

UTAH STATE BULLETIN

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

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

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SPECIAL NOTICES

DEPARTMENT OF HEALTH HEALTH CARE FINANCING

PUBLIC HEARING CONCERNING THE EXPANSION OF MANAGED CARE PRODUCTS TO SERVE MEDICAID CLIENTS IN IRON COUNTY

The Division of Health Care Financing, the State Medicaid Agency, will hold a public hearing concerning the expansion of managed care products such as HMOs to serve Medicaid clients in Iron County. The hearing will be at the Cedar City Chamber of Commerce, 581 North Main Street, Cedar City, UT, on Thursday January 4, 2001, from 4:00 - 6:00 p.m.

Questions regarding the hearing can be directed to: Ed Furia, Director, Medicaid Bureau of Managed Health Care at: phone: (801) 538-6358.

DEPARTMENT OF AGRICULTURE AND FOOD UTAH SOIL CONSERVATION COMMISSION

PUBLIC NOTICE 2001 MEETING SCHEDULE

Public Notice is hereby given of the 2001 calendar year meeting schedule for the Utah Soil Conservation Commission, hereafter called "Commission," a public agency created pursuant to Title 4, Chapter 18, Utah Code. This Commission is a policy making body helping to bring about sensible development and wise conservation of Utah's soil and water resource on private lands by: assisting Utah's 38 local soil conservation districts to fulfill their purposes; administering the Agriculture Resource Development Loan program; and, by facilitating the coordination of state and federal conservation partnership government agencies and groups who may influence these programs.

Six regular meetings for 2001 are planned as follows:

1. January 17 (Wednesday) at 1:00 - 4:00 p.m. in Salt Lake City
2. March 5 (Monday) at 2:00 - 5:00 p.m. in St George*
3. May 17 (Thursday) at 1:00 - 4:00 p.m. in Logan*
4. July 18 (Wednesday) at 1:00 - 4:00 p.m. in Salt Lake City
5. September 24 (Monday) at 2:00 - 5:00 p.m. in St George*
6. November 7 (Wednesday) at 2:00 - 5:00 p.m. in Ogden*

* The place for meetings out of Salt Lake City will be determined by the Commission staff and a notice will be published two weeks prior.

Meetings are held either in the Main Conference Room of the Utah Department of Agriculture and Food (UDAF), 350 North Redwood Road, Salt Lake City, or at such other place as the Commission shall designate prior to any such meeting. Additionally, meetings for the briefing of members of the Commission may be held at such place and location as the Commission shall designate prior to any such meeting.

Commission contact: K. N. "Jake" Jacobson, Administrative Officer with the UDAF, PO Box 146500, 350 North Redwood Road, Salt Lake City, Utah 84116-6500; phone: (801) 538-7171; FAX: (801) 538-7126; or E-mail at: agmain.jacobso@state.ut.us/.

In compliance with the Americans with Disabilities Act (ADA), individuals needing special accommodations (including auxiliary communicative aids and services) during any of these meetings should notify UDAF's ADA Coordinator, Renee Matsuura, at the above UDAF address, phone: (801) 538-7110 (TDD: (801) 538-7100) at least three working days prior to the meeting.

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
ALCOHOLIC BEVERAGE CONTROL COMMISSION**

**PUBLIC NOTICE
2001 MEETING SCHEDULE**

Public Notice is hereby given of the 2001 calendar year meeting schedule for the Utah Alcoholic Beverage Control Commission. The Commission meets monthly at the department's administrative office at 1625 South 900 West in Salt Lake City, Utah. Meetings are held on the fourth Friday of the month, January through October; and on the third Friday in November and December. Meetings start at 9:00 a.m. and are open to the public. Meetings are subject to change.

To confirm meeting dates, contact: Clara Fritz at (801) 977-6801.

**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, LIBRARY**

PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 00-25, dated December 8, 2000 (<http://www.state.lib.ut.us/00-25.html>). For a copy of the complete list, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773; or view them on the World Wide Web at the address above.

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 December 2, 2000, 12:00 a.m., and December 15, 2000, 11:59 p.m., are included in this, the January 1, 2001, 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 January 31, 2001. 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 May 1, 2001, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

Commerce, Occupational and
Professional Licensing
R156-55b
Electricians Licensing Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23374

FILED: 12/05/2000, 10:53

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Division needed to make some changes to the rule with respect to edition of the National Electrical Code, supervision of apprentice electricians, and continuing education instructors.

SUMMARY OF THE RULE OR CHANGE: In Section R156-55b-102, Definitions: The 1996 edition of the National Electrical Code identified in Subsection R156-55b-102(1) was deleted and replaced with the edition of the National Electrical Code that is identified in Subsection R156-56-701(1)(b). The definition "In or out of the immediate presence of the supervising person" as it relates to electrician apprentice supervision was deleted in its entirety. The supervision requirement for apprentice electricians is already covered in Subsection 58-55-102(17). In Section R156-55b-304, Continuing Education, added that a continuing education instructor would be approved if he was currently teaching or had been teaching courses related to the electrical trade within the preceding two years for a federal or other Utah agency or another state's agency.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Electrical Code, 1999 edition

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division will incur only minimal costs, less than \$50, to reprint the rule once the proposed changes are made effective. Costs incurred will be absorbed in the Division's current budget.

❖LOCAL GOVERNMENTS: Proposed rule does not apply to local governments.

❖OTHER PERSONS: The Division does not anticipate any costs or savings to the regulated profession as a result of these proposed changes. The proposed changes are only deleting a more restrictive supervision requirement for apprentice electricians and increasing the number of instructors that may teach a continuing education course.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division does not anticipate any costs or savings to the regulated profession as a result of these proposed changes. The proposed changes are only deleting a more restrictive supervision requirement for apprentice electricians and

increasing the number of instructors that may teach a continuing education course.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only purpose of this proposed amendment is to delete a definition. The fiscal impact, if any, upon the regulated profession will be positive in that the current definition, in attempting clarification of the statutes, tended to impose a greater responsibility upon a supervising electrician than might have been intended by the Legislature, and thus placed a greater supervisory burden upon the business owner. Klarice A. Bachman, Interim Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Cottle at the above address, by phone at (801) 530-6375, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.ccottle@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 01/31/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/18/2001, 9:00 a.m., 160 East 300 South, Conference Room 4B, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: A. Gary Bowen, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-55b. Electricians Licensing Rules.
R156-55b-102. Definitions.**

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

(1) "Electrical work" as used in Subsection 58-55-102(11)(a) and in these rules means installation, fabrication or assembly of equipment or systems included in "Premises Wiring" as defined in the [1996] edition of the National Electrical Code, as identified in Subsection R156-56-701(1)(b) which is hereby adopted and incorporated by reference. Electrical work includes installation of raceway systems used for any electrical purpose, and installation of field-assembled systems such as ice and snow melting, pipe-tracing, manufactured wiring systems, and the like. Electrical work does not include installation of factory-assembled appliances or machinery that are not part of the premises wiring unless wiring interconnections external to the equipment are required in the field, and does not include cable-type wiring that does not pose a hazard from a shock or fire initiation standpoint as defined in the National Electrical Code. Wiring covered by the National Electrical Code

that does not pose a hazard as described above includes Class 2 wiring as defined in Article 725, Power-Limited circuits as defined in Article 760 and wiring methods covered by Chapter 8. Other wiring, including wiring under 50 volts is subject to licensing requirements.

(2) [~~"In or out of the immediate presence of the supervising person" as used in Subsection 58-55-102(17) means that the apprentice and the supervising electrician may or may not be within sight of one another, but will still be physically present on the same project or jobsite.~~

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

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

(~~5~~) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-55b-501.

(~~6~~) "Work commonly done by unskilled labor" as used in Subsection 58-55-102(11)(b)(iii) means work such as digging, sweeping, hammering, carrying, drilling holes, or other tasks that do not directly involve the installation of raceways, conductors, cables, wiring devices, overcurrent devices, or distribution equipment. Tasks such as handling wire on large wire pulls or assisting in moving heavy electrical equipment may utilize unlicensed persons in accordance with Subsections 58-55-102(11)(b)(i) and (ii) when the task is performed in the immediate presence of and supervised by properly licensed persons. Tasks that are normally performed by the skilled labor of other trades, such as operating heavy equipment, driving, forming and pouring concrete, welding and erecting structural steel shall not be considered part of the electrical trade.

R156-55b-304. Continuing Education.

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

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

(3) A minimum of eight hours shall be on the current edition of the National Electrical Code, as identified in Subsection R156-56-701(1)(b).

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

(5) The standards for qualified continuing education are as follows:

(a) the content must be relevant to the electrical trade and consistent with the laws and rules of this state;

(b) an instructor must either be currently teaching or have taught courses related to the electrical trade within the preceding two years for one of the following:

(i) a trade school, college or university whose electrical program is approved in accordance with Subsections R156-55b-302b(1)(a) and (5);

(ii) a professional association or organization representing licensed electricians whose program objectives relate to the electrical trade;

(iii) the licensing agency of another state;~~or~~

~~(iv) a federal or other Utah agency or another state's agency;~~

~~or~~ (iv) the Division's Building Codes Education program.

(6) Electricians Licensing Board members, acting in their official capacity as a board member, may attend any continuing education course at no charge, at any time, for no credit, to monitor the quality of instruction.

KEY: occupational licensing, licensing, contractors, electricians*
[June 1, 2000]2001 **58-1-106(1)**
Notice of Continuation February 18, 1997 **58-1-202(1)**
58-55-308(1)

◆ ————— ◆
Commerce, Occupational and Professional Licensing
R156-55c-102
Definitions

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 23375
 FILED: 12/05/2000, 10:53
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Division needed to make some changes to the rule with respect to the supervision of apprentice plumbers.

SUMMARY OF THE RULE OR CHANGE: In Section R156-55c-102, Definitions: The definition "Reasonable direction, oversight, inspection, and evaluation of an apprentice plumber by a supervising journeyman plumber" as it relates to apprentice plumber supervision was deleted in its entirety. The supervision requirement for apprentice plumbers is already covered in Subsection 58-55-102(17).

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division will incur only minimal costs, less than \$50, to reprint the rule once the proposed changes are made effective. Costs incurred will be absorbed in the Division's current budget.

❖LOCAL GOVERNMENTS: Proposed rule does not apply to local governments.

❖OTHER PERSONS: The Division does not anticipate any costs or savings to the regulated profession as a result of these proposed changes. The proposed change is only deleting a more restrictive supervision requirement for apprentice plumbers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division does not anticipate any costs or savings to the regulated profession as a result of these proposed changes. The proposed change is only deleting a more restrictive supervision requirement for apprentice plumbers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only purpose of this proposed amendment is to delete a definition. The fiscal impact, if any, upon the regulated profession will be positive in that the current definition, in attempting clarification of the statutes, tended to impose a greater responsibility upon a supervising plumber than might have been intended by the Legislature, and thus placed a greater supervisory burden upon the business owner. Klarice A. Bachman, Interim Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Cottle at the above address, by phone at (801) 530-6375, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.cottle@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 01/31/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/12/2001, 9:00 a.m., 160 East 300 South, Conference Room 4B, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: A. Gary Bowen, Director

R156. Commerce, Occupational and Professional Licensing, R156-55c. Construction Trades Licensing Act Plumber Licensing Rules.

R156-55c-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapters 1 and 55 or these rules:

(1) "Board" means the Plumbers Licensing Board.

(2) "Plumber" means apprentice plumber, residential apprentice plumber, journeyman plumber, and residential journeyman plumber.

(3) [~~"Reasonable direction, oversight, inspection, and evaluation of an apprentice plumber by a supervising journeyman plumber" means that the supervising journeyman plumber is in the same building or on the immediate premises in which the supervised plumbing work is being performed by the apprentice plumber.~~

~~(4) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined in accordance with Subsection 58-1-203(5), in Subsection R156-55c-501.~~

KEY: occupational licensing, licensing, plumbers*, plumbing* [November 15, 1996]2001 58-1-106(1) Notice of Continuation February 10, 1997 58-1-202(1) 58-55-101



Community and Economic
Development, Community
Development, Energy Services
R203-1

Utah Clean Fuels Grant and Loan
Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 23377

FILED: 12/08/2000, 17:27

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Legislature changed the governing statute during the 2000 Session (H.B. 323).

(**DAR Note:** H.B. 323 is found at 2000 Utah Laws, and will be effective July 1, 2001.)

SUMMARY OF THE RULE OR CHANGE: The change adds a grant component to the Utah Clean Fuels Loan Program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-1-706

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: \$500,000 has been appropriated from the Utah Clean Fuels Loan Program Fund per Section 9-1-703. Administrative fees of \$10,000 per year will be deducted from the fund.

❖LOCAL GOVERNMENTS: Significant savings to local governments who take advantage of grant monies to pay for the incremental cost of converting or purchasing alternative fuel vehicles (AFVs) and refueling equipment. Ongoing fuel

cost savings and reduction in vehicle maintenance fees will vary depending on type of alternative fuel used.

❖OTHER PERSONS: Private businesses that take advantage of grant monies to pay for the incremental cost of converting or purchasing AFVs will recognize significant savings on fuel costs. Savings will vary depending on type of alternative fuels used. Private citizens are expected to take tax credits in lieu of participating in the grant program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to affected persons. The rule change provides grant money to qualified recipients, reducing affected persons fuel costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Local businesses and government agencies will see energy cost savings as they participate in the program due to the lower price of clean fuels.

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

Community and Economic Development
Community Development, Energy Services
Suite 500
324 South State Street
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lisa Yoder at the above address, by phone at (801) 538-8767, by FAX at (801) 538-8690, or by Internet E-mail at lyoder@dced.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 01/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: Michael Glenn, Director

R203. Community and Economic Development, Community Development, Energy Services.

R203-1. Utah Clean Fuels Grant and Loan Program.

R203-1-1. Authority.

The promulgation of this rule is authorized under Subsection 9-1-706(1)(b).

R203-1-2. Purpose.

The purpose of this rule is to:

(1) Establish procedures for government agencies and private sector vehicle owners to convert vehicles to a clean fuel or to purchase or lease original equipment manufacturer vehicles as provided under Section 9-1-703.

(2) Establish procedures for government agencies and private sector vehicle owners to purchase or lease clean fuel refueling equipment for vehicles as provided under Section 9-1-703.

(3) Establish criteria and conditions for awarding grant and loan program monies.

(4) Establish criteria and conditions for loan repayment and the collection of loans authorized by Section 9-1-703.

(5) Establish a loan repayment schedule, not to exceed ten years.

R203-1-3. Definitions.

(1) "Clean fuel" means propane, compressed natural gas (CNG), or electricity; other fuel the Utah Air Quality Board determines to be at least as effective as those fuels in reducing air pollution; or other fuel that meets the clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 USC 7581(2), Pub. L. No. 101-549, Title II, Sec. 229(a), 104 Stat. 2511. Title II defines clean alternative fuels to mean..."any fuel including methanol, ethanol, or other alcohols, including any mixture thereof containing 85 percent or more by volume of alcohol with gasoline or other fuels; reformulated gasoline, diesel, natural gas, liquified petroleum gas, and hydrogen; or power source, including electricity.

(2) "A clean-fuel vehicle" means a vehicle in a class or category of vehicles which has been certified to meet, for any model year, the clean-fuel vehicle standards applicable under the federal Clean Air Act Amendments of 1990, 42 USC 7581(7), Pub. L. No. 101-549, Title II, Sec. 229(a), 104 Stat. 2511; or, a vehicle which meets the clean fuel vehicle standards as specified in Section 243 of the federal Clean Air Act Amendments of 1990. For the purposes of this definition, a vehicle is assumed to meet Section 243 standards if Federal Test Procedure documentation demonstrates the vehicle emissions following conversion to a clean fuel are less than, or equal to, the levels specified in Section 243 of the federal Clean Air Act Amendments of 1990, or as otherwise allowed for or defined in this rule. Hybrid vehicles are excluded from the Grant and Loan Program.

(3) "Fund" means the Clean Fuels Vehicle Grant and Loan Program created in Section 9-1-703.

(4) "Government Vehicle" means a motor vehicle registered in Utah and owned and operated by the state, a public trust authority, a county, a municipality, a town or a city, including metropolitan rapid transit motor vehicles, buses, trucks, law enforcement vehicles and emergency vehicles.

(5) "Incremental Costs" means the difference between the cost of the original equipment manufacturer vehicle and the same vehicle model manufactured without the clean-fuel fueling system.

(6) "Original Equipment Manufacturer (OEM) Vehicle" means a vehicle manufactured by the original vehicle manufacturer or its contractor to use a clean fuel.

(7) "Private sector business vehicle" means one or more motor vehicles registered in Utah that are owned and operated solely in the conduct of a private business enterprise.

(8) "Refueling Equipment" means compressors when used separately, compressors used in combination with cascade tanks, and other equipment that constitute a central refueling system capable of dispensing vehicle fuel.

(9) A Grant means monies from the Clean Fuels Vehicle Loan Fund created under Section 9-1-703 that do not have to be repaid.

