685	R460-7	5YR	02/23/2000	2000-6/47
HUMAN SERVICES					
Human Services, Administration, Administrative Services, Licensing	22694	R501-3	REP	05/02/2000	2000-6/20
	22629	R501-12	AMD	03/17/2000	2000-4/38
	22661	R501-13	R&R	04/15/2000	2000-5/32

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	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
HUNTING					
Natural Resources, Wildlife Resources	22521	R657-38	AMD	01/18/2000	99-24/38
	22649	R657-38	AMD	04/04/2000	2000-5/46
INCOME					
Health, Health Care Financing, Coverage and Reimbursement Policy	22378	R414-303	AMD	see CPR	99-19/25
	22378	R414-303	CPR	01/26/2000	99-24/52
	22703	R414-304	EMR	03/09/2000	2000-7/19
INDEPENDENT CONTRACTOR					
Workforce Services, Workforce Information and Payment Services	22721	R994-204	5YR	04/04/2000	2000-9/187
	22825	R994-204-303	NSC	05/25/2000	Not Printed
INDUSTRIAL WASTE					
Environmental Quality, Water Quality	22699	R317-1-4	AMD	06/13/2000	2000-6/16
INFORMAL ADJUDICATIVE PROCEEDINGS					
Labor Commission, Industrial Accidents	22592	R612-8	5YR	01/03/2000	2000-3/91
INSPECTIONS					
Agriculture and Food, Plant Industry	22646	R68-8-7	AMD	05/30/2000	2000-5/4
Environmental Quality, Radiation Control	22598	R313-12	AMD	03/10/2000	2000-3/27
	22600	R313-16	AMD	03/10/2000	2000-3/56
INSURANCE					
Insurance, Administration	22759	R590-140	5YR	04/13/2000	2000-9/186
	22760	R590-140	AMD	06/08/2000	2000-9/172
	22641	R590-153	AMD	04/11/2000	2000-4/48
	22745	R590-153	NSC	05/23/2000	Not Printed
	22489	R590-170	AMD	see CPR	99-23/88
	22489	R590-170	CPR	03/07/2000	2000-2/25
	22941	R590-172	5YR	06/15/2000	2000-13/74
	22748	R590-182	AMD	06/08/2000	2000-9/174
	22417	R590-196	NEW	see CPR	99-20/28
	22417	R590-196	CPR	02/01/2000	99-24/53
	22749	R590-196	AMD	06/08/2000	2000-9/175
INSURANCE COMPANIES					
Insurance, Administration	22666	R590-128	5YR	02/15/2000	2000-5/66
	22506	R590-198	NEW	01/04/2000	99-23/90
	22595	R590-198	NSC	01/25/2000	Not Printed
INSURANCE LAW					
Insurance, Administration	22665	R590-88	5YR	02/15/2000	2000-5/66
	22667	R590-132	5YR	02/15/2000	2000-5/67
	22746	R590-164	5YR	04/11/2000	2000-9/187
	22747	R590-164	NSC	05/23/2000	Not Printed

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	22416	R590-197	NEW	01/25/2000	99-20/30
	22621	R590-197	NSC	02/25/2000	Not Printed
INVENTORIES					
Environmental Quality, Air Quality	22605	R307-150	AMD	04/06/2000	2000-3/21
IRRADIATORS					
Environmental Quality, Radiation Control	22603	R313-34	AMD	03/10/2000	2000-3/86
	22720	R313-34	5YR	04/03/2000	2000-9/186
JUDGES					
Judicial Conduct Commission, Administration	22788	R595-1-6	AMD	06/15/2000	2000-10/34
	22789	R595-1-9	AMD	06/15/2000	2000-10/34
JUDICIAL ETHICS					
Judicial Conduct Commission, Administration	22788	R595-1-6	AMD	06/15/2000	2000-10/34
	22789	R595-1-9	AMD	06/15/2000	2000-10/34
LABORATORIES					
Health, Epidemiology and Laboratory Services, Laboratory Improvement	22516	R444-14	AMD	03/01/2000	99-24/16
LAND SALE					
School and Institutional Trust Lands, Administration	22796	R850-140-100	NSC	05/01/2000	Not Printed
LICENSING					
Commerce, Occupational and Professional Licensing	22587	R156-1-205	AMD	02/15/2000	2000-2/8
	22645	R156-1-308a	AMD	03/20/2000	2000-4/12
	22318	R156-17a	AMD	see CPR	99-17/10
	22318	R156-17a	CPR	02/15/2000	2000-2/17
	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
	22663	R156-31b-304	NSC	02/24/2000	Not Printed
	22577	R156-31c-201	AMD	02/15/2000	2000-2/11
	22725	R156-38	5YR	04/06/2000	2000-9/183
	22740	R156-55b	AMD	06/01/2000	2000-9/20
	22398	R156-56	AMD	see CPR	99-20/15
	22398	R156-56	CPR	02/15/2000	2000-2/21
	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
	22482	R156-57	AMD	01/04/2000	99-23/13
	22701	R156-57-302a	AMD	05/02/2000	2000-7/6