R203-1-4. Application.

All [~~loan~~] applicants who wish to receive a grant or loan must do the following:

(1) Complete and file an application provided by the department. The following information, at a minimum, may be necessary:

- (a) name of Applicant;
- (b) address and phone number of Applicant;
- (c) contact person;
- (d) total fleet size;
- (e) number of vehicles to be converted with description of each;
- (f) monthly fuel consumption during previous 12 months for each vehicle to be converted if applicable;
- (g) documentation of price paid per gallon, per purchase, during the previous 12 months if applicable;
- (h) the number of estimated or planned fuelings per-vehicle per-week for the next 12 months;
 - (i) number of vehicle operating days per year;
 - (j) the name, brand or other identifying information including model and type of conversion kit or device to be installed on the Applicant's vehicles, if known;
- (k) the name of the firm or individual who may perform the installation of the conversion kits or devices on the Applicant's vehicles, if known;
 - (l) the name, address, and phone number of the clean fuel supplier and current clean fuel price, if known;
- (m) the amount of funds per conversion or purchase the Applicant is willing to provide, if any;
- (n) emission data per vehicle, to be converted, for the previous 12 months or, if not available, a current emissions test result;
- (o) number and description, including make, model, total purchase price, incremental cost, expected delivery date and vehicle weight, of OEM vehicles to be purchased with a program grant or loan;
- (p) estimated VMT for each converted or OEM vehicle for the next 12 months, and;
- (q) supply the following information pertaining to vehicle refueling equipment;
 - (i) number of vehicles using the refueling equipment;
 - (ii) gallons (or equivalent) per vehicle per month;
 - (iii) total gallons (or equivalent) per month;
 - (iv) estimated refueling capacity required;
 - (v) estimated cost of refueling equipment;
 - (vi) source(s) of refueling equipment; and
 - (vii) cost per gallon (or equivalent) of fuel dispersed with the refueling equipment;

(2) Agree in writing, as a part of the application filed in Section 203-1-4, to comply with all aspects of the Program and this rule, as well as submit to the payback criteria detailed in Section 203-1-6.

(3) Agree to provide the Department with subsequent fuel consumption, cost data, and applicable Vehicle Miles Traveled (VMT) [~~for the duration of the loan payback period~~] as specified in this rule.

(4) Agree in writing, to use the clean fuel for which each vehicle converted or purchased using grant or loan proceeds for a minimum of ~~[60]~~70 percent of the VMT beginning from the time of conversion, lease or purchase of the vehicle.

(5) Agree to provide the Department with vehicle emissions test data [~~for the duration of the loan payback period~~] as specified in this rule.

(6) Agree to allow inspection, by the Program administrator or designee, of all completed conversions, OEM vehicle(s) purchased and refueling equipment installed as a result of grant or loan funds advanced under the Program.

(7) Agree to provide collateral per National UCC Financing Statement (Form UCC1) to the Department, [~~as collateral the conversion equipment, devices and instruments purchased or acquired with loans from the Program.~~] This collateral shall remain in effect for the duration of the payback period as established by this program or until the loan has been repaid to the Department, whichever is shorter.

(8) Agree to notify the Department of anticipated or planned OEM or converted vehicle turnover, if this should occur before the repayment period ends or within 3 years of date of grant award.

(9) Agree to notify the Department if refueling equipment or a vehicle converted or purchased under terms of the Program and this rule becomes inoperable through mechanical failure or accident. In the event that this should occur, the Applicant further agrees to pursue one of the following courses of action with approval from the Department:

(a) Repair the inoperable or damaged vehicle or equipment and return it to use as soon as practicable;

(b) If still operable, remove and reinstall, at Applicant's expense, the conversion kit or device on another vehicle in the Applicant's fleet;

(c) Continue to repay the loan whether or not the converted or OEM vehicle or refueling equipment is repairable. Should the converted or OEM vehicle or refueling equipment become inoperable or irreparable the loan shall be repaid at a rate to be determined by the Department based on the payback rate in effect at the time the vehicle or equipment becomes inoperable or irreparable. The Department may, upon receipt of a written request by the Applicant, reduce or adjust the payback rate under these circumstances subject to the limitations of the Program and this rule.

(10) Provide an affidavit signed by the Applicant assuring repayment of all loans provided under this Program and under the parameters of this rule.

R203-1-5. Approval Process.

(1) The Program administrator shall, upon the proper submission of an application, make a preliminary determination of eligibility no later than 30 days from receipt of the application. This decision shall be based upon the following:

(a) Applicant's compliance with all aspects of the application process; and

(b) Applicant's meeting of all program limitations defined in Section R203-1-7.

(2) All applications shall be numbered in order of their receipt by the Department and acted upon in that order. Resubmitted applications shall be numbered in order of their resubmission.

(3) All applications meeting the requirements of Subsections R203-1-6(1) and R203-1-6(2) shall be evaluated according to the criteria set forth in Section R203-1-6.

(a) All applications shall be submitted to the payback criteria for this Program as detailed in Section R203-1-6.

(b) If the application meets all Program criteria under Sections R203-1-6 and R203-1-7, the application may be granted preliminary

approval and the applicant shall be notified according to Section R203-1-8.

(c) Upon notification by the Department of a preliminary approval, the Applicant shall submit a bid to the Department for conversion or purchase costs of approved vehicles and refueling equipment. This submission shall include a minimum of two independent bids. In the event two independent bids cannot be obtained by the Applicant, the Department shall have the discretion to accept or reject any sole source bid. This submission shall be provided to the Department no later than 15 days after the Applicant receives notification of preliminary approval from the Department.

(d) Any conversion kit or device to be used on a vehicle under this Program shall be certified by the Department as being in compliance with the U.S. Environmental Protection Agency "Mobile Source Enforcement Memorandum No. 1A." For the purposes of implementing this Program, the Department has final authority to determine whether a conversion device or kit is in compliance. Proposed use of a conversion kit not previously certified by the Department may be allowed upon certification by the Department. Certification may be made if the Applicant provides documentation to the Department that the proposed device or conversion kit has been tested by a national laboratory using the Federal Test Procedure (FTP), as defined in 40 CFR 85 and has been demonstrated capable of reducing carbon monoxide (CO) and reactive hydrocarbons (HC) by at least 25 percent and does not increase nitrous oxides (NO_x). Certification by the Department of any conversion kit may take into consideration the type of vehicle upon which the kit may be used. An application for certification of a vehicle-kit combination that has not been previously certified by any national laboratory using the FTP may be certified by the Department only after consultation and coordination with the Utah Division of Air Quality.

(e) If the Applicant's bid for conversion costs, OEM incremental purchase costs or refueling equipment costs are found acceptable to the Department according to the limitations in Section R203-1-7 and all other criteria of this rule have been met the application may be approved and the maximum grant or loan amount established, subject to available funds as specified in Subsections R203-1-6(e) and R203-1-6(f).

(f) If the application does not meet the Program criteria or limitations, the application may be denied and the Applicant notified of this, as provided in Section R203-1-8.

R203-1-6. Loan Payback Criteria.

(1) Once an application has been submitted to the Department, it may be analyzed to determine whether it meets the Program criteria as specified in Sections R203-1-5, and R203-1-6. Concurrently, the application may be analyzed to determine whether it meets the program limitations as specified in Section R203-1-7. This analysis may provide the basis of preliminary and final application approval. Loans for government vehicles under this program will have zero interest applied. [~~Loans granted under this program will have zero interest applied.~~]

(2) The data provided by the Applicant under Section R203-1-4 may be used by the Department to establish a payback period. The Department may request, at any time during the application approval process, additional information or data from the Applicant necessary for this evaluation.

(3) The Department shall be the final authority for determining the costs and prices of clean fuels used in this application process. The Department may use all current and relevant market price and cost information in applying this data to the application process as provided in this rule.

(4) In determining the payback period to be assessed the Applicant, the following data shall be identified and used:

(a) fuel prices used including the gasoline - clean fuel differential;

(b) available pre-conversion fuel consumption per vehicle on a daily, monthly, and annual basis;

(c) estimated conversion costs;

(d) annual estimated future fuel consumption for each converted or OEM vehicle purchased, for each fuel to be used, and estimated VMT;

(e) annual estimated future fuel expenditures for each fuel to be used;

(f) annual estimated fuel cost savings;

(g) the planned vehicle turnover of converted or OEM vehicle(s);

(h) OEM vehicle purchase price and calculated incremental cost; and

(i) refueling equipment purchase price and monthly operating costs.

(5) Submission of an application under this Program and this rule constitutes Applicants' acceptance of the criteria and procedures of this rule.

(6) The Department reserves the right under this rule to resubmit for review any application that is subject to adjustments or changes due to any change in information or circumstances in application criteria as specified in Sections R203-1-4 through 203-1-7.

(7) Payback criteria used to evaluate a loan application under this Program and this rule may be coordinated with and may comply with the applicable rules established by the Utah Department of Finance for the Fund.

R203-1-7. Program Limitations.

Under no circumstance shall the Program administrator approve an application if:

(1) it would result in the Department's inability to fulfill its obligations under this Program or this rule;

(2) the Applicant does not meet the application requirements of Section R203-1-4;

(3) there would be no reduction in gasoline consumption nor practical improvement in exhaust emissions of the Applicant's vehicle(s);

(4) the amount to be loaned per vehicle may not exceed the actual cost of the vehicle conversion or the incremental cost of the purchase or lease of a OEM vehicle;

(5) the amount to be loaned for the purchase or lease of a vehicle refueling equipment may not exceed the actual cost of this refueling equipment;

(6) approval of the application would result in the Applicant having an outstanding loan balance of greater than ~~[\$500,000]~~ \$1,000,000 at any time;

(7) the Fund balance is zero;

(8) awarding a grant or loan to an Applicant would result in the Fund balance being less than zero;

(9) the payback period would exceed the useful life of the converted or OEM vehicle or refueling equipment purchased with program funds.

(10) the amount of a grant for any vehicle may not exceed 50% of the actual cost of the vehicle conversion minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-127 for the vehicle for which the grant is requested; or 50% of the incremental cost of purchasing an OEM vehicle minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-127 for the vehicle for which a grant is awarded.

R203-1-8. Notification.

After review of an application and determination of preliminary approval, final approval or rejection under this rule, the Program administrator shall notify that Applicant in writing.

(1) If preliminarily approved, the Applicant shall continue to comply with the provisions of this rule.

(2) If finally approved, the Applicant shall be notified of the maximum conversion grant or loan amount approved and shall continue to comply with the provisions of this rule.

(3) If rejected at any stage of the process, the Applicant can file an application for reconsideration. An application for reconsideration may be reviewed only if it includes changes that correct or remove the reasons for denial of the original application.

R203-1-9. Fund Transfer Process.

Once an application has been approved to receive a grant or loan under this Program, notice of approval is transmitted by the Department to the Division of Finance. A grant document or a loan document is initiated and a warrant request for the amount of the grant or loan sent to the Division of Finance. The Department issues the grant or loan to the successful Applicant. A representative from the Department of Finance may be present for the loan closing.

R203-1-10. Loan Repayment.

(1) The loan payment shall be sent to the Division of Finance and credited to the approved applicant's account.

(2) Loans made for the fund for government vehicles shall be made at a zero interest rate.

(3) Loans made from the fund for private sector vehicles shall be made at an interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as determined the month immediately preceding the closing date of the loan.

(4) When the account balance reaches zero, the payment shall cease, and the vehicle or equipment then becomes the property of that Applicant.

(5) The Division of Finance is responsible for collection of and accounting for the loan's and has custody of all loan documents, including all notes and contracts, including the indebtedness of the fund.

R203-1-11. Review.

The Department reserves the right to review all data and Applicants for continuing compliance with this rule during the period the Applicant has an outstanding loan obligation or for a period of 3 years from date of grant award. The Department further reserves the right to request supplemental information it may deem

necessary from an Applicant in order to effectively administer the Program and this rule.

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**KEY: fuel, clean*, loan program*
[December 30, 1997]2001**

9-1-706(1)(b)



**Health, Health Systems Improvement,
Health Facility Licensure
R432-270
Assisted Living Facilities**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23380

FILED: 12/14/2000, 15:19

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule identifies the standards for operating an Assisted Living Facility Type I and Type II. The reason for the change was to clarify the admission criteria, medication administration for residents and clarify the requirements for operating a facility in the state.

SUMMARY OF THE RULE OR CHANGE: In Section R432-270-2, the change clarifies the purpose of the rule and deletes redundant subsections. In Section R432-270-3, the change provides additional definitions used in the rule. In Section R432-270-4, the change defines the services which a Level I or II facility will provide, the section was previously in the Section R432-270-2. In Section R432-270-6, the change allows an administrator to complete a national certification program within six months of hire. In Section R432-270-7, the change requires a program to notify responsible parties within 24 hours if there is a significant change in the resident's status. In Section R432-270-9, the change deletes the section on volunteers being used in lieu of facility staff, and permits the facility to set its own policy when using volunteers. In Section R432-270-11, the change defines the admission and retention criteria for a resident in a Assisted Living Type I facility to be a person who requires significant assistance with no more than two activities of daily living (ADL) and provides for the Assisted Living Type II to retain a person with three ADL's provided that the staffing levels and health and social services meet the resident's needs. In Section R432-270-12, the change adds specific situations where the facility is no longer able to meet the resident's needs because the resident poses a threat of health and safety to self or others, or the facility is not able to provide the required medical treatment. In Section R432-270-13, the change adds a requirement to complete an initial semi-annual resident assessment and expands the criteria to

permit a licensed health care professional to complete the assessment. In Section R432-270-14, the change defines the criteria if a "service coordinator" is designated by the facility administrator and requires the service plan to be implemented by facility staff. In Section R432-270-15, the change clarifies that the Assisted Living Type I must employ or contract with a registered nurse to provide or delegate medication administration if a resident is unable to self-medicate or self-direct medication management. In Section R432-270-16, the change adds the definition and standards for a secured unit, if the assisted-living facility elects the option to provide a unit for residents with dementia or Alzheimer's. In Section R432-270-19, the change clarifies and defines the four levels of medication administration which may be used to assist residents in assisted-living facilities and permits a licensed pharmacist to perform the resident medication review. Also, requires that if medication errors are made, a report shall be written and the facility shall review the documentation for quality improvement; and requires a facility to comply with the Drug Enforcement Administration (DEA) requirements for security and disposal of narcotics. In Section R432-270-22, the change requires a facility to develop infection control measures to maintain a safe, sanitary food service, if food service personnel also work in housekeeping or provide direct resident care. In Section R432-270-24, the change defines that "sufficient linen supply" means a change in bed linens for each bed, plus an additional 50%. In Section R432-270-25, the change adds requirement that the construction and assemblies comply with Rule R710-3. In Section R432-270-30, the change clarifies the penalty section to conform with law. Throughout the rule, there are nonsubstantive changes that renumber rule sections, corrections to references, and elimination of redundant language.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: \$1,500. The cost of amending the rule and distributing a copy of the rule for assisted living facilities can be borne within the current budget.

❖LOCAL GOVERNMENTS: Local government should not have an increased cost or savings since they are not responsible for enforcement of this rule or the operation of an assisted living program.

❖OTHER PERSONS: There are approximately 141 assisted living facilities statewide with a licensed capacity of 2,101. The rule change has been reviewed with the Utah Assisted Living Association and they anticipate that the change will not incur a significant cost unless a facility elects to create a secured unit, which is optional, with a one-time cost of \$5,400 per facility. Each rule change creates a cost and a savings which should off-set the aggregate financial impact. It is estimated that the highest cost would be \$1.50 per day per resident for an annual total of \$1,150,298. It is impossible to determine the annual cost for each facility, since each operation is vastly different, however, the maximum in cost includes issues such as if a facility is currently using a registered nurse to complete the semi-annual medication review, the rule change allows a pharmacist to review the

medications when he is restocking medications, this allows the facility to not hire a registered nurse. If the registered nurse trains and delegates medication administration to unlicensed personnel, then the facility realizes a savings of \$30 per hour by not having a registered nurse on-site. If a facility recruits and hires a "service coordinator" who may not be a licensed health care professional the facility may realize a savings of \$20 per hour. Defining the "sufficient" linen requirements eliminates 50% of the current bedding required, which would be a one-time savings for the facility which varies depending on the licensed capacity 8 residents to 200 residents.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each resident in an assisted-living facility may realize an increase in cost for services of \$45 per month.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The small cost to assure that medications are appropriately reviewed and controlled for those residents of these facilities that are unable to manage their own medications is appropriate and prudent.
Rod L. Betit

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

Health
Health Systems Improvement,
Health Facility Licensure
Second Floor, Martha Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debra Wynkoop at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dynkoop@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: Rod L. Betit, Executive Director

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

R432-270. Assisted Living Facilities.

R432-270-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-270-2. Purpose.

~~(+)~~] This rule establishes the licensing and operational standards for assisted living facilities Type I and Type II.]

~~(?)~~] Assisted living is intended to enable persons experiencing functional impairments to receive 24-hour personal and health-related services in a place of residence with sufficient structure to

meet the care needs in a safe manner.[as provided in 26-21-2(3) means:

—(a) A Type I assisted living facility is a residential facility that provides assistance with activities of daily living and social care to two or more residents who are capable of achieving mobility sufficient to exit the facility without the assistance of another person;

—(b) A Type II assisted living facility is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services, available 24 hours per day, to residents who have been assessed;

—(c) Each resident in a Type I or Type II assisted living facility must have a service plan based on the assessment, which may include:

—(i) specified services of intermittent nursing care

—(ii) administration of medication; and

—(iii) support services promoting residents' independence and self-sufficiency;

—(3) Assisted living is intended to enable persons experiencing functional impairments to receive 24-hour personal and health-related services in a place of residence with sufficient structure to meet care needs in a safe manner;

—(4) Assisted living services shall be individualized to:

—(a) maintain each individual's capabilities and facilitate using those abilities;

—(b) create options to enable individuals to exercise control over their lives;

—(c) provide supports which validate the self-worth of each individual by showing courtesy and respect for the individual's rights;

—(d) maintain areas or spaces which provide privacy; and

—(e) recognize each individual's needs and preferences and be flexible in service delivery to respond to those needs and preferences;

—(5) Assisted living is intended to allow residents to choose how they will balance risk and quality of life;

—(6) Type II assisted living facilities shall provide substantial assistance with activities of daily living, in response to a medical condition, above the level of verbal prompting, supervision, or coordination;

—(7) Type II assisted living facilities shall provide each resident with a separate living unit. Two residents may share a unit upon written request of both of the residents;

—(8) Type II assisted living is intended to enable residents, to the degree possible, to age in place.];

R432-270-3. Definitions.

(1) The terms used in these rules are defined in R432-1-3.

(2) In addition:

(a) "Assessment" means documentation of each resident's ability or current condition in the following areas:

(i) memory and daily decision making ability;

(ii) ability to communicate effectively with others;

(iii) physical functioning and ability to perform activities of daily living;

(iv) continence;

(v) mood and behavior patterns;

(vi) weight loss;

(vii) medication use and the ability to self-medicate;

(viii) special treatments and procedures;

(ix) disease diagnoses that have a relationship to current activities of daily living status, behavior status, medical treatments, or risk of death;

(x) leisure patterns and interests;

(xi) assistive devices; and

(xii) prosthetics.

([a]b) "[Assistance with the a]Activities of daily living (ADL)[and independent activities of daily living]" [means prompting and assisting residents with]are the following:

(i) personal grooming[and], including oral hygiene and denture care;

(ii) dressing;

(iii) [oral hygiene and denture care]bathing;

(iv[†]) toileting and toilet hygiene;

([†]v) eating during mealtime;

(vi) self administration of medication; and

(vii) independent transferring, ambulation and mobility.[encouraging and supporting residents to be independent or maintain independence if they use assistive devices (crutches, braces, walkers, wheelchairs) or prosthetic devices (glasses and hearing aids);

—(vi) housekeeping;

—(vii) self-administration of medication;

—(viii) encouraging the resident to maintain his independence and sense of self-direction;

—(ix) administering emergency first aid; and

—(x) taking and recording oral temperatures.];

([b]c) "Dependent" means a person who meets one or all of the following criteria:

(i) requires inpatient hospital or 24-hour continual nursing care that will last longer than 15 calendar days after the day on which the nursing care begins;

(ii) is unable to evacuate from the facility without the physical assistance of two persons.

([e]d) "Home-like" as used in statute and this rule means a place of residence which creates an atmosphere supportive of the resident's preferred lifestyle. Home-like is also supported by the use of residential building materials and furnishings.

([†]e) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse[practitioner], or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.

(f) "Self-direct medication administration" means the resident can:

(i) recognize medications offered by color or shape; and

(ii) question differences in the usual routine of medications.

([e]g) "Semi-independent" means a person who is:

(i) physically disabled but able to direct his own care; or

(ii) cognitively impaired or physically disabled but able to evacuate from the facility or to a zone or area of safety with [the]limited physical assistance of one person.

([f]h) "Service Plan" means a written plan [for]of care for services which meets the requirements of R432-270-14.

([g]i) "Services" means activities which help the residents develop skills to increase or maintain their level of psycho-social and physical functioning, or which assist them in activities of daily living.

(j) "Significant change" means a major change in a resident's status that is self-limiting or impacts on more than one area of the resident's health status.

(k) "Significant assistance" means the resident is unable to perform any part of an ADL and is dependent upon staff or others to accomplish the ADL as defined in R432-270-3(2)(b).

(h) "Social care" means:

(i) providing opportunities for social interaction in the facility [and]or in the community; [and]or

(ii) providing services to promote independence [and]or a sense of self-direction.

(m) "Unit" means an individual living space, including living and sleeping space, bathroom, and optional kitchen area.

R432-270-4. [Licensure]Licensing.

(1) A person that offers or provides care to two or more unrelated individuals in a residential facility must be minimally licensed as an assisted living facility if:

(a) the individuals stay in the facility for more than 24 hours; and

(b) the facility provides or arranges for the provision of assistance with one or more activity of daily living for any of the individuals.

(2) An assisted living facility may be licensed as a Type I facility if:

(a) the individuals under care are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

(3) An assisted living facility must be licensed as a Type II facility if the individuals under care are capable of achieving mobility sufficient to exit the facility only with the limited assistance of one person.

(4) A Type I assisted living facility shall provide social care to the individuals under care.

(5) A Type II assisted living facility shall provide care in a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who need any of these services as required by department rule.

(6) Type I and II assisted living facilities must provide each resident with a separate living unit. Two residents may share a unit upon written request of both residents.

(7) An individual may continue to remain in an assisted living facility provided:

(a) the facility construction can meet the individual's needs;

(b) the individual's physical and mental needs are appropriate to the assisted living criteria; and

(c) the facility provides adequate staffing to meet the individual's needs.

(8) Assisted living facilities may be licensed as large, small or limited capacity facilities.

(a) A large assisted living facility houses 17 or more residents.

(b) A small assisted living facility houses six to 16 residents.

(c) A limited capacity assisted living facility houses two to five residents.

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R432-270-6. Administrator Qualifications.

(1) The administrator shall have the following qualifications:

(a) be 21 years of age or older;

(b) have knowledge of applicable laws and rules;

(c) have the ability to deliver, or direct the delivery of, appropriate care to residents;

(d) be of good moral character;

(e) complete the criminal background screening process[background criminal clearance] defined in R432-35; and

(f) for all Type II facilities, complete a Department approved national certification program within six months of hire.

(2) In addition to R432-270-6(1) the administrator of a Type I facility shall have an associate degree or two years experience in a health care facility.

(3) In addition to R432-270-6(1) the administrator of a Type II small or limited-capacity assisted living facility shall have one or more of the following:

(a) an associate degree in a health care field;

(b) two years or more management experience in a health care field; or

(c) one year's experience in a health care field as a licensed health care professional.

(4) In addition to R432-270-6(1) the administrator of a Type II large assisted living facility must have one or more of the following:

(a) a State of Utah health facility administrator license;

(b) a bachelor's degree in a health care field, to include management training or one or more years of management experience;

(c) a bachelor's degree in any field, to include management training or one or more years of management experience and one year or more experience in a health care field; or

(d) an associates degree and four years or more management experience in a health care field.

R432-270-7. Administrator Duties.

(1) The administrator must:

(a) be on the premises a sufficient number of hours in the business day, and at other times as necessary, to manage and administer the facility;

(b) designate, in writing, a competent employee, 21 years of age or older, to act as administrator when the administrator is unavailable for immediate contact. It is not the intent of this subsection to permit a de facto administrator to replace the designated administrator.

(2) The administrator is responsible for the following:

(a) recruit, employ, and train the number of licensed and unlicensed staff needed to provide services;

(b) verify all required licenses and permits of staff and consultants at the time of hire or the effective date of contract;

(c) maintain facility staffing records for the preceding 12 months;

(d) admit and retain only those residents who meet admissions criteria and whose needs can be met by the facility;

(e) review at least quarterly every injury, accident, and incident to a resident or employee and document appropriate corrective action;

(f) maintain a log indicating any significant change in a resident's condition and the facility's action or response;

(g) complete an investigation whenever there is reason to believe that a resident has been subject to abuse, neglect, or exploitation;

(h) report all suspected abuse, neglect, or exploitation in accordance with Section 62A-3-302, and document appropriate action if the alleged violation is verified.

(i) notify the resident's responsible person within 24 hours~~[and physician]~~ of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the facility's license;

(j) conduct and document regular inspections of the facility to ensure it is safe from potential hazards;

(k) complete, submit, and file all records and reports required by the Department;

(l) participate in a quality assurance program; and

(m) secure and update contracts for required professional and other services not provided directly by the facility.

[5]3 The administrator's responsibilities shall be included in a written and signed job description on file in the facility.

R432-270-8. Personnel.

(1) Qualified competent direct-care personnel shall be on the premises 24 hours a day to meet residents needs as determined by the residents' assessment and service plans. Additional staff shall be employed as necessary to perform office work, cooking, housekeeping, laundering and general maintenance.

(2) The services provided or arranged by the facility shall be provided by qualified persons in accordance with the resident's written service plan.

(3) All personnel who provide personal care to residents in a Type I facility shall be at least 18 years of age and shall have related experience in the job assigned or receive on the job training.

(4) Personnel who provide personal care to residents in a Type II facility ~~[shall]~~must be certified nurse aides or complete a state certified nurse aide program ~~[after]~~within four months of the date of hire.

(5) Personnel shall be licensed, certified, or registered in accordance with applicable state laws.

(6) The administrator shall maintain written job descriptions for each position, including job title, job responsibilities, qualifications or required skills.

(7) Facility policies and procedures must be available to personnel at all times.

(8) All personnel must receive documented orientation to the facility and the job for which they are hired. Orientation shall include the following:

(a) job description;

(b) ethics, confidentiality, and residents' rights;

(c) fire and disaster plan;

(d) policy and procedures; and

(e) reporting responsibility for abuse, neglect and exploitation.

(9) Each employee shall receive documented in-service training. The training shall be tailored to include all of the following subjects that are relevant to the employee's job responsibilities:

(a) principles of good nutrition, menu planning, food preparation, and storage;

(b) principles of good housekeeping and sanitation;

(c) principles of providing personal and social care;

(d) proper procedures in assisting residents with medications;

(e) recognizing early signs of illness and determining when there is a need for professional help;

(f) accident prevention, including safe bath and shower water temperatures;

(g) communication skills which enhance resident dignity;

(h) first aid;

(i) resident's rights and reporting requirements of Section 62A-3-201 to 312; and

(j) special needs of the Dementia/Alzheimer's resident.

(10) An employee who reports suspected abuse, neglect, or exploitation shall not be subject to retaliation, disciplinary action, or termination by the facility for that reason alone.

(11) The facility shall establish a personnel health program through written personnel health policies and procedures which protect the health and safety of personnel, residents and the public.

(12) The facility must complete an employee placement health evaluation to include at least a health inventory when an employee is hired. Facilities may use their own evaluation or a Department approved form.

(a) A health inventory shall obtain at least the employee's history of the following:

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

(ii) conditions that may prevent the employee from performing certain assigned duties satisfactorily.

(b) The facility shall develop employee health screening and immunization components of the personnel health program.

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

(i) Skin testing must be conducted on each employee within two weeks of hire and after suspected exposure to a resident with active tuberculosis.

(ii) All employees with known positive reaction to skin tests are exempt from skin testing.

(d) All infections and communicable diseases reportable by law shall be reported to the local health department in accordance with the Communicable Disease Rule, R386-702-2.

(e) The facility shall comply with the Occupational Safety and Health Administration's ~~[Bloodborne]~~Blood-borne Pathogen Standard.

~~[R432-270-9. Volunteers:~~

~~—(1) Volunteers may be used in the daily activities of the facility, but may not be included in the facility's employee staffing plan.~~

~~—(2) Volunteers must be supervised by facility staff.~~

~~—(3) Volunteers must be familiar with the facility's policies and procedures and with residents' rights.~~

]

R432-270-[10]9. Residents' Rights.

(1) Assisted living facilities shall develop a written resident's rights statement based on this section.

(2) The administrator or designee shall give the resident a written description of the resident's legal rights upon admission, including the following:

(a) a description of the manner of protecting personal funds, in accordance with Section R432-270-20; and

(b) a statement that the resident may file a complaint with the state long term care ombudsman and any other advocacy group concerning resident abuse, neglect, or misappropriation of resident property in the facility.

(3) The administrator or designee shall notify the resident or the resident's responsible person at the time of admission, in writing and in a language and manner that the resident or the resident's responsible person understands, of the resident's rights and of all rules governing resident conduct and responsibilities during the stay in the facility.

(4) The administrator or designee must promptly notify in writing the resident or the resident's responsible person when there is a change in resident rights under state law.

(5) Resident rights include the following:

(a) the right to be treated with respect, consideration, fairness, and full recognition of personal dignity and individuality;

(b) the right to be transferred, discharged, or evicted by the facility only in accordance with the terms of the signed admission agreement;

(c) the right to be free of mental and physical abuse, and chemical and physical restraints;

(d) the right to refuse to perform work for the facility;

(e) the right to perform work for the facility if the facility consents and if:

(i) the facility has documented the resident's need or desire for work in the service plan,

(ii) the resident agrees to the work arrangement described in the service plan,

(iii) the service plan specifies the nature of the work performed and whether the services are voluntary or paid, and

(iv) compensation for paid services is at or above the prevailing rate for similar work in the surrounding community;

(f) the right to privacy during visits with family, friends, clergy, social workers, ombudsmen, resident groups, and advocacy representatives;

(g) the right to share a unit with a spouse if both spouses consent, and if both spouses are facility residents;

(h) the right to privacy when receiving personal care or services;

(i) the right to keep personal possessions and clothing as space permits;

(j) the right to participate in religious and social activities of the resident's choice;

(k) the right to interact with members of the community both inside and outside the facility;

(l) the right to send and receive mail unopened;

(m) the right to have access to telephones to make and receive private calls;

(n) the right to arrange for medical and personal care;

(o) the right to have a family member or responsible person informed by the facility of significant changes in the resident's cognitive, medical, physical, or social condition or needs;

(p) the right to leave the facility at any time and not be locked into any room, building, or on the facility premises during the day or night. Assisted living Type II residents who have been assessed to require a secure environment may be housed in a secure unit, provided the secure unit is approved by the fire authority having

jurisdiction. This right does not prohibit the establishment of house rules such as locking doors at night for the protection of residents;

(q) the right to be informed of complaint or grievance procedures and to voice grievances and recommend changes in policies and services to facility staff or outside representatives without restraint, discrimination, or reprisal;

(r) the right to be encouraged and assisted throughout the period of a stay to exercise these rights as a resident and as a citizen;

(s) the right to manage and control personal funds, or to be given an accounting of personal funds entrusted to the facility, as provided in R432-270-20 concerning management of resident funds;

(t) the right, upon oral or written request, to access within 24 hours all records pertaining to the resident, including clinical records;

(u) the right, two working days after the day of the resident's oral or written request, to purchase at a cost not to exceed the community standard photocopies of the resident's records or any portion thereof;

(v) the right to personal privacy and confidentiality of personal and clinical records;

(w) the right to be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

(x) the right to be fully informed in a language and in a manner the resident understands of the resident's health status and health rights, including the following:

(i) medical condition;

(ii) the right to refuse treatment;

(iii) the right to formulate an advance directive in accordance with UCA Section 75-2-1101; and

(iv) the right to refuse to participate in experimental research.

(6) The following items must be posted in a public area of the facility that is easily accessible by residents [~~the following~~]:

(a) the long term care ombudsmen's notification poster;

(b) information on Utah protection and advocacy systems; and

(c) a copy of the resident's rights.

(7) The facility shall have available in a public area of the facility the results of the current survey of the facility and any plans of correction.

(8) A resident may organize and participate in resident groups in the facility, and a resident's family may meet in the facility with the families of other residents.

(a) The facility shall provide private space for resident groups or family groups.

(b) Facility personnel or visitors may attend resident group or family group meetings only at the group's invitation.

(c) The administrator shall designate an employee to provide assistance and to respond to written requests that result from group meetings.

R432-270-10[†]. Admissions.

(1) The facility shall have written admission, retention, and transfer policies that are available to the public upon request.

(2) Before accepting a resident, the facility must obtain sufficient information about the person's ability to function in the facility through the following:

(a) an interview with the resident and the resident's responsible person; and

(b) the completion of the resident assessment.

(3) If the Department determines during inspection or interview that the facility knowingly and willfully admits or retains residents who do not meet license criteria, then the Department may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.

(4) The facility shall accept and retain only residents who meet the following criteria:

(a) Residents admitted to a Type I facility shall meet the following criteria before being admitted:

(i) be ambulatory or mobile and be capable of taking life saving action in an emergency;

(ii) have stable health;

(iii) require no assistance or only limited assistance ~~[from facility staff]~~ in the activities of daily living; and

(iv) require and receive ~~[regular or]~~ intermittent care or treatment in the facility from a licensed health care professional either through contract or by the facility, if permitted by facility policy.