	22677	R156-59	AMD	04/17/2000	2000-6/11
	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

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	22735	R156-61-302e	NSC	05/01/2000	Not Printed
	22801	R156-63	AMD	06/15/2000	2000-10/24
	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
	22792	R156-71-202	AMD	06/15/2000	2000-10/26
Human Services, Administration, Administrative Services, Licensing	22694	R501-3	REP	05/02/2000	2000-6/20
	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
Natural Resources, Water Rights	22744	R655-4	NSC	05/01/2000	Not Printed
Natural Resources, Wildlife Resources	22783	R657-27	AMD	06/08/2000	2000-9/17
Transportation, Operations, Aeronautics	22811	R914-2	NSC	05/23/2000	Not Printed
LIENS					
Commerce, Occupational and Professional Licensing	22725	R156-38	5YR	04/06/2000	2000-9/183
LIQUEFIED PETROLEUM GAS					
Public Safety, Fire Marshal	22559	R710-6	AMD	02/01/2000	2000-1/52
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Environmental Quality, Drinking Water	22711	R309-351 (Changed to R309-705)	AMD	05/16/2000	2000-8/11
LOBBYIST					
Lieutenant Governor, Elections	22590	R623-1	NSC	01/25/2000	Not Printed
	22612	R623-1	AMD	03/03/2000	2000-3/88
MANAGEMENT					
Natural Resources, Forestry, Fire and State Lands	22819	R652-40-300	NSC	05/25/2000	Not Printed
School and Institutional Trust Lands, Administration	22795	R850-40-300	NSC	05/01/2000	Not Printed
MATERIALS HANDLING					
School and Institutional Trust Lands, Administration	22664	R850-130-400	NSC	02/25/2000	Not Printed
MEDICAID					
Health, Health Care Financing, Coverage and Reimbursement Policy	22512	R414-1	AMD	01/26/2000	99-24/13
	22513	R414-61	AMD	see CPR	99-24/15
	22513	R414-61	CPR	03/30/2000	2000-4/69
Human Services, Recovery Services	22755	R527-800	NSC	05/01/2000	Not Printed
MENTAL HEALTH					
Commerce, Occupational and Professional Licensing	22726	R156-60c	5YR	04/06/2000	2000-9/183

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Public Safety, Driver License	22756	R708-36	NEW	06/01/2000	2000-9/180
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Administrative Services, Fleet Operations	22728	R27-1 (Changed to R27-10)	AMD	06/01/2000	2000-9/2
Environmental Quality, Air Quality	22686	R307-121-2	NSC	03/20/2000	Not Printed
	22724	R307-320	5YR	04/05/2000	2000-9/184
Public Safety, Driver License	22757	R708-20	NSC	05/01/2000	Not Printed
NATURAL RESOURCES					
Natural Resources, Forestry, Fire and State Lands	22819	R652-40-300	NSC	05/25/2000	Not Printed
School and Institutional Trust Lands, Administration	22795	R850-40-300	NSC	05/01/2000	Not Printed
NATUROPATHIC PHYSICIANS					
Commerce, Occupational and Professional Licensing	22507	R156-71	AMD	01/04/2000	99-23/14
	22700	R156-71-202	AMD	05/02/2000	2000-7/7
	22792	R156-71-202	AMD	06/15/2000	2000-10/26
NATUROPATHS					
Commerce, Occupational and Professional Licensing	22507	R156-71	AMD	01/04/2000	99-23/14
	22700	R156-71-202	AMD	05/02/2000	2000-7/7
	22792	R156-71-202	AMD	06/15/2000	2000-10/26
NEW HIRE REGISTRY					
Workforce Services, Workforce Information and Payment Services	22614	R994-315-105	AMD	04/21/2000	2000-4/66
NONATTAINMENT					
Environmental Quality, Air Quality	22607	R307-403-8	NSC	01/25/2000	Not Printed
NURSES					
Commerce, Occupational and Professional Licensing	22576	R156-31b-304	AMD	02/15/2000	2000-2/10
	22663	R156-31b-304	NSC	02/24/2000	Not Printed
	22577	R156-31c-201	AMD	02/15/2000	2000-2/11
OCCUPATIONAL LICENSING					
Commerce, Occupational and Professional Licensing	22587	R156-1-205	AMD	02/15/2000	2000-2/8
	22645	R156-1-308a	AMD	03/20/2000	2000-4/12
	22740	R156-55b	AMD	06/01/2000	2000-9/20
OFFSET					
Environmental Quality, Air Quality	22607	R307-403-8	NSC	01/25/2000	Not Printed