(b) Residents admitted to a Type II facility may be independent and semi-independent, but shall not be dependent.

(5) Type I and Type II assisted living facilities shall not admit or retain a person who:

(a) manifests behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others; or

(b) has active tuberculosis or other chronic communicable diseases that cannot be treated in the facility or on an outpatient basis; or may be transmitted to other residents or guests through the normal course of activities; or

(c) requires inpatient hospital or long-term nursing care~~[-]~~;

(6) ~~[In addition to the conditions outlined in R432-270-11(5), a]~~ A Type I facility may accept or retain residents ~~[shall not accept or retain a person]~~ who:

(a) do not require[s] significant assistance during night sleeping hours;

(b) are[is] [un]able to take life saving action in an emergency without the assistance of another person; or

(c) do not require significant assistance from staff or others with more than two ADL's. ~~[requires close supervision and a controlled environment.]~~

(7) A Type II facility may accept or retain residents who require significant assistance from staff or others in more than two ADL's, provided the staffing level and coordinated supportive health and social services meet the needs of the resident.

~~(7)~~(8) The prospective resident or the prospective resident's responsible person must sign a written admission agreement prior to admission. The admission agreement shall be kept on file by the facility and shall specify at least the following:

(a) room and board charges and charges for basic and optional services;

(b) provision for a 30-day notice prior to any change in established charges;

(c) admission, retention, transfer, discharge, and eviction policies;

(d) conditions under which the agreement may be terminated;

(e) the name of the responsible party;

(f) notice that the Department has the authority to examine resident records to determine compliance with licensing requirements; and

(g) refund provisions that address the following:

(i) thirty-day notices for transfer or discharge given by the facility or by the resident,

(ii) emergency transfers or discharges,

(iii) transfers or discharges without notice, and

(iv) the death of a resident.

R432-270-11[2]. Transfer or Discharge Requirements.

(1) A resident may be discharged, transferred, or evicted for one or more of the following reasons:

(a) The facility is no longer able to meet the resident's needs because the resident poses a threat to health or safety to self or others, or the facility is not able to provide required medical treatment.

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

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

(d) The resident wishes to transfer.

(e) The facility ceases to operate.

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

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

(b) The notice shall be made at least 30 days before the day on which the facility plans to transfer or discharge the resident, except that the notice may be made as soon as practicable before transfer or discharge if:

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

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

(3) The notice of transfer or discharge shall:

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

(b) be phrased in a manner and in a language the resident can understand;

(c) detail the reasons for transfer or discharge;

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

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

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

(g) contain the following information:

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

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

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

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

(5) The resident or the resident's responsible person may contest a transfer or discharge. If the transfer or discharge is contested, the facility shall provide an informal conference, except where undue delay might jeopardize the health, safety, or well-being of the resident or others.

(a) The resident or the resident's responsible person must request the conference within five calendar days of the day of receipt of notice of discharge to determine if a satisfactory resolution can be reached.

(b) Participants in the conference shall include the facility representatives, the resident or the resident's responsible person, and any others requested by the resident or the resident's responsible person.

R432-270-12[3]. Resident Assessment.

(1) Each person admitted to an assisted living facility shall have a personal physician or a licensed practitioner prior to admission.

(2) A signed and dated resident assessment shall be completed on each resident prior to admission and at least every six months~~[annually]~~ thereafter.

(3) In ~~[a]~~ Type I and Type II facilities, ~~[facility:]~~ the initial and six-month resident assessment ~~[shall] must~~ be completed and signed by a licensed health care professional, ~~[physician, an advanced practice registered nurse, physician assistant, or a registered nurse.]~~

~~(4) In a Type II facility, the resident assessment shall be completed and signed by the facility's registered nurse.]~~

~~(5)~~ (4) The resident assessment ~~[shall] must~~ include a signed ~~[statement:]~~ signed by the licensed health care professional completing the resident assessment ~~[:]~~ that the resident meets the admission and level of assistance criteria for the facility, ~~[is able to function in either a Type I or Type II assisted living facility.]~~

~~(6) The resident assessment shall document the resident's cognitive, physical, medical, and social conditions.]~~

~~(7)~~ (5) The facility shall use a resident assessment form that is approved and reviewed by the Department to document the resident assessments.

~~(8)~~ (6) The facility shall revise and update each resident's assessment when there is a significant change in the resident's cognitive, medical, physical, or social condition and update the resident's service plan to reflect the change in condition, ~~[~~

~~(9) A Type I facility shall conduct a semi-annual resident review in each 12-month period:~~

~~(a) The semi-annual review shall document the assistance required by the resident in the activities of daily living:~~

~~(b) The semi-annual resident review may be completed and signed by facility staff other than a licensed health care professional:~~

~~(10) A Type II facility shall conduct a semi-annual resident assessment review:~~

~~(a) The semi-annual resident assessment review shall document changes in a resident's cognitive, medical, physical, and social conditions:~~

~~(b) A registered nurse must complete and sign the resident assessment:]~~

R432-270-13[4]. Service Plan.

(1) Each resident must have an individualized service plan that is consistent with the resident's unique cognitive, medical, physical, and social needs, and is developed within seven calendar days of the day the facility admits the resident. The facility shall periodically revise the service plan as needed.

(2) The facility shall use the resident assessment to develop, review, and revise the service plan for each resident.

(3) The service plan must be prepared by the administrator or a designated facility service coordinator, ~~[who is an employee of the assisted living facility. The resident or the resident's responsible person shall actively participate with the service coordinator in developing the service plan:]~~

(4) The service plan shall include a written description of the following:

(a) what services are provided;

(b) who will provide the services, including the resident's significant others who may participate in the delivery of services;

(c) how the services are provided;

(d) the frequency of services; and

(e) changes in services and reasons for those changes.

R432-270-14. Service Coordinator.

(1) If the administrator appoints a service coordinator, the service coordinator must have knowledge, skills and abilities to coordinate the service plan for each resident.

(2) The duties and responsibilities of the service coordinator must be defined by facility policy and included in the designee's job description.

(3) The service coordinator is responsible to document that the resident or resident's designated responsible person is encouraged to actively participate in developing the service plan.

(4) The administrator and designated service coordinator are responsible to ensure that each resident's service plan is implemented by facility staff.

R432-270-15. Nursing Services.

(1) The facility must develop written policies and procedures defining the level of nursing services provided by the facility.

(2) A Type I assisted living facility must employ or contract with a registered nurse to provide or delegate medication administration for any resident who is unable to self-medicate or self-direct medication management.

~~(a)~~ (3) A Type II assisted living facility ~~[shall] must~~ employ or contract with a registered nurse to provide or supervise nursing services to include:

~~(i)~~ (a) a nursing assessment on each resident;

~~(ii)~~ (b) general health monitoring on each resident; and

~~(iii)~~ (c) routine nursing tasks, including those that may be delegated to unlicensed assistive personnel in accordance with the Utah Nurse Practice Act R156-31 ~~[=603]B-701.~~

~~(b)~~ (4) A Type I assisted living facility may provide nursing care according to facility policy. If a Type I assisted living facility chooses to provide nursing services, the nursing services must be provided in accordance with R432-270-15(3)(a) through ~~(c)~~ ~~(+)~~ (a) (i) thru (iii).

~~(2)~~ (5) Type I and Type II assisted living facilities shall not provide skilled nursing care, but must assist the resident in obtaining required services.]

—(3) To determine whether a nursing service is skilled, the following criteria shall apply:

(a) The complexity or specialized nature of the prescribed services can be safely or effectively performed only by, or under the close supervision of licensed health care professional personnel.

(b) Care is needed to prevent, to the extent possible, deterioration of a condition or to sustain current capacities of a resident.

(6) At least one certified nurse aide must be on duty in a Type II facility 24 hours per day.

R432-270-16. Secure Units.

(1) A Type II assisted living facility with approved secure units may admit residents with a diagnosis of Alzheimer's/dementia if the resident is able to exit the facility with limited assistance from one person.

(2) Each resident admitted to a secure unit must have an admission agreement that indicates placement in the secure unit.

(a) The secure unit admission agreement must document that a Department-approved wander risk management agreement has been negotiated with the resident or resident's responsible person.

(b) The secure unit admission agreement must identify discharge criteria that would initiate a transfer of the resident to a higher level of care than the assisted living facility is able to provide.

(3) There shall be at least one staff with documented training in Alzheimer's/dementia care in the secure unit at all times.

(4) Each secure unit must have an emergency evacuation plan that addresses the ability of the secure unit staff to evacuate the residents in case of emergency.

R432-270-1[6]7. Arrangements for Medical or Dental Care.

(1) The facility shall assist residents in arranging access for ancillary services for medically related care including physician, dentist, pharmacist, therapy, podiatry, hospice, home health, and other services necessary to support the resident.

(2) The facility shall arrange for care through one or more of the following methods:

(a) notifying the resident's responsible person;

(b) arranging for transportation to and from the practitioner's office; or

(c) arrange for a home visit by a health care professional.

(3) The facility must notify a physician or other health care professional when the resident requires immediate medical attention.

R432-270-1[7]8. Activity Program.

(1) Residents shall be encouraged to maintain and develop their fullest potential for independent living through participation in activity and recreational programs.

(2) The facility shall provide opportunities for the following:

(a) socialization activities;

(b) independent living activities to foster and maintain independent functioning;

(c) physical activities; and

(d) community activities to promote resident participation in activities away from the facility.

(3) The administrator shall designate an activity coordinator to direct the facility's activity program. The activity coordinator's duties include the following:

(a) coordinate all recreational activities, including volunteer and auxiliary activities;

(b) plan, organize, and conduct the residents' activity program with resident participation; and

(c) develop and post monthly activity calendars, including information on community activities, based on residents' needs and interests.

~~(3)4~~ The facility shall provide sufficient equipment, supplies, and indoor and outdoor space to meet the recreational needs and interests of residents.

~~(4)5~~ The facility shall provide storage for recreational equipment and supplies. Locked storage must be provided for potentially dangerous items such as scissors, knives, and toxic materials.

R432-270-1[8]9. Medication Administration.

(1) A licensed health care professional must assess each resident to determine what level and type of assistance is required for medication administration. The level and type of assistance provided shall be documented on each resident's assessment.~~[the resident's service plan.]~~

(2) ~~[The]Each~~ resident's medication program must be administered by means of one of the methods described in (a) through (d) in this section.~~[shall include one or all of the following:]~~

(a) The resident is able to self-administer medications.

(i) Residents who have been assessed to be able to self-administer medications may keep prescription medications in their rooms.

(ii) If more than one resident resides in a unit, the facility must assess each person's ability to safely have medications in the unit. If safety is a factor, a resident shall keep his medication in a locked container in the unit.

(b) The resident is able to self-direct medication administration. Facility staff may assist residents who self-direct~~[medicate]~~ medication administration by:

(i) reminding the resident to take the medication;

(ii) opening medication containers;]

~~—(iii) reading the instructions on container labels;~~

~~—(iv) checking the dosage against the label of the container;~~

~~—(v) reassuring the resident that the dosage is correct;~~

~~—(vi) observing a resident take the medication;]~~ and

~~(vii)iii~~ reminding the resident or the resident's responsible person when the prescription needs to be refilled.

(c) Family members or a designated responsible person~~[significant other]~~ may [set up]administer medications ~~[in]from~~ a package set up by a licensed practitioner or licensed pharmacist which identifies the medication and time to administer. If a family member or designated responsible person~~[significant other]~~ assists with medication administration, they shall sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered. Facility staff may not serve as the designated responsible person.~~[The facility staff may assist the resident to self-medicate by:~~

— (i) reminding residents to take medications; and
 — (ii) opening the container at the resident's request.]
 (d) For residents who are unable to self-administer or self-direct medications, facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.~~[Unlicensed assistive personnel may assist with medication administration under the supervision of the facility's registered nurse.]~~
 — (i) The facility's registered nurse may delegate the task of assisting with medication administration to unlicensed assistive personnel in accordance with the Nurse Practice Act R156-31-603.
 — (ii) The registered nurse who delegates the assisting with medication administration must verify and evaluate the practitioner's orders, perform a nursing assessment, and determine whether unlicensed assistive personnel can safely perform the assisting with administration of medications.]
 (i) If a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the delegation shall be in accordance with the Nurse Practice Act and R156-31B-701.
 (ii)(i) The medications must be administered according to the ~~[a plan of care]~~ service plan~~[developed by the registered nurse].~~
 (iv)(iii) The delegating authority~~[registered nurse shall]~~ must provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.
 (iv) The delegating authority~~[nurse]~~ or another registered nurse shall be readily available either in person or by telecommunication.]
 — (e) ~~The resident may have the facility's licensed nurse administer medications.~~
 — (i) ~~The service plan shall document instructions for medication administration.~~
 — (ii) ~~All medications shall be prescribed in writing for the resident by the resident's licensed practitioner.]~~
 (3) [The facility]The facility must have a licensed health care professional or licensed pharmacist [must]review all resident medications at least every six months.~~[unless the resident has been assessed to safely self-administer medications:]~~
 (a) Medication records shall include the following:
 (i) the resident's name;
 (ii) the name of the prescribing practitioner;
 (iii) ~~[the name of the]~~medication name~~;~~ including prescribed dosage;
 (iv) ~~[the]~~time, dose and dates administered;
 (v) the method of administration;
 (vi) signatures of personnel administering the medication;
 and
 (vii) the review date.
 (b) Each facility must have a licensed health care professional or licensed pharmacist document any change in the dosage or schedule of medication in the medication record. The delegating authority must notify all unlicensed assistive personnel who administer medications of the medication change.~~[Any change in the dosage or schedule of medication administration shall be made by the resident's licensed practitioner and be documented in the medication record. All personnel shall be notified of the medication change:~~

— (c) The facility shall keep on file a list of possible reactions and precautions to any medications that facility staff assist the resident to administer.]
 (6) Each resident's medication record must contain a list of possible reactions and precautions for prescribed medications.
 (7) The facility must notify ~~[the]~~ licensed ~~[practitioner]~~health care professional ~~[shall be notified]~~when medication[s] errors occur.
 (8) Medication error incident reports shall be completed by the person who makes the error.
 (9) Medication errors must be incorporated into the facility quality improvement process.
 (10) Medications shall be stored in a locked central storage area to prevent unauthorized access.
 (a) If medication is stored in a central location, the resident shall have timely access to the medication.
 (b) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36 - 46 degrees Fahrenheit.
 (c) ~~The administration, storage, and handling of oxygen must comply with the requirements of NFPA 99 which is adopted and incorporated by reference.]~~The facility must develop and implement policies for the security and disposal of narcotics. Any disposal of controlled substances by a licensee or facility staff shall be consistent with the provisions of 21 CFR 1307.21.
 (8) The facility shall develop and implement a policy for disposing of unused, outdated, or recalled medications.
 (a) The facility shall return a resident's medication to the resident or to the resident's responsible person upon discharge.
 (b) The administrator shall document the return to the resident or the resident's responsible person of medication stored in a central storage.

R432-270-[19]20. Management of Resident Funds.
 (1) Residents have the right to manage and control their financial affairs. The facility may not require residents to deposit their personal funds or valuables with the facility.
 (2) The facility need not handle residents' cash resources or valuables. However, upon written authorization by the resident or the resident's responsible person, the facility may hold, safeguard, manage, and account for the resident's personal funds or valuables deposited with the facility, in accordance with the following:
 (a) The licensee shall establish and maintain on the residents' behalf a system that assures a full, complete, and separate accounting according to generally accepted accounting principles of each resident's personal funds entrusted to the facility. The system shall:
 (i) preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident, and preclude facility personnel from using residents' monies or valuables as their own;
 (ii) separate residents' monies and valuables intact and free from any liability that the licensee incurs in the use of its own or the facility's funds and valuables;
 (iii) maintain a separate account for resident funds for each facility and not commingle such funds with resident funds from another facility;
 (iv) for records of residents' monies which are maintained as a drawing account, include a control account for all receipts and

expenditures and an account for each resident and supporting receipts filed in chronological order;

(v) keep each account with columns for debits, credits, and balance; and

(vi) include a copy of the receipt that it furnished to the residents for funds received and other valuables entrusted to the licensee for safekeeping.

(b) The facility shall make individual financial records available on request through quarterly statements to the resident or the resident's legal representative.

(c) The facility shall purchase a surety bond or otherwise provide assurance satisfactory to the Department that all resident personal funds deposited with the facility are secure.

(d) The facility shall deposit, within five days of receipt, all resident monies that are in excess of \$150 in an interest-bearing bank account, that is separate from any of the facility's operating accounts, in a local financial institution.

(i) Interest earned on a resident's bank account shall be credited to the resident's account.

(ii) In pooled accounts, there shall be a separate accounting for each resident's share, including interest.