ONSITE WASTEWATER SYSTEMS					
Environmental Quality, Water Quality	22490	R317-4	NEW	02/16/2000	99-23/16
	22691	R317-4	NSC	03/20/2000	Not Printed
OPERATING PERMIT					
Environmental Quality, Air Quality	22606	R307-415-5a	AMD	04/06/2000	2000-3/23

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Human Services, Recovery Services	22556	R527-200	AMD	02/01/2000	2000-1/37
		R527-200	NSC	05/01/2000	Not Printed
OZONE					
Environmental Quality, Air Quality	22623	R307-110	NSC	02/25/2000	Not Printed
	22553	R307-110-19	AMD	02/10/2000	2000-1/14
	22660	R307-110-19	NSC	02/25/2000	Not Printed
PARKS					
Natural Resources, Parks and Recreation	22474	R651-611	AMD	01/03/2000	99-22/17
	22706	R651-611-4	AMD	05/16/2000	2000-8/18
PARTICULATE MATTER					
Environmental Quality, Air Quality	22623	R307-110	NSC	02/25/2000	Not Printed
	22553	R307-110-19	AMD	02/10/2000	2000-1/14
	22660	R307-110-19	NSC	02/25/2000	Not Printed
PASSENGER TRAMWAYS					
Transportation, Operations, Traffic and Safety	22617	R920-50	AMD	03/24/2000	2000-4/64
PENALTIES					
Labor Commission, Industrial Accidents	22592	R612-8	5YR	01/03/2000	2000-3/91
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Environmental Quality, Drinking Water	22604	R309-405	NEW	04/14/2000	2000-3/25
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Natural Resources; Forestry, Fire and State Lands	22428	R652-70-2400	AMD	02/29/2000	99-21/47
	22835	R652-120	5YR	05/09/2000	2000-11/102
School and Institutional Trust Lands, Administration	22664	R850-130-400	NSC	02/25/2000	Not Printed
Transportation, Motor Carrier, Ports of Entry	22531	R912-14	AMD	02/15/2000	2000-1/59
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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
PHARMACIES					
Commerce, Occupational and Professional Licensing	22318	R156-17a	AMD	see CPR	99-17/10
	22318	R156-17a	CPR	02/15/2000	2000-2/17
	22738	R156-17a-602	NSC	05/01/2000	Not Printed
PHARMACISTS					
Commerce, Occupational and Professional Licensing	22318	R156-17a	AMD	see CPR	99-17/10
	22318	R156-17a	CPR	02/15/2000	2000-2/17
	22738	R156-17a-602	NSC	05/01/2000	Not Printed

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Commerce, Occupational and Professional Licensing	22734	R156-24a-503	NSC	05/01/2000	Not Printed
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Capitol Preservation Board (State), Administration	22574	R131-7	NEW	03/13/2000	2000-2/7
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Public Safety, Driver License	22756	R708-36	NEW	06/01/2000	2000-9/180
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Human Services, Recovery Services	22555	R527-5	AMD	02/01/2000	2000-1/33
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Judicial Conduct Commission, Administration	22788	R595-1-6	AMD	06/15/2000	2000-10/34
	22789	R595-1-9	AMD	06/15/2000	2000-10/34
PROCUREMENT					
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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Education, Administration	22670	R277-514	AMD	04/03/2000	2000-5/8
PROFESSIONAL COUNSELORS					
Commerce, Occupational and Professional Licensing	22726	R156-60c	5YR	04/06/2000	2000-9/183
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PROFESSIONAL EMPLOYER ORGANIZATION					
Commerce, Occupational and Professional Licensing	22677	R156-59	AMD	04/17/2000	2000-6/11
	22786	R156-59	NSC	05/01/2000	Not Printed
PROPERTY CLAIMS					
Treasurer, Unclaimed Property	22799	R966-1	NSC	05/23/2000	Not Printed
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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
PSYCHOLOGISTS					
Commerce, Occupational and Professional Licensing	22588	R156-61	AMD	02/15/2000	2000-2/12