(e) The facility shall maintain a resident's personal funds that do not exceed \$150 in a non-interest-bearing account, interest-bearing account, or petty cash fund.

(f) Upon discharge of a resident with funds or valuables deposited with the facility, the facility shall that day convey the resident's funds, and a final accounting of those funds, to the resident or the resident's legal representative. Funds and valuables kept in an interest-bearing account shall be accounted for and made available within three working days.

(g) Within 30 days following the death of a resident, except in a medical examiner case, the facility shall convey the resident's valuables and funds entrusted to the facility, and a final accounting of those funds, to the individual administering the resident's estate.

R432-270-2[0]1. Facility Records.

(1) The facility must maintain accurate and complete records. Records shall be filed, stored safely, and be easily accessible to staff and the Department.

(2) Records shall be protected against access by unauthorized individuals.

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

- (a) employee application;
- (b) date of employment;
- (c) termination date;
- (d) reason for leaving;
- (e) documentation of CPR and first aid training;
- (f) health inventory;
- (g) food handlers permits;
- (h) TB skin test documentation; and
- (i) documentation of criminal background screening[check].

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

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

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

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

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

(e) the admission agreement;

(f) the resident assessment; and

(g) the resident service plan.

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

R432-270-2[1]2. Food Services.

(1) Facilities must have the capability to provide three meals a day, seven days a week, to all residents, plus snacks.

(a) The facility shall maintain onsite a one-week supply of nonperishable food and a three day supply of perishable food as required to prepare the planned menus.

(b) There shall be no more than a 14 hour interval between the evening meal and breakfast, unless a nutritious snack is available in the evening.

(c) The facility food service must comply with the following:

(i) All food shall be of good quality and shall be prepared by methods that conserve nutritive value, flavor, and appearance.

(ii) The facility shall ensure food is palatable, attractively served, and delivered to the resident at the appropriate temperature.

(iii) Powdered milk may only be used as a beverage, upon the resident's request, but may be used in cooking and baking.

(2) The facility shall provide adaptive eating equipment and utensils for residents as needed.

(3) A different menu shall be planned and followed for each day of the week.

(a) All menus must be approved and signed by a certified dietitian.

(b) Cycle menus shall cover a minimum of three weeks.

(c) The current week's menu shall be posted for residents' viewing.

(d) Substitutions to the menu that are actually served to the residents shall be recorded and retained for three months for review by the Department.

(4) Meals shall be served in a designated dining area suitable for that purpose or in resident rooms upon request by the resident.

(5) Residents shall be encouraged to eat their meals in the dining room with other residents.

(6) Inspection reports by the local health department shall be maintained at the facility for review by the Department.

(7) If the facility admits residents requiring therapeutic or special diets, the facility shall have an approved dietary manual for reference when preparing meals. Dietitian consultation shall be provided at least quarterly and documented for residents requiring therapeutic diets.

(8) The facility shall employ food service personnel to meet the needs of residents.

(a) While on duty in food service, the cook and other kitchen staff shall not be assigned concurrent duties outside the food service area.

(b) All personnel who prepare or serve food shall have a current Food Handler's Permit.[]

~~—(c) Dietary staff must receive a minimum of six hours of documented in-service training each year.~~

(9) Food service shall comply with the Utah Department of Health Food Service Sanitation Regulations, R392-100.

(10) If food service personnel also work in housekeeping or provide direct resident care, the facility must develop and implement employee hygiene and infection control measures to maintain a safe, sanitary food service.

R432-270-2[2]3. Housekeeping Services.

(1) The facility shall employ housekeeping staff to maintain both the exterior and interior of the facility.

(2) The facility shall designate a person to direct housekeeping services. This person shall:

(a) post routine laundry, maintenance, and cleaning schedules for housekeeping staff.

(b) ensure all furniture, bedding, linens, and equipment are clean before use by another resident.

(3) The facility shall control odors by maintaining cleanliness.

(4) There shall be a trash container in every occupied room.

(5) All cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials shall be stored in a locked area to prevent unauthorized access.

(6) Housekeeping personnel shall be trained in preparing and using cleaning solutions, cleaning procedures, proper use of equipment, proper handling of clean and soiled linen, and procedures for disposal of solid waste.

(7) Bathtubs, shower stalls, or lavatories shall not be used as storage places.

(8) Throw or scatter rugs that present a tripping hazard to residents are not permitted.

R432-270-2[3]4. Laundry Services.

(1) The facility shall provide laundry services to meet the needs of the residents, including sufficient linen supply to permit a change in bed linens for the total number of licensed beds, plus an additional fifty percent of the licensed bed capacity.~~[at least twice a week.]~~

(2) The facility shall inform the resident or the resident's responsible person in writing of the facility's laundry policy for residents' personal clothing.

(3) Food may not be stored, prepared, or served in any laundry area.

(4) The facility shall make available for resident use, the following:

(a) at least one washing machine and one clothes dryer; and

(b) at least one iron and ironing board.

R432-270-2[4]5. Maintenance Services.

(1) The facility shall conduct maintenance, including preventive maintenance, according to a written schedule to ensure that the facility equipment, buildings, fixtures, spaces, and grounds are safe, clean, operable, and in good repair.

(a) Fire rated construction and assemblies must be maintained in accordance with R710-3, Assisted Living Facilities.

~~(2)~~(b) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow, and other hazards.

~~(3)~~(c) Electrical systems, including appliances, cords, equipment call lights, and switches shall be maintained to guarantee safe functioning~~[and compliance with the National Electric Code, NFPA 70].~~

(d) Air filters installed in heating, ventilation and air conditioning systems must be inspected, cleaned or replaced in accordance with manufacturer specifications.

~~—(4) The facility shall inspect and clean or replace air filters installed in heating, air conditioning, and ventilation systems according to manufacturers specifications.~~

~~(5)~~(2) A pest control program shall be conducted in the facility buildings and on the grounds by a licensed pest control contractor or a qualified employee, certified by the State, to ensure the absence of vermin and rodents. Documentation of the pest control program shall be maintained for Department review.

~~(6)~~(3) The facility shall document maintenance work performed.

~~(7) Lighting levels shall meet or exceed the minimum standards as outlined in "Lighting for Health Care Facilities", Illuminating Engineering Society of North America, 1995 edition.~~

~~(8)~~(4) Hot water temperature controls shall automatically regulate temperatures of hot water delivered to plumbing fixtures used by residents. The facility shall maintain hot water delivered to public and resident care areas at temperatures between 105 - 120 degrees Fahrenheit.

R432-270-2[5]6. Disaster and Emergency Preparedness.

(1) The facility is responsible for the safety and well-being of residents in the event of an emergency or disaster.

(2) The licensee and the administrator are responsible to develop and coordinate plans with state and local emergency disaster authorities to respond to potential emergencies and disasters. The plan shall outline the protection or evacuation of all residents, and include arrangements for staff response or provisions of additional staff to ensure the safety of any resident with physical or mental limitations.

(a) Emergencies and disasters include fire, severe weather, missing residents, death of a resident, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty.

(b) The emergency and disaster response plan shall be in writing and distributed or made available to all facility staff and residents to assure prompt and efficient implementation.

(c) The licensee and the administrator must review and update the plan as necessary to conform with local emergency plans. The plan shall be available for review by the Department.

(3) The facility's emergency and disaster response plan must address the following:

(a) the names of the person in charge and persons with decision-making authority;

(b) the names of persons who shall be notified in an emergency in order of priority;

(c) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;

(d) instructions on how to contain a fire and how to use the facility alarm systems;

(e) assignment of personnel to specific tasks during an emergency;

(f) the procedure to evacuate and transport residents and staff to a safe place within the facility or to other prearranged locations;

(g) instructions on how to recruit additional help, supplies, and equipment to meet the residents' needs after an emergency or disaster;

(h) delivery of essential care and services to facility occupants by alternate means;

(i) delivery of essential care and services when additional persons are housed in the facility during an emergency; and

(j) delivery of essential care and services to facility occupants when personnel are reduced by an emergency.

(4) The facility must maintain safe ambient air temperatures within the facility.

(a) Emergency heating must have the approval of the local fire department.

(b) Ambient air temperatures of 58 degrees F. or below may constitute an imminent danger to the health and safety of the residents in the facility. The person in charge shall take immediate action in the best interests of the residents.

(c) The facility shall have, and be capable of implementing, contingency plans regarding excessively high ambient air temperatures within the facility that may exacerbate the medical condition of residents.

(5) Personnel and residents shall receive instruction and training in accordance with the plans to respond appropriately in an emergency. The facility shall:

(a) annually review the procedures with existing staff and residents and carry out unannounced drills using those procedures;

(b) hold simulated disaster drills semi-annually;

(c) hold simulated fire drills quarterly on each shift for staff and residents in accordance with Rule R710-3; and

(d) document all drills, including date, participants, problems encountered, and the ability of each resident to evacuate.

(6) The administrator shall be in charge during an emergency. If not on the premises, the administrator shall make every effort to report to the facility, relieve subordinates and take charge.

(7) The facility shall provide in-house all equipment and supplies required in an emergency including emergency lighting, heating equipment, food, potable water, extra blankets, first aid kit, and radio.

(8) The following information shall be posted in prominent locations throughout the facility:

(a) The name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems; and

(b) evacuation routes, location of fire alarm boxes, and fire extinguishers.

R432-270-2[6]7. First Aid.

(1) There shall be one staff person on duty at all times who has training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation and emergency procedures to ensure that each resident receives prompt first aid as needed.

(2) First aid training refers to any basic first aid course approved by the American Red Cross or Utah Emergency Medical Training Council.

(3) The facility must have a first aid kit available at a specified location in the facility.

(4) The facility shall have a current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency.

(5) The facility must have a clean up kit for blood borne pathogens.

R432-270-2[7]8. Pets.

(1) The facility may allow residents to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.

(2) Pets must be kept clean and disease-free.

(3) The pets' environment shall be kept clean.

(4) Small pets such as birds and hamsters shall be kept in appropriate enclosures.

(5) Pets that display aggressive behavior are not permitted in the facility.

(6) Pets that are kept at the facility or are frequent visitors must have current vaccinations.

(7) Upon approval of the administrator, family members may bring residents' pets to visit.

(8) Each facility with birds shall have procedures which prevent the transmission of psittacosis. Procedures shall ensure the minimum handling and placing of droppings into a closed plastic bag for disposal.

(9) Pets are not permitted in central food preparation, storage, or dining areas or in any area where their presence would create a significant health or safety risk to others.

R432-270-2[8]9. Respite Services.

(1) Assisted Living facilities may offer respite services and are not required to obtain a respite license from the Utah Department of Health.

(2) The purpose of respite is to provide intermittent, time limited care to give primary caretakers relief from the demands of caring for a person.

(3) Respite services may be provided at an hourly rate or daily rate, but shall not exceed 14-days for any single respite stay. Stays which exceed 14 days shall be considered a non-respite assisted living facility admission, subject to the requirements of R432-270.

(4) The facility shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

(5) The facility shall document the person's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program.

(6) The facility must complete a service agreement to serve as the plan of care. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders.

(7) The facility shall have written policies and procedures approved by the Department prior to providing respite care. [

~~(8)~~ Policies and procedures must be available to staff regarding the respite care clients which include:

(a) medication administration;

(b) notification of a responsible party in the case of an emergency;

(c) service agreement and admission criteria;

(d) behavior management interventions;

- (e) philosophy of respite services;
 - (f) post-service summary;
 - (g) training and in-service requirement for employees; and
 - (h) handling personal funds.
- (8) Persons receiving respite services shall be provided a copy of the Resident Rights documents upon admission.
- (9) The facility shall maintain a record for each person receiving respite services which includes:
- (a) a service agreement;
 - (b) demographic information and resident identification data;
 - (c) nursing notes;
 - (d) physician treatment orders;
 - (e) records made by staff regarding daily care of the person in service;
 - (f) accident and injury reports; and
 - (g) a post-service summary.
- (10) Retention and storage of respite records shall comply with R432-270-21(1)-(2).
- (11) If a person has an advanced directive, a copy shall be filed in the respite record and staff shall be informed of the advanced directive.

R432-270-[29]30. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 [~~or be assessed a penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years]and be punished for violation of a class A misdemeanor as provided in Section [~~26-23-6]26-21-16.~~~~

KEY: health facilities

~~[January 29, 1999]2001~~

Notice of Continuation February 9, 2000

26-21-5

26-21-1



Insurance, Administration
R590-204
 Adoption Indemnity Benefit

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23378

FILED: 12/12/2000, 14:20

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is set an adoption indemnity benefit amount.

SUMMARY OF THE RULE OR CHANGE: In 1998 the Legislature adopted Section 31A-22-610.1 (S.B. 76) which included the indemnity benefit amount of \$2,500. Subsection 31A-22-610.1(1)(c) requires that the department review this amount

every two years and make necessary revisions to it by rule. This rule does that.
(DAR Note: S.B. 76 is found at 1998 Utah Laws 329, and was effective May 4, 1998.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-610.1

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The changes in this rule will require health insurers to change their policy rates and forms dealing with adoption benefits. Changes to policy rates and forms must be filed with the department. Currently there are approximately 214 health insurers doing business in Utah. This rule will require each of these insurers to file a rate and form filing with the department for \$20 a filing.

❖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: Active health insurers will need to pay the \$20 filing fee to show the change in their rates and forms. They should not need to hire additional people. There will be an increase in claim payments to adoptive parents of approximately \$655 unless the contract between the insurer and provider is less. Insurers will probably defer a portion of this increased cost onto insureds who purchase a policy with this benefit.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Active health insurers will need to pay the \$20 filing fee to show the change in their rates and forms. They should not need to hire additional people. There will be an increase in claim payments to adoptive parents of approximately \$655 unless the contract between the insurer and provider is less. Insurers will probably defer a portion of this increased cost onto insureds who purchase a policy with this benefit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be an impact of an additional \$655 to insurers for this benefit unless their contracts with their providers is less.

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 02/01/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/18/2001, 9:00 a.m., Room 2112, State Office Building (behind the Capitol), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/02/2001

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-204. Adoption Indemnity Benefit.
R590-204-1. Authority.

The requirements of this rule are authorized under Subsections 31A-2-201(3) and 31A-22-610.1(1)(c).

R590-204-2. Purpose.

The purpose of this rule is to:

(1) provides for the establishment and review of the adoption indemnity benefit amount; and

(2) provide reasonable adjustment every two years, taking into account all available data, including the average insurance cost of an uncomplicated birth.

R590-204-3. Scope and Applicability.

This rule shall apply to all insurance policies governed by the Utah Insurance Code that provide coverage for maternity benefits to any insured on the date of any adoptive placement.

R590-204-4. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-22-610.1.

R590-204-5. Current Level of Indemnity Benefit.

Considering all relevant factors, the current amount of the adoption indemnity benefit is set at \$3,155.

R590-204-6. Severability.

If any provision or clause of this rule or its application to any person or situation is held to be invalid, that invalidity 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 benefits
2001

31A-2-201
31A-22-610.1



Labor Commission, Occupational
Safety and Health
R614-1-4
Incorporation of Federal Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23372
FILED: 12/04/2000, 08:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Labor Commission's Occupational Safety and Health rules to incorporate the most current federal standards as published in 29 CFR. Specifically, the proposed amendment incorporates amendments to 29 CFR 1908 pertaining to consultation agreements and procedures.

SUMMARY OF THE RULE OR CHANGE: The Utah Division of Occupational Safety and Health (UOSH) provides consultation services to employers to identify occupational hazards and assist in compliance with UOSH standards. The Commission conducts this consultation program under Commission rules that incorporate the federal standards found in 29 CFR Part 1908. On July 16, 1998, the federal Compliance Assistance Authorization Act (CAAA) became law. On December 26, 2000, federal Occupational Safety and Health Administration (OSHA) will adopt amendments to 29 CFR 1908 consistent with the requirements of CAAA. The rule amendment proposed by the Labor Commission incorporates such amendments into the Commission's rules. The proposed amendment includes: participation by employees in consultation visits; notification to employees of identified hazards; and use of consultant's reports during enforcement proceedings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202
FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1910

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 65 FR 64281 - 64295 (October 26, 2000)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** It is unlikely that the procedures included in the proposed amendment will add measurably to UOSH staff time required to provide consultative services.
 - ❖ **LOCAL GOVERNMENTS:** The UOSH consultation program is entirely voluntary for employers, including local governments in their role as employers. The procedures included in the proposed amendment do not affect employer participation. Consequently, the Commission does not anticipate any costs or savings to local governments.
 - ❖ **OTHER PERSONS:** The UOSH consultation program is entirely voluntary for employers. The procedures included in the proposed amendment do not affect employer participation. Consequently, the Commission does not anticipate any costs or savings to employers.
- COMPLIANCE COSTS FOR AFFECTED PERSONS:** UOSH's consultation program is provided free of charge and is largely funded by federal grants. Any compliance costs will be negligible for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Employer participation in the UOSH consultation program is entirely voluntary. The service is provided at no charge. While the proposed amendment generally provides for greater employee participation in the consultation process and notification of any hazards discovered in that process, the Commission

does not expect these changes to have any appreciable fiscal impact on employers.

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

Labor Commission
Occupational Safety and Health
Third Floor, Heber M. Wells Office Building
160 East 300 South
PO Box 146650
Salt Lake City, UT 84114-6650, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

William W. Adams, Jr. at the above address, by phone at (801) 530-6897, by FAX at (801) 530-7606, or by Internet E-mail at icmain.wadams@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R614. Labor Commission, Occupational Safety and Health.

R614-1. General Provisions.

R614-1-4. Incorporation of Federal Standards.

A. General Industry Standards.

1. Sections 29 CFR 1910.21 to 1910.999 and 1910.1000 through the end of part 1910 of the July 1, 1999, edition are incorporated by reference.

2. FR Vol. 65, No. 208, Thursday, October 26, 2000, Pages 64281 to and including 64295, "Consultation Agreements: Changes to Consultation Procedures; Final Rule" is incorporated by reference.

B. Construction Standards.

1. Section 29 CFR 1926.20 through the end of part 1926, of the July 1, 1999 edition is incorporated by reference.

KEY: safety

[July 2, 1999]2001

34A-6



Natural Resources; Oil, Gas and Mining; Coal

R645-100-200

Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23385

FILED: 12/15/2000, 11:10

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes proposed in this rule action are being made in response to a request for agency action or rulemaking petition.

SUMMARY OF THE RULE OR CHANGE: This change modifies the Utah Coal Regulatory Program to be more responsive to the needs of Western U.S. water law and conditions by defining terms used in the Division's Coal Regulatory Program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 40-10-6.5

FEDERAL REQUIREMENT FOR THIS RULE: Pub. L. No. 95-87, The Surface Mining Control and Reclamation Act

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No cost is anticipated at this time from these changes due to their minor effect on the coal regulatory program requirements.

❖LOCAL GOVERNMENTS: The changes made in these rule amendments make no demands of local governments, thus there will be little or no impact in this regard.

❖OTHER PERSONS: The changes made in these rule amendments to actual on-the-ground compliance measures for coal mining operations are minor. Because a similar, although slightly less broad, standard for water replacement is already established at the federal level, there will be a small impact from these rules in that an additional category of water is protected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The affected persons in this case would be coal mine operators, their compliance would not be changed significantly by these rule changes as no new demands or requirements are created from this action. The standard for water replacement already exists in the Utah Code and a similar standard exists at the federal level.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact to business is neutral since federal rules of similar effectiveness would prevail if the state rules did not exist.

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

Natural Resources
Oil, Gas and Mining; Coal
Suite 1210, Natural Resources Building
1594 West North Temple
PO Box 145801
Salt Lake City, UT 84114-5801, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronald W. Daniels at the above address, by phone at (801) 538-5316, by FAX at (801) 359-3940, or by Internet E-mail at rdaniels@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 01/31/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/24/2001, 10:00 a.m., Suite 1040A, 1594 West North Temple, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals Research

R645. Natural Resources; Oil, Gas and Mining; Coal.
R645-100. Administrative: Introduction.
R645-100-200. Definitions.

.....

"Stabilize" means to control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

~~"State Appropriated Water Supply" means State-created water rights which are recognized under the provisions of the Utah Code.~~

"State Program" means the program established by the state of Utah and approved by the Secretary of the Department of the Interior pursuant to the Federal Act and the Act to regulate coal mining and reclamation operations on non-Indian and non-federal lands within Utah, according to the Federal Act, the Act and the R645 Rules. Pursuant to the cooperative agreement between the state of Utah and the Office, the State Program applies to federal lands in accordance with the terms of the cooperative agreement.

.....

"Violation, Failure, or Refusal" means for the purposes of R645-402, (1) A violation of a condition of a permit issued under the State Program, or (2) A failure or refusal to comply with any order issued under UCA 40-10-22, or any order incorporated in a final decision issued under UCA 40-10-20(2) or R645-104-500.

"Water Supply", "State-appropriated Water", and "State-appropriated Water Supply" are all synonymous terms and mean, for the purposes of the R645 Rules, state appropriated water rights which are recognized by the Utah Constitution or Utah Code.

"Violation Notice" means any written notification from a governmental entity of a violation of law, whether by letter, memorandum, legal or administrative pleading, or other written communication.

.....

KEY: reclamation, coal mines
[~~October 1, 1999~~2001 **40-10-1 et seq.**
Notice of Continuation June 6, 1997



Natural Resources; Oil, Gas and Mining; Coal
R645-301-500
Engineering

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23386
FILED: 12/15/2000, 11:10
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes proposed in this rule action are being made in response to request for agency action or rulemaking petition.

SUMMARY OF THE RULE OR CHANGE: This change modifies the Utah Coal Regulatory Program to be more responsive to the needs of Western U.S. water law and conditions, and includes the local water conservation district to be among those parties to whom notice of mining and copies of a technical assessment or engineering evaluation are copied.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 40-10-6.5
FEDERAL REQUIREMENT FOR THIS RULE: Pub. L. No. 95-87, The Surface Mining Control and Reclamation Act

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No cost is anticipated at this time from these changes due to their minor effect on the coal regulatory program requirements.
❖LOCAL GOVERNMENTS: The changes made in these rule amendments make no demands of local governments, thus there will be little or no impact in this regard.
❖OTHER PERSONS: The changes made in these rule amendments to actual on-the-ground compliance measures for coal mining operations are minor.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The affected persons in this case would be coal mine operators, their compliance would not be changed significantly from these rule changes. Additional copies of notices and technical reports being sent to water conservancy districts would be a minor expense, especially where copies are already being distributed to other parties.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fiscal impact to business is extremely minor.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Oil, Gas and Mining; Coal
Suite 1210, Natural Resources Building

1594 West North Temple
PO Box 145801
Salt Lake City, UT 84114-5801, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ronald W. Daniels at the above address, by phone at (801)
538-5316, by FAX at (801) 359-3940, or by Internet E-mail at
rdaniels@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 01/31/2001; OR ATTENDING A PUBLIC
HEARING SCHEDULED FOR 01/24/2001, 10:00 a.m., Suite
1040A, 1594 West North Temple, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals
Research

R645. Natural Resources; Oil, Gas and Mining; Coal.
R645-301. Coal Mine Permitting: Permit Application
Requirements.
R645-301-500. Engineering.

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525. Subsidence control plan.

525.100. Pre-subsidence survey. Each application for
UNDERGROUND COAL MINING AND RECLAMATION
ACTIVITIES will include:

525.110. A map of the permit and adjacent areas at a scale of
1:12,000, or larger if determined necessary by the Division,
showing the location and type of structures and renewable resource
lands that subsidence may materially damage or for which the value
or reasonably foreseeable use may be diminished by subsidence,
and showing the location and type of State-appropriated water that
could be contaminated, diminished, or interrupted by subsidence.

525.120. A narrative indicating whether subsidence, if it
occurred, could cause material damage to or diminish the value or
reasonably foreseeable use of such structures or renewable resource
lands or could contaminate, diminish, or interrupt State-
appropriated water supplies.

525.130. A survey of the condition of all non-commercial
buildings or occupied residential dwellings and structures related
thereto, that may be materially damaged or for which the reasonably
foreseeable use may be diminished by subsidence, within the area
encompassed by the applicable angle of draw; as well as a survey of
the quantity and quality of all State-appropriated water supplies
within the permit area and adjacent area that could be contaminated,
diminished, or interrupted by subsidence. If the applicant cannot
make this survey because the owner will not allow access to the site,
the applicant will notify the owner, in writing, of the effect that
denial of access will have as described in R645-301-525. The
applicant must pay for any technical assessment or engineering
evaluation used to determine the pre-mining condition or value of
such non-commercial buildings or occupied residential dwellings
and structures related thereto and the quantity and quality of State-

appropriated water supplies. The applicant must provide copies of
the survey and any technical assessment or engineering evaluation
to the property owner, the water conservancy district, if any, where
the mine is located, and to the Division.

525.200. Protected areas.

525.210. Unless excepted by R645-301-525.213,
UNDERGROUND COAL MINING AND RECLAMATION
ACTIVITIES will not be conducted beneath or adjacent to:

525.211. Public buildings and facilities;

525.212. Churches, schools, and hospitals;

525.213. Impoundments with a storage capacity of 20 acre-
feet or more or bodies of water with a volume of 20 acre-feet or
more, unless the subsidence control plan demonstrates that
subsidence will not cause material damage to, or reduce the
reasonably foreseeable use of, such features or facilities; and

525.214. If the Division determines that it is necessary in
order to minimize the potential for material damage to the features
or facilities described above or to any aquifer or body of water that
serves as a significant water source for any public water supply
system, it may limit the percentage of coal extracted under or
adjacent thereto.

525.220. If subsidence causes material damage to any of the
features or facilities covered by R645-301-525.210, the Division
may suspend mining under or adjacent to such features or facilities
until the subsidence control plan is modified to ensure prevention
of further material damage to such features or facilities.

525.230. The Division will suspend coal mining and
reclamation operations under urbanized areas, cities, towns, and
communities, and adjacent to industrial or commercial buildings,
major impoundments, or perennial streams, if imminent danger is
found to inhabitants of the urbanized areas, cities, towns, or
communities.

525.240. Within a schedule approved by the Division, the
operator will submit a detailed plan of the underground workings.
The detailed plan will include maps and descriptions, as
appropriate, of significant features of the underground mine,
including the size, configuration, and approximate location of
pillars and entries, extraction ratios, measure taken to prevent or
minimize subsidence and related damage, areas of full extraction,
and other information required by the Division. Upon request of
the operator, information submitted with the detailed plan may be
held as confidential, in accordance with the requirements of R645-
300-124.

525.300. Subsidence control.

525.310. Measures to prevent or minimize damage.

525.311. The permittee will either adopt measures consistent
with known technology that prevent subsidence from causing
material damage to the extent technologically and economically
feasible, maximize mine stability, and maintain the value and
reasonably foreseeable use of surface lands or adopt mining
technology that provides for planned subsidence in a predictable
and controlled manner.

525.312. If a permittee employs mining technology that
provides for planned subsidence in a predictable and controlled
manner, the permittee must take necessary and prudent measures,
consistent with the mining method employed, to minimize material
damage to the extent technologically and economically feasible to
non-commercial buildings and occupied residential dwellings and

structures related thereto except that measures required to minimize material damage to such structures are not required if:

525.312.1. The permittee has the written consent of their owners or

525.312.2. Unless the anticipated damage would constitute a threat to health or safety, the costs of such measures exceed the anticipated costs of repair.

525.313. Nothing in this part prohibits the standard method of room-and-pillar mining.

525.400. Subsidence control plan contents. If the survey conducted under R645-301-525.100 shows that no structures, or State-appropriated water supplies, or renewable resource lands exist, or that no material damage or diminution in value or reasonably foreseeable use of such structures or lands, and no contamination, diminution, or interruption of such water supplies would occur as a result of mine subsidence, and if the Division agrees with this conclusion, no further information need be provided under this section. If the survey shows that structures, renewable resource lands, or water supplies exist and that subsidence could cause material damage or diminution in value or reasonably foreseeable use, or contamination, diminution, or interruption of state-appropriated water supplies, or if the Division determines that damage, diminution in value or foreseeable use, or contamination, diminution, or interruption could occur, the application must include a subsidence control plan that contains the following information:

525.410. A description of the method of coal removal, such as longwall mining, room-and-pillar removal or hydraulic mining, including the size, sequence and timing of the development of underground workings;

525.420. A map of the underground workings that describes the location and extent of the areas in which planned-subsidence mining methods will be used and that identifies all areas where the measures described in 525.440, 525.450, and 525.470 will be taken to prevent or minimize subsidence and subsidence-related damage; and, when applicable, to correct subsidence-related material damage;

525.430. A description of the physical conditions, such as depth of cover, seam thickness and lithology of overlying strata, that affect the likelihood or extent of subsidence and subsidence-related damage;

525.440. A description of the monitoring, if any, needed to determine the commencement and degree of subsidence so that, when appropriate, other measures can be taken to prevent, reduce or correct material damage in accordance with R645-301-525.500;

525.450. Except for those areas where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence-related damage, such as, but not limited to:

525.451. Backstowing or backfilling of voids;

525.452. Leaving support pillars of coal;

525.453. Leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving coal in place; and

525.454. Taking measures on the surface to prevent or minimize material damage or diminution in value of the surface;

525.460. A description of the anticipated effects of planned subsidence, if any;

525.470. For those areas where planned subsidence is projected to be used, a description of methods to be employed to minimize damage from planned subsidence to non-commercial buildings and occupied residential dwellings and structures related thereto; or the written consent of the owner of the structure or facility that minimization measures not be taken; or, unless the anticipated damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage exceed the anticipated costs of repair;

525.480. A description of the measures to be taken in accordance with R645-301-731.530 and R645-301-525.500 to replace adversely affected State-appropriated water supplies or to mitigate or remedy any subsidence-related material damage to the land and protected structures; and

525.490. Other information specified by the Division as necessary to demonstrate that the operation will be conducted in accordance with R645-301-525.300.

525.500. Repair of damage.

525.510. Repair of damage to surface lands. The permittee must correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence damage.

525.520. Repair or compensation for damage to non-commercial buildings and dwellings and related structures. The permittee must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any non-commercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. If repair option is selected, the permittee must fully rehabilitate, restore or replace the damaged structure. If compensation is selected, the permittee must compensate the owner of the damaged structure for the full amount of the decrease in value resulting from the subsidence-related damage. The permittee may provide compensation by the purchase, before mining, of a non-cancelable premium-prepaid insurance policy. The requirements of this paragraph apply only to subsidence-related damage caused by underground coal mining and reclamation activities conducted after October 24, 1992.

525.530. Repair or compensation for damage to other structures. The permittee shall either correct material damage resulting from subsidence caused to any structures or facilities not protected by paragraph 525.520 by repairing the damage or compensate the owner of the structures or facilities for the full amount of the decrease in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase before mining of a non-cancelable premium-prepaid insurance policy.

525.540. Rebuttable presumption of causation by subsidence.

525.541. Rebuttable presumption of causation for damage within angle of draw. If damage to any non-commercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting an angle of draw equal to that used for that particular mine's compliance with R645-301 from the outermost boundary of any underground mine workings to the surface of the land, a rebuttable presumption exists that the permittee caused the damage. This presumption will normally apply to a 30 degree angle of draw from

the vertical, however, the Division may amend the applicable angle of draw for a particular mine through the process described in R645-301-525.542.

525.542. Approval of site-specific angle of draw. A permittee or permit applicant may request that the presumption apply to an angle of draw different than 30 degrees. To establish a site-specific angle of draw, an applicant must demonstrate and the Division must determine in writing that the proposed angle of draw has a more reasonable basis than 30 degrees and is based on a site-specific geotechnical analysis of the potential surface impacts of the mining operation.

525.543. No presumption where access for pre-subsidence survey is denied. If the permittee was denied access to the land or property for the purpose of conducting the pre-subsidence survey in accordance with R645-301-525.130 no rebuttable presumption will exist.

525.544. Rebuttal of presumption. The presumption will be rebutted if, for example, the evidence establishes that: The damage predated the mining in question; the damage was proximately caused by some other factor or factors and was not proximately caused by subsidence; or the damage occurred outside the surface area within which subsidence was actually caused by the mining in question.

525.545. Information to be considered in determination of causation. In any determination whether damage to protected structures was caused by subsidence from underground mining, all relevant and reasonably available information will be considered by the Division.

525.550. Adjustment of bond amount for subsidence damage. When subsidence-related material damage to land, structures or facilities protected under R645-301-525.500 through R645-301-525.530 occurs, or when contamination, diminution, or interruption to a water supply protected under Sec. R645-301-731.530 occurs, the Division must require the permittee to obtain additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the State-appropriated water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed. If repair, compensation, or replacement is completed within 90 days of the occurrence of damage, no additional bond is required. The Division may extend the 90-day time frame, but not to exceed one year, if the permittee demonstrates and the Division finds in writing that subsidence is not complete, that not all probable subsidence-related material damage has occurred to lands or protected structures, or that not all reasonably anticipated changes have occurred affecting the State-appropriated water supply, and that therefore it would be unreasonable to complete within 90 days the repair of the subsidence-related material damage to lands or protected structures, or the replacement of State-appropriated water supply.

525.600. Compliance. The operator will comply with all provisions of the approved subsidence control plan.

525.700. Public Notice of Proposed Mining. At least six months prior to mining, or within that period if approved by the Division, the underground mine operator will mail a notification to the water conservancy district, if any, in which the mine is located and to all owners and occupants of surface property and structures above the underground workings. The notification will include, at

a minimum, identification of specific areas in which mining will take place, dates that specific areas will be undermined, and the location or locations where the operator's subsidence control plan may be examined.

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KEY: reclamation, coal mines

[November 17, 2000]2001

40-10-1 et seq.