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Capitol Preservation Board (State), Administration	22568	R131-2	NEW	03/13/2000	2000-1/4
	22574	R131-7	NEW	03/13/2000	2000-2/7
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PUBLIC SCHOOLS					
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	22550	R746-401	NSC	01/25/2000	Not Printed
	22784	R746-405	NSC	05/01/2000	Not Printed
RABBITS					
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RADIATION					
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
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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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Environmental Quality, Radiation Control	22599	R313-15	AMD	03/10/2000	2000-3/34
	22601	R313-22	AMD	03/10/2000	2000-3/59
RADIOACTIVE WASTE DISPOSAL					
Environmental Quality, Radiation Control	22602	R313-25	AMD	03/10/2000	2000-3/77
RATES					
Workforce Services, Workforce Information and Payment Services	22826	R994-307-101	NSC	05/25/2000	Not Printed
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Education, Administration	22593	R277-472	NSC	01/25/2000	Not Printed
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School and Institutional Trust Lands, Administration	22796	R850-140-100	NSC	05/01/2000	Not Printed
REAL ESTATE APPRAISAL					
Commerce, Real Estate	22768	R162-103	AMD	06/01/2000	2000-9/21
	22769	R162-104	AMD	06/01/2000	2000-9/23
	22770	R162-105	AMD	06/01/2000	2000-9/25
	22626	R162-106	AMD	03/20/2000	2000-4/16
	22771	R162-107	AMD	06/01/2000	2000-9/27
REAL ESTATE BUSINESS					
Commerce, Real Estate	22514	R162-6	AMD	01/27/2000	99-24/10
	22624	R162-10	AMD	03/20/2000	2000-4/14
RECLAMATION					
Natural Resources; Oil, Gas and Mining; Coal	22906	R645-105	5YR	06/01/2000	2000-12/58
	22214	R645-301-500	AMD	see CPR	99-16/32
	22214	R645-301-500	CPR	02/01/2000	2000-1/64
	22906	R645-400	5YR	06/01/2000	2000-12/58
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Administrative Services, Records Committee	22787	R35-2	NSC	05/23/2000	Not Printed

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Workforce Services, Workforce Information and Payment Services	22828	R994-403	NSC	05/25/2000	Not Printed
REPORTS					
Environmental Quality, Air Quality	22605	R307-150	AMD	04/06/2000	2000-3/21
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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
RULEMAKING PROCEDURES					
School and Institutional Trust Lands, Administration	22594	R850-10	5YR	01/04/2000	2000-3/92
RULES AND PROCEDURES					
Fair Corporation (Utah State), Administration	22647	R325-2-2	AMD	See CPR	2000-5/31
	22647	R315-2-2	CPR	06/05/2000	2000-8/32
Natural Resources, Wildlife Resources	22783	R657-27	AMD	06/08/2000	2000-9/177
Public Service Commission, Administration	22550	R746-401	NSC	01/25/2000	Not Printed
	22784	R746-405	NSC	05/01/2000	Not Printed
SAFETY					
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
	22782	R616-2-3	AMD	06/02/2000	2000-9/176
SANCTIONS					
Judicial Conduct Commission, Administration	22788	R595-1-6	AMD	06/15/2000	2000-10/34
	22789	R595-1-9	AMD	06/15/2000	2000-10/34
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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
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Environmental Quality, Drinking Water	22711	R309-351 (Changed to R309-351)	AMD	05/16/2000	2000-8/11
SECONDARY EDUCATION					
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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	22643	R164-4	AMD	03/20/2000	2000-4/20
	22644	R164-14	AMD	03/20/2000	2000-4/29
	22866	R164-14	NSC	05/25/2000	Not Printed
Financial Institutions, Banks	22831	R333-10	NSC	05/25/2000	Not Printed
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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