Notice of Continuation June 6, 1997



**Natural Resources; Oil, Gas and
Mining; Coal
R645-301-700
Hydrology**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 23387
FILED: 12/15/2000, 11:10
RECEIVED BY: NL**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes proposed in this rule action are being made in response to a rulemaking petition.

SUMMARY OF THE RULE OR CHANGE: This change modifies the Utah Coal Regulatory Program to be more responsive to the needs of Western U.S. water law and conditions and defines the source of water to be described in the probable hydrologic consequences document.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 40-10-6.5
FEDERAL REQUIREMENT FOR THIS RULE: Pub. L. No. 95-87, The Surface Mining Control and Reclamation Act

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** No cost is anticipated at this time from these changes due to their minor effect on the coal regulatory program requirements.

❖**LOCAL GOVERNMENTS:** The changes made in these rule amendments make no demands of local governments, thus there will be little or no impact in this regard.

❖**OTHER PERSONS:** The changes made in these rule amendments to actual on-the-ground compliance measures for coal mining operations are minor. Because a similar standard for water replacement is already established at the federal level, there will be a small impact from these rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The affected persons in this case would be coal mine operators, their compliance would not be changed significantly from these rule changes as no new demands or requirements are created from this action.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fiscal impact to business is neutral since federal rules of similar effectiveness would prevail if state rules do not exist.

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

Natural Resources
Oil, Gas and Mining; Coal
Suite 1210, Natural Resources Building
1594 West North Temple
PO Box 145801
Salt Lake City, UT 84114-5801, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ronald W. Daniels at the above address, by phone at (801) 538-5316, by FAX at (801) 359-3940, or by Internet E-mail at rdaniels@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 01/31/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/24/2001, 10:00 a.m., Suite 1040A, 1594 West North Temple, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals Research

R645. Natural Resources; Oil, Gas and Mining; Coal.
R645-301. Coal Mine Permitting: Permit Application Requirements.
R645-301-700. Hydrology.

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728. Probable Hydrologic Consequences (PHC) Determination.

728.100. The permit application will contain a determination of the PHC of the proposed coal mining and reclamation operation upon the quality and quantity of surface and ground water under seasonal flow conditions for the proposed permit and adjacent areas.

728.200. The PHC determination will be based on baseline hydrologic, geologic and other information collected for the permit application and may include data statistically representative of the site.

728.300. The PHC determination will include findings on:

728.310. Whether adverse impacts may occur to the hydrologic balance;

728.320. Whether acid-forming or toxic-forming materials are present that could result in the contamination of surface- or ground-water supplies;

728.330. What impact the proposed coal mining and reclamation operation will have on:

728.331. Sediment yield from the disturbed area;

728.332. Acidity, total suspended and dissolved solids and other important water quality parameters of local impact;

728.333. Flooding or streamflow alteration;

728.334. Ground-water and surface-water availability; and

728.335. Other characteristics as required by the Division; and

728.340. Whether the proposed SURFACE COAL MINING AND RECLAMATION ACTIVITY will proximately result in contamination, diminution or interruption of an underground or surface source of water within the proposed permit or adjacent areas which is used for domestic, agricultural, industrial or other legitimate purpose; Or

728.350. Whether the UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES conducted after October 24, 1992 may result in contamination, diminution or interruption of State-appropriated water in existence at the time the application is submitted, [and] used for legitimate purposes, and which a source within the permit or adjacent areas.

728.400. An application for a permit revision will be reviewed by the Division to determine whether a new or updated PHC determination will be required.

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KEY: reclamation, coal mines
[November 17, 2000]2001
Notice of Continuation June 6, 1997

40-10-1 et seq.



Public Service Commission,
Administration
R746-341
Lifeline Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 23376

FILED: 12/06/2000, 16:37

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To reflect statutory changes regarding the funding source for the program and to permit individuals to continue participating in the telephone lifeline program beyond a time limited participation in a public assistance program.

SUMMARY OF THE RULE OR CHANGE: Changes are proposed to reflect legislative change directing that the lifeline program be funded through the Universal Public Telecommunications Service Support Fund (USF), Subsection 54-8b-15(7). Changes are also proposed to permit individuals otherwise qualified to participate in a qualifying public assistance program, but for any time period limitation associated with that public assistance program, to continue to participate in the telephone lifeline program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-8b-15 and 54-8b-10

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--There will be no change in state agency activities. The change in the funding source will result in a net difference in costs or savings of zero.

❖LOCAL GOVERNMENTS: None--There will be no change in local government activities. The change in the funding source will result in a net difference in costs or savings of zero.

❖OTHER PERSONS: There will be some savings as telecommunications carriers which previously were required to submit annual reports concerning the lifeline surcharge collections will no longer be required to submit such reports. It is estimated that the savings amount for each carrier will be small, less than \$500.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs are estimated to be zero, as the proposed amendment simply transfers the funding source of the lifeline program from one existing program fund to another existing program fund.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The current lifeline program is funded by a surcharge on each access line. The Legislature has directed that the lifeline program be funded from the Universal Public Telecommunications Service Support Fund (USF), which is funded through a percentage surcharge on retail telecommunications services sold in Utah. The elimination of the lifeline program access line surcharge will be replaced by an equal funding draw for the lifeline program from the USF; the net effect will be zero.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@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 01/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: Barbara Stroud (designee), Paralegal

**R746. Public Service Commission, Administration.
R746-341. Lifeline Rule.**

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R746-341-3. Eligibility Requirements.

A. The eligible telecommunications carriers shall provide lifeline telephone service to any applicant who self-certifies eligibility for public assistance under one of the following or its successor programs:

1. Temporary Assistance to Needy Families (TANF);
2. Emergency Work Programs;
3. Food Stamps;
4. General Assistance;
5. Home Energy Assistance Target Programs;
6. Medical Assistance;
7. Refugee Assistance;
8. Supplemental Security Income.

B. Self-certification will be upon a form supplied by the eligible telecommunications carrier or the appropriate state agency and contain the following:

1. applicant's name, current telephone number, and social security number;
2. a request for lifeline service;
3. an affirmative statement that the applicant qualifies for lifeline service.
4. a statement as to whether the person is participating in one of the programs set out in Subsection A above or [is simply] would be eligible for one or more of those programs, without respect to any time limitation for participation in those programs;
5. a statement that if the applicant is later shown to have submitted a false self-certification for the Lifeline program, the applicant will be responsible to pay the difference between the lifeline rate and the otherwise applicable rate;
6. a statement whether this is a reconnect or not; and
7. signature.

R746-341-4. Verification Procedures.

A. At least annually, the eligible telecommunications carriers offering Lifeline telephone service shall provide the appropriate state agency with computer tapes, written lists, or personal computer disks, listing their Lifeline service customers' names, telephone numbers, addresses and social security numbers. Eligible telecommunications carriers with more than 300 Lifeline telephone customers shall provide the information in an electronic format useable by the appropriate state agency.

B. Lifeline telephone customers who do not participate in any of the programs listed in Section 3, but who are qualified to participate in those programs, shall be certified by the appropriate state agency as being eligible for any of the qualifying programs, and shall thereafter be included on a Lifeline Only verification list maintained by the agency. Lifeline customers on Lifeline Only lists will be required to annually recertify with the appropriate state agency to verify their continued eligibility for Lifeline telephone service.

C. Eligible telecommunications carriers shall notify any Lifeline telephone service customer who fails to appear on the appropriate state agency's listing of public assistance program participants, or Lifeline Only list, that the customer is now ineligible and is no longer entitled to the Lifeline service rate.

D. A subscriber denied Lifeline telephone service under Subsection C above shall be entitled to resubscribe to Lifeline service only after the eligible telecommunications carrier providing telephone service to that subscriber has received confirmation from

the appropriate state agency that the discontinued Lifeline telephone services subscriber is currently a participant in a state public assistance program or is qualified to participate in those programs, or would be able to participate in those programs but for any time limitation related to participation in those programs.

E. A Lifeline telephone service customer who does not qualify and has falsely self-certified and participated in the Lifeline program will be responsible to pay the difference between the Lifeline rate and the otherwise applicable rate for the length of time the customer subscribed to Lifeline telephone service for which the customer was not eligible.

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R746-341-6. Reporting Requirements.

A. ~~Telecommunications corporations, excluding eligible telecommunications carriers shall file an annual report, by March 31 of each year with the Division of Public Utilities, on their Lifeline telephone service programs. This report shall include the following information:~~

- ~~1. administrative costs associated with the Lifeline telephone service program; and~~
- ~~2. the amount and calculation basis of monthly Lifeline surcharge collections;~~

~~3. B.]Eligible telecommunications carriers shall submit, to the Division of Public Utilities, a semi-annual report, by June 30 and December 31, of each year, containing a description of the eligible telecommunicaions carrier's Lifeline program. The reports shall also contain monthly information on:~~

- ~~1. [the Lifeline surcharge revenues billed and collected;~~
- ~~2.]the forgone revenue resulting from the discounts provided to Lifeline customers;~~
- ~~[3]2. the amounts of administrative, advertising, voucher and other program expenses;~~
- ~~[4]3. interest accrual amounts on Lifeline and Link up funds; and~~
- ~~[5]4. the number of Lifeline telephone service subscribers by exchange area.~~

R746-341-7. Funding of Lifeline.

A. Total cost of providing Lifeline telephone service, including the administrative costs of the eligible telecommunications carriers and the cost of the appropriate state agency, shall be recovered and funded as provided in 54-8b-15.~~[funded from an equal surcharge imposed upon the non-Lifeline access lines of all telecommunications corporations.~~

~~B. The Commission shall hold hearings as it determines necessary for the purpose of establishing surcharge rates which it finds reasonable to be assessed on all non-Lifeline access lines in the state to provide for the funding of Lifeline telephone service.~~

~~C. Thirty days following approval of the surcharges referred to in Subsection B above, the telecommunications corporations shall begin collecting the new surcharge from all non-Lifeline access lines and remitting the funds collected to the Commission as described in R746-341-8. The initial rate to be charged shall be \$0.10 per month per non-Lifeline access line. Such initial rate shall be collected by telecommunications corporations beginning April 1, 1998.]~~

R746-341-8. Collection and disbursement of Lifeline Funds.

~~A. [At the end of each month, telecommunications corporations shall submit to the Commission all Lifeline surcharge revenues collected. Eligible telecommunications carriers shall submit only the Lifeline surcharge revenues in excess of their monthly Lifeline program expenses and Lifeline discounts granted pursuant to R746-341-4. Telecommunications corporations with fewer than 5,000 access lines may submit the funds on a quarterly basis. Lifeline funds received by the Commission shall be treated in the same manner as Section 54-8b-15 Universal Service Fund funds.~~

~~B.]Within 30 days after review and audit of an eligible telecommunications carrier's semi-annual report, the Public Service Commission shall disburse[from Lifeline surcharge funds] an amount equal to the[net difference between the] eligible telecommunications carrier's semi-annual[Lifeline surcharge revenues collected and] Lifeline program expenses and Lifeline discounts granted.~~

KEY: telephone, telecommunications, rules and procedures, lifeline rates
[April 6, 1998]2001 54-4-1
Notice of Continuation November 15, 2000 54-4-4



Transportation, Operations,
Maintenance
R918-3
Snow Removal

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23379
FILED: 12/14/2000, 06:47
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Restate the functional classes of state roads and correct Utah Code References.

SUMMARY OF THE RULE OR CHANGE: Restate the functional classes of state roads and adding a table that describes exceptions. Also corrects a bad Utah Code reference.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201, 72-1-205, and 72-1-303

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There will be no fiscal impact to state or local governments. This rule change clarifies the guidelines for road closure but does not increase the number of roads being closed for winter.

❖LOCAL GOVERNMENTS: The Utah Department of Transportation (UDOT) is not changing the current status of

these roads. This rule effects state roads only. It has nothing to do with local roads or local governments.

❖OTHER PERSONS: This does not effect the public. UDOT covers the state roads.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This does not require compliance cost for individuals. There is no change in the cost to affected persons. They are already required to pay for winter maintenance of roads covered by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is critical that we better define the criteria for winter closures.

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

Transportation
Operations, Maintenance
Calvin Rampton Building
4501 South 2700 West
PO Box 148250
Salt Lake City, UT 84114-8250, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Judy Schneider at the above address, by phone at (801) 965-4116, by FAX at (801) 965-4769, or by Internet E-mail at jschneid@dot.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 01/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: Thomas R. Warne, Executive Director

R918. Transportation, Operations, Maintenance.

R918-3. Snow Removal.

R918-3-1. On State Roads.

A. The Utah Department of Transportation will provide snow removal services on ~~[qualifying state roads.]~~ ~~the following[s]~~ ~~[types]~~ functional classes of state roads ~~[-automatically qualify for snow removal services]:~~

- ~~1. the road is part of a rural free delivery route;~~
- ~~2. the road is a farm to market route;~~
- ~~3. the road is a required school bus route;~~
- ~~4. the road serves an industrial area and/or complex;~~
- ~~5. the road services ten or more permanent families throughout the winter.]~~

1. Interstate highways

2. Principal arterials

3. Minor arterials

4. Collector roads which meet the following criteria:

a. where counties or cities provide year round fire, police and emergency services;

b. where mail year round delivery is provided;

c. where year round water and sanitary services are provided;
and

d. where counties or cities request or concur with year round snow removal.

B. The following state road sections are an exception to paragraph A above and shall be closed in the fall when snow depth requires closure, and will not be reopened until spring weather conditions permit.

TABLE

SR-35 (Wolf Creek Pass)	MP 12.0 - 32.0
SR-39 (Monte Cristo)	MP 37.2 - 60.3
SR-65 (Region 2 East Canyon)	MP 3.1 - 8.4
SR-65 (Region 1)	MP 8.4 to 13.4
SR-92 (Alpine Loop)	MP 14.4 to 22.3
SR-148 (Cedar Canyon)	MP 0.2 to 3.5
SR-150 (Mirror Lake)	MP 14.7 to 48.6
SR-153 (Puffer Lake)	MP 21.5 - 39.6
SR-190 (Guardsman Pass)	MP 18.1 to 21
SR-224 (Wasatch County line to Deer Valley)	MP 10 to 12.1

C. Other state road sections may be closed for the winter/or not receive snow removal services, if the Region/District office determines that it is not cost effective to provide snow removal services.

~~[B]D.~~ The removal of the normal snowfall and windrows on private road approaches, both on and off the highway right-of-way, is a responsibility of the property owner. When clearing these approaches, the property owner ~~[should]~~ shall not push or pile the snow onto the state right-of-way. Within towns and where curb and gutter exist, the normal parking area off the travel lane may be used for snow storage by state forces. If it is desired to remove this snow, it ~~[will]~~ shall be the responsibility of the city, county or the adjacent property owner. The state ~~[will]~~ shall not haul snow off the roadway except on structures where the length of structures makes removal of the snow by other means impracticable.

R918-3-2. On State Roads Leading to Winter Recreational Areas.

A. State roads leading to winter recreational areas not qualifying above may qualify for snow removal services upon consideration of developed analytical criteria as listed below. These criteria establish a procedure to equally evaluate all winter recreational areas throughout the State. Each winter recreational area will be evaluated individually on the basis of a benefit cost ratio and the resort facilities provided by the operator and/or their entrepreneurs.

B. To receive weekend and holiday snow removal services, a winter recreational area ~~[must]~~ shall meet a benefit cost ratio of 50 or greater as defined below, provide adequate parking area as defined below, and provide emergency accommodations. To receive weekday services, in addition to the above requirements the area must provide two of the following:

- 1. lift capacity of 700,000 vertical transport feet/hour;
- 2. on-site lodging facilities;
- 3. on-site eating accommodations;
- 4. gasoline, towing and automotive services.

C. The benefit cost ratio - as used herein, is the quotient obtained by dividing the amount of money spent by recreational area users by the cost of providing snow removal operations on

access roads. To qualify for snow removal services the benefit cost ratio "K" as determined by the following formula shall be 50 or greater:

$$K = NU / 7C$$

N = Number of days of operation per week

ADT = Average daily traffic

U = (Average occupancy rate for each vehicle)

x (ADT for the road during the skiing season)

x (Length of season in days) x (Average amount spent at resorts by skiers per day)

C = Average daily cost of providing snow removal services

The number "7" is the number of days in a week

D. Parking Facilities: The resort operator is to provide and plow a minimum of 200 square feet of parking area (off of state right-of-way) for each unit of average daily traffic used in computing "K" in paragraph C., regardless of the number of operating days per week, "N". The state will plow state access roads but not open them until the winter recreational area operator has plowed the parking area to the required square footage and opened any access roads off the state highway system. Whenever the parking area is not satisfactorily plowed, the state will close the state access roads to inbound traffic except emergency vehicles.

E. Emergency Accommodations. The recreational area operator is to provide lodging and meal accommodations for emergencies.