	22864	R164-11	NSC	05/25/2000	Not Printed
	22865	R164-12	NSC	05/25/2000	Not Printed
	22644	R164-14	AMD	03/20/2000	2000-4/29
	22866	R164-14	NSC	05/25/2000	Not Printed
	22867	R164-26	NSC	05/25/2000	Not Printed
SECURITY GUARDS					
Commerce, Occupational and Professional Licensing	22735	R156-61-302e	NSC	05/01/2000	Not Printed
	22801	R156-63	AMD	06/15/2000	2000-10/24
	22736	R156-63-302a	NSC	05/01/2000	Not Printed
SEPTIC SYSTEMS					
Environmental Quality, Water Quality	22491	R317-501	REP	02/16/2000	99-23/45
SEPTIC TANKS					
Environmental Quality, Water Quality	22490	R317-4	NEW	02/16/2000	99-23/16
	22691	R317-4	NSC	03/20/2000	Not Printed
SETTLEMENT					
Labor Commission, Adjudication	22764	R602-2-1	NSC	05/01/2000	Not Printed
SHELTER CARE FACILITIES					
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
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Environmental Quality, Air Quality	22623	R307-110	NSC	02/25/2000	Not Printed
	22553	R307-110-19	AMD	02/10/2000	2000-1/14
	22660	R307-110-19	NSC	02/25/2000	Not Printed
SMALL GAME					
Natural Resources, Wildlife Resources	22882	R657-21	5YR	05/22/2000	2000-12/59
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Human Services, Child and Family Services	22814	R512-1	EMR	05/01/2000	2000-10/56
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Administrative Services, Fleet Operations, Surplus Property	22729	R28-1	AMD	06/01/2000	2000-9/3
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Administrative Services, Records Committee	22787	R35-2	NSC	05/23/2000	Not Printed
STOCKS					
Treasurer, Unclaimed Property	22799	R966-1	NSC	05/23/2000	Not Printed
STOVE					
Environmental Quality, Air Quality	22687	R307-122-2	NSC	03/20/2000	Not Printed
STUDENT COMPETENCY					
Education, Administration	22719	R277-702	AMD	05/16/2000	2000-8/8
STUDENT ELIGIBILITY					
Workforce Services, Workforce Information and Payment Services	22828	R994-403	NSC	05/25/2000	Not Printed
STUDENT LOANS					
Regents (Board of), Administration	22822	R765-626	5YR	05/05/2000	2000-11/103
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Human Services, Recovery Services	22820	R527-67	5YR	05/03/2000	2000-11/102
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Financial Institutions, Banks	22831	R333-10	NSC	05/25/2000	Not Printed
SURPLUS PROPERTY					
Administrative Services, Fleet Operations, Surplus Property	22809	R28-3	NSC	05/23/2000	Not Printed
SURVEYS					
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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School and Institutional Trust Lands, Administration	22795	R850-40-300	NSC	05/01/2000	Not Printed
SYSTEMS					
Public Safety, Fire Marshal	22560	R710-7	AMD	02/01/2000	2000-1/54
TARIFFS					
Public Service Commission, Administration	22784	R746-405	NSC	05/01/2000	Not Printed
TAXATION					
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
TAX EXEMPTIONS					
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	22687	R307-122-2	NSC	03/20/2000	Not Printed

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TEACHER CERTIFICATION					
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
TEACHER LICENSURE					
Education, Administration	22670	R277-514	AMD	04/03/2000	2000-5/8
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Public Service Commission, Administration	22530	R746-360-2	NSC	01/25/2000	Not Printed
TIME					
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
TIRES					
Transportation, Motor Carrier, Ports of Entry	22751	R912-76	NSC	05/01/2000	Not Printed
TRAINING					
Natural Resources Wildlife Resources	22651	R657-46	AMD	04/04/2000	2000-5/51
TRAINING PROGRAMS					
Workforce Services, Administration	22833	R982-601-105	NSC	05/25/2000	Not Printed
TRAMWAY PERMITS					
Transportation, Operations, Traffic and Safety	22617	R920-50	AMD	03/24/2000	2000-4/64
TRAMWAYS					
Transportation, Operations, Traffic and Safety	22617	R920-50	AMD	03/24/2000	2000-4/64
TRANSPORTATION SAFETY					
Transportation, Motor Carrier	22652	R909-1	AMD	06/01/2000	2000-5/62
Transportation, Operations, Traffic and Safety	22617	R920-50	AMD	03/24/2000	2000-4/64
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Environmental Quality, Air Quality	22724	R307-320	5YR	04/05/2000	2000-9/184
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Education, Administration	22610	R277-607	AMD	03/03/2000	2000-3/11
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Transportation, Motor Carrier	22652	R909-1	AMD	06/01/2000	2000-5/62
Transportation, Motor Carrier, Ports of Entry	22531	R912-14	AMD	02/15/2000	2000-1/59
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Workforce Services, Administration	22833	R982-601-105	NSC	05/25/2000	Not Printed
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Workforce Services, Workforce Information and Payment Services	22823	R994-102	NSC	05/25/2000	Not Printed
	22548	R994-202-103	AMD	02/02/2000	2000-1/60
	22824	R994-202-103	NSC	05/25/2000	Not Printed

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	22825	R994-204-303	NSC	05/25/2000	Not Printed
	22722	R994-205	5YR	04/04/2000	2000-9/188
	22723	R994-206	5YR	04/04/2000	2000-9/188
	22826	R994-307-101	NSC	05/25/2000	Not Printed
	22827	R994-308-106	NSC	05/25/2000	Not Printed
	22828	R994-403	NSC	05/25/2000	Not Printed
	22829	R994-404	NSC	05/25/2000	Not Printed
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Labor Commission, Industrial Accidents	22592	R612-8	5YR	01/03/2000	2000-3/91
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Public Safety, Driver License	22908	R708-32	5YR	06/01/2000	2000-12/60
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Public Service Commission, Administration	22784	R746-405	NSC	05/01/2000	Not Printed
WASTE DISPOSAL					
Environmental Quality, Radiation Control	22599	R313-15	AMD	03/10/2000	2000-3/34
Environmental Quality, Water Quality	22699	R317-1-4	AMD	06/13/2000	2000-6/16
WASTE WATER					
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
	22496	R317-506	REP	02/16/2000	99-23/63
	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
	22503	R317-513	REP	02/16/2000	99-23/84
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Environmental Quality, Water Quality	22699	R317-1-4	AMD	06/13/2000	2000-6/16
	22566	R317-2	AMD	03/17/2000	2000-1/15
WATER QUALITY STANDARDS					
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	22754	R527-200	NSC	05/01/2000	Not Printed
	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
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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
	22881	R657-15	5YR	05/22/2000	2000-12/59
	22712	R657-19	5YR	03/30/2000	2000-8/34
	22733	R657-19	NSC	05/01/2000	Not Printed
	22713	R657-19	AMD	05/17/2000	2000-8/20
	22882	R657-21	5YR	05/22/2000	2000-12/59
	22783	R657-27	AMD	06/08/2000	2000-9/177
	22714	R657-33	AMD	05/17/2000	2000-8/23
	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
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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
	22882	R657-21	5YR	05/22/2000	2000-12/59
	22783	R657-27	AMD	06/08/2000	2000-9/177
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Natural Resources, Wildlife Resources	22881	R657-15	5YR	05/22/2000	2000-12/59
WILDLIFE PERMITS					
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
WORKER'S COMPENSATION					
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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