F. Resort Facilities - To receive snow removal services each resort must have certain capabilities:

Capacity and Services: Snow removal based on benefit cost ratio will be limited to weekends and holidays. To receive weekday services the winter recreational resort operator must provide or have available for other concessionaires at least two of the following at the resort site:

1. lift capacity of 700,000 vertical transport feet/hour;
2. on-site lodging accommodations for 5% of (average daily traffic for the road during the skiing season), x (average occupancy rate for each vehicle);
3. on site eating accommodations for 10% of (average daily traffic for the road during the skiing season), x (average occupancy rate for each vehicle);
4. gasoline, towing and automotive services.

R918-3-3. Other Than Roadways on the State System.

A. Snow removal service will not be provided for the following, except where provided through written agreement with the Utah Department of Transportation:

1. sidewalks;
2. overhead crosswalk structures;
3. walkways attached to structures;
4. driveways;
5. parking lots;
6. roads not on the state system;
7. overhead vehicular structures not on the state system; and
8. bike and pedestrian trails.

KEY: snow removal

~~[1987]~~2001

Notice of Continuation December 17, 1997

~~[27-12-7]~~72-1-201

72-1-205

72-1-303



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

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

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

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

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends January 31, 2001. At its option, the agency may hold public hearings.

From the end of the waiting period through May 1, 2001, 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.

Labor Commission, Industrial
Accidents
R612-1-10
Permanent Total Disability

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 23223
FILED: 12/15/2000, 14:27
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed amendment is to clarify procedures for adjudication of claims for permanent total disability compensation under the Utah Workers' Compensation Act, as amended effective May 1, 1995.

SUMMARY OF THE RULE OR CHANGE: The proposed change clarifies that the Workers' Compensation Act requires that employees and employers shall cooperate in the reemployment process, as well as the principles under which the Commission will issue a stay of enforcement of any preliminary determinations.

(**DAR Note:** This change in proposed rule has been filed to make additional changes to an amendment that was published in the November 1, 2000, issue of the *Utah State Bulletin*, on page 18. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq, 34A-3-101 et seq., 34A-1-104 et seq., and 63-46b-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There should be no additional costs or savings other than those stated in the original proposed rule because the changes in this submission although substantive, simply clarify procedures.

❖LOCAL GOVERNMENTS: There should be no additional costs or savings other than those stated in the original proposed rule because the changes in this submission although substantive, simply clarify procedures.

❖OTHER PERSONS: There should be no additional costs or savings other than those stated in the original proposed rule because the changes in this submission although substantive, simply clarify procedures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no additional costs or savings other than those stated in the original proposed rule because the changes in this submission although substantive, simply clarify procedures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on

businesses should not change from what was stated in the originally proposed rule change because the changes in this submission although substantive, simply clarify procedures.

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

Labor Commission
Industrial Accidents
Third Floor, Heber M. Wells Office Building
160 East 300 South
PO Box 146610
Salt Lake City, UT 84114-6610, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joyce Sewell at the above address, by phone at (801) 530-6988, by FAX at (801) 530-6804, or by Internet E-mail at icmain.jsewell@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 01/31/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/17/2001, 9:00 a.m., Third Floor, 160 East 300 South, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2001

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-1. Workers' Compensation Rules - Procedures.
R612-1-10. Permanent Total Disability.

A. This rule applies to claims for permanent total disability compensation under the Utah Workers' Compensation Act.

1. Subsection B applies to permanent total disability claims arising from accident or disease prior to May 1, 1995.

2. Subsection C applies to permanent total disability claims arising from accident or disease on or after May 1, 1995.

B. For claims arising from accident or disease on or after July 1, 1988 and prior to May 1, 1995, the Commission is required under Section 34A-2-413, to make a finding of total disability as measured by the substance of the sequential decision-making process of the Social Security Administration under Title 20 of the Code of Federal Regulations, amended April 1, 1993. The use of the term "substance of the sequential decision-making process" is deemed to confer some latitude on the Commission in exercising a degree of discretion in making its findings relative to permanent total disability. The Commission does not interpret the code section to eliminate the requirement that a finding by the Commission in permanent and total disability shall in all cases be tentative and not final until rehabilitation training and/or evaluation has been accomplished.

1. In the event that the Social Security Administration or its designee has made, or is in the process of making, a determination of disability under the foregoing process, the Commission may use this information in lieu of instituting the process on its own behalf.

2. In evaluating industrial claims in which the injured worker has qualified for Social Security disability benefits, the Commission will determine if a significant cause of the disability is the

claimant's industrial accident or some other unrelated cause or causes.

3. To make a tentative finding of permanent total disability the Commission incorporates the rules of disability determination in 20 CFR 404.1520, amended April 1, 1993. The sequential decision making process referred to requires a series of questions and evaluations to be made in sequence. In short, these are:

- a. Is the claimant engaged in a substantial gainful activity?
- b. Does the claimant have a medically severe impairment?
- c. Does the severe impairment meet or equal the duration requirement in 20 CFR 404.1509, amended April 1, 1993, and the listed impairments in 20 CFR Subpart P Appendix 1, amended April 1, 1993?
- d. Does the impairment prevent the claimant from doing past relevant work?
- e. Does the impairment prevent the claimant from doing any other work?

4. After the Commission has made a tentative finding of permanent total disability:

- a. In those cases arising after July 1, 1994, the Commission shall order initiation of payment of permanent total disability compensation;
- b. the Commission shall review a summary of reemployment activities undertaken pursuant to the Utah Injured Worker Reemployment Act, as well as any qualified reemployment plan submitted by the employer or its insurance carrier; and
- c. unless otherwise stipulated, the Commission shall hold a hearing to consider the possibility of rehabilitation and reemployment of the claimant pending final adjudication of the claim.

5. After a hearing, or waiver of the hearing by the parties, the Commission shall issue an order finding or denying permanent total disability based upon the preponderance of the evidence and with due consideration of the vocational factors in combination with the residual functional capacity which the commission incorporates as published in 20 CFR 404 Subpart P Appendix 2, amended April 1, 1993.

C. For permanent total disability claims arising on or after May 1, 1995, Section 34A-2-413 requires a two-step adjudicative process. First, the Commission must make a preliminary determination whether the applicant is permanently and totally disabled. If so, the Commission will proceed to the second step, in which the Commission will determine whether the applicant can be reemployed or rehabilitated.

1. First Step—Preliminary Determination of Permanent Total Disability: On receipt of an application for permanent total disability compensation, the Adjudication Division will assign an Administrative Law Judge to conduct evidentiary proceedings to determine whether the applicant's circumstances meet each of the elements set forth in Subsections 34A-2-413(1)(b) and (c).

(a) If the ALJ finds the applicant meets each of the elements set forth in Subsections 34A-2-413(1)(b) and (c), the ALJ will issue a preliminary determination of permanent total disability and shall order the employer or insurance carrier to pay permanent total disability compensation to the applicant pending completion of the second step of the adjudication process. The payment of permanent total disability compensation pursuant to a preliminary determination shall commence as of the date established by the

preliminary determination and shall continue until otherwise ordered.

(b) A party dissatisfied with the ALJ's preliminary determination may obtain additional agency review by either the Labor Commissioner or Appeals Board pursuant to Subsection 34A-2-801(3). If a timely motion for review of the ALJ's preliminary determination is filed with either the Labor Commissioner or Appeals Board, no further adjudicative or enforcement proceedings shall take place pending the decision of the Commissioner or Board.

(c) A preliminary determination of permanent total disability by the Labor Commissioner or Appeals Board is a final agency action for purposes of appellate judicial review.

~~[(f)—Am](d) Unless otherwise stayed by the Labor Commissioner, the Appeals Board or an appellate court, an appeal of the Labor Commissioner or Appeals Board's preliminary determination of permanent total disability shall not delay the commencement of "second step" proceedings discussed below or payment of permanent total disability compensation as ordered by the preliminary determination[; unless such payment order is stayed by the Labor Commissioner, Appeals Board, or appellate court].~~

~~[(ii) an appeal of the preliminary determination shall not delay the "second step" proceedings discussed below, unless such second step proceeding is stayed by the Labor Commissioner, Appeals Board, or appellate court.~~

~~—(d) The payment of permanent total disability compensation pursuant to a preliminary determination shall commence as of the date established by the preliminary determination and shall continue until otherwise ordered.](e) The Commissioner or Appeals Board shall grant a request for stay if the requesting party has filed a petition for judicial review and the Commissioner or Appeals Board determine that:~~

~~(i) the requesting party has a substantial possibility of prevailing on the merits;~~

~~(ii) the requesting party will suffer irreparable injury unless a stay is granted; and~~

~~(iii) the stay will not result in irreparable injury to other parties to the proceeding.~~

2. Second Step—Reemployment and Rehabilitation: Pursuant to Subsection 34A-2-413(6), if the first step of the adjudicatory process results in a preliminary finding of permanent total disability, an additional inquiry must be made into the applicant's ability to be reemployed or rehabilitated, unless the parties waive such additional proceedings.

(a) The ALJ will hold a hearing to consider whether the applicant can be reemployed or rehabilitated.

(i) As part of the hearing, the ALJ will review a summary of reemployment activities undertaken pursuant to the Utah Injured Worker Reemployment Act;

(ii) The employer or insurance carrier may submit a reemployment plan meeting the requirements set forth in Subsection 34A-2-413(6)(a)(ii) and Subsections 34A-2-413(6)(d)(i) through (iii).

(b) Pursuant to Subsection 34A-2-413(4)(b) the employer or insurance carrier may not be required to pay disability compensation for any combination of disabilities of any kind in excess of the amount of compensation payable over the initial 312 weeks at the applicable permanent total disability compensation rate.

(i) Any overpayment of disability compensation may be recouped by the employer or insurance carrier by reasonably offsetting the overpayment against future liability paid before or after the initial 312 weeks.

(ii) An advance of disability compensation to provide for the employee's subsistence during the rehabilitation process is subject to the provisions of Subsection 34A-2-413(4)(b), described in subsection 2.(b) above, but can be funded by reasonably offsetting the advance of disability compensation against future liability normally paid after the initial 312 weeks.

(iii) To fund an advance of disability compensation to provide for an employee's subsistence during the rehabilitation process, a portion of the stream of future weekly disability compensation payments may be discounted from the future to the present to accommodate payment. Should this be necessary, the employer or insurance carrier shall be allowed to reasonably offset the amounts paid against future liability payable after the initial 312 weeks. In this process, care should be exercised to reasonably minimize adverse financial impact on the employee.

(iv) In the event the parties cannot agree as to the reasonableness of any proposed offset, the matter may be submitted to an ALJ for determination.

(c) Subsections 34A-2-413(7) and (9) require the applicant to fully cooperate in any evaluation or reemployment plan. Failure to do so [may]shall result in dismissal of the applicant's claim or reduction or elimination of benefit payments including disability compensation and subsistence allowance amounts, consistent with the provisions of Section 34A-2-413(7) and (9).

(d) Subsection 34A-2-413(6) requires the employer or its insurance carrier to diligently pursue any proffered reemployment plan. Failure to do so [may]shall result in a final award of permanent total disability compensation to the applicant.

(e) If, after the conclusion of the foregoing "second step" proceeding, the ALJ concludes that successful rehabilitation is not possible, the ALJ shall enter a final order for continuing payment of permanent total disability compensation. The period for payment of such compensation shall be commence on the date the employee became permanently and totally disabled, as determined by the ALJ.

(f) Alternatively, if after the conclusion of the "second step" proceeding, the ALJ concludes that successful rehabilitation and/or reemployment is possible, the ALJ shall enter a final order to that effect, which order shall contain such direction to the parties as the ALJ shall deem appropriate for successful implementation and continuation of rehabilitation and/or reemployment. As necessary under the particular circumstances of each case, the ALJ's final order shall provide for reasonable offset of payments of any disability compensation that constitute an overpayment under Subsection 34A-2-413(4)(b).

(g) The ALJ's decision is subject to all administrative and judicial review provided by law.

KEY: workers' compensation, time, administrative procedure, filing deadlines
[2000]2001 34A-2-101 et seq.
Notice of Continuation November 24, 1997 34A-3-101 et seq.
34A-1-104 et seq.
63-46b-1 et seq.



**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).

Education, Administration **R277-100** Rulemaking Policy

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 23381
FILED: 12/14/2000, 19:31
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 53A-1-401(3) authorizes the State Board of Education to adopt rules in accordance with its responsibilities. Section 63A-46a-1 et seq., the Administrative Rulemaking Act, specifies procedures for state agencies to follow in making rules. The rule uses terminology and applies the Rulemaking Act specifically to the State Board of Education.

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: The State Board of Education continues to make rules and follows the procedures of this rule.

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 Internet E-mail at clear@usoe.k12.ut.us.

AUTHORIZED BY: Carol B. Lear, Coordinator School Law and Legislation

EFFECTIVE: 12/14/2000



Education, Administration **R277-616** Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 23382
FILED: 12/14/2000, 19:31
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 53A-17a-121(2) directs the State Board of Education to develop standards for distribution of monies for homeless and ethnic minority students.

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: The law continues to direct the State Board of Education to develop standards for distribution of funds to school districts for homeless and ethnic minority.

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 Internet E-mail at clear@usoe.k12.ut.us.

AUTHORIZED BY: Carol B. Lear, Coordinator School Law and Legislation

EFFECTIVE: 12/14/2000

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 Internet E-mail at clear@usoe.k12.ut.us.

AUTHORIZED BY: Carol B. Lear, Coordinator School Law and Legislation

EFFECTIVE: 12/14/2000



Education, Administration **R277-711**

Educational Programs for Gifted and Talented Students

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 23383 FILED: 12/14/2000, 19:31 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 53A-17a-120 directs the State Board of Education to adopt rules for the expenditure of funds appropriated for accelerated learning programs.

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: The law continues to direct the State Board of Education to adopt rules for the expenditure of funds appropriated for accelerated learning programs.



Insurance, Administration **R590-175** Basic Health Care Plan Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 23384 FILED: 12/15/2000, 10:11 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 31A-2-201(3) this provision allows the commissioner to make rules to implement the provisions of the Insurance Code. Subsection 31A-22-613.5(8) requires the commissioner to adopt a basic health care plan to be used by insurers during small group enrollment period. This basic health care plan has recently been updated and is now in the rulemaking process making the plan a part of the text of this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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: The law allows the department to set minimum standards for individual, small group and conversion health insurance policies. These minimum standards are meant to maintain effective health care coverage for those with individual, small group and conversion policies.

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: 12/15/2000



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal and Reenact

REP = Repeal

Commerce

Occupational and Professional Licensing

No. 23026 (AMD): R156-67. Utah Medical Practice Act Rules.

Published: August 15, 2000

Effective: December 13, 2000

Education

Administration

No. 23209 (AMD): R277-474. School Instruction and Human Sexuality.

Published: November 1, 2000

Effective: December 2, 2000

No. 23210 (NEW): R277-477. Distribution of Funds from the School Trust Lands Account.

Published: November 1, 2000

Effective: December 2, 2000

No. 23211 (REP): R277-763. Basic Sign Language Education.

Published: November 1, 2000

Effective: December 2, 2000

No. 23212 (AMD): R277-904. Applied Technology Center and Service Region Standards and Operating Procedures.

Published: November 1, 2000

Effective: December 2, 2000

Environmental Quality

Air Quality

No. 23092 (AMD): R307-102-3. Administrative Procedures and Hearings.

Published: September 1, 2000

Effective: December 7, 2000

No. 23093 (NEW): R307-103. Administrative Procedures.

Published: September 1, 2000

Effective: December 7, 2000

No. 23094 (AMD): R307-120-8. Appeal and Revocation.

Published: September 1, 2000

Effective: December 7, 2000

No. 23095 (AMD): R307-414-3. Request for Review.

Published: September 1, 2000

Effective: December 7, 2000

No. 23096 (AMD): R307-415. Permits: Operating Permit Requirements.

Published: September 1, 2000

Effective: December 7, 2000

Radiation Control

No. 23224 (AMD): R313-28. Use of X-rays in the Healing Arts.

Published: November 1, 2000

Effective: December 8, 2000

Natural Resources

Wildlife Resources

No. 23207 (AMD): R657-6-6. Application Procedure, Waiting Period and Bonus Points for Wild Turkey.

Published: November 1, 2000

Effective: December 5, 2000

Public Safety

Driver License

No. 23199 (AMD): R708-2. Commercial Driver Training Schools.

Published: November 1, 2000

Effective: December 4, 2000

School and Institutional Trust Lands

Administration

No. 23204 (AMD): R850-80-550. Methods of Sale.

Published: November 1, 2000

Effective: December 4, 2000

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 December 15, 2000, the effective dates of which are no later than January 1, 2001. 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/>).

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

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R865-11Q-1	Time Period Within Which an Employer Must Obtain an Experience Modification Factor Pursuant to Utah Code Ann. Section 35A-3-202	22900	NSC	06/27/2000	Not Printed
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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or
5YR = Five-Year Review	repealed text not printed in <i>Bulletin</i>
EXD = Expired	

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	22737	R156-65	NSC	05/01/2000	Not Printed
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	22639	R81-1-7	AMD	03/27/2000	2000-4/4
	22752	R81-1-12	NSC	05/01/2000	Not Printed
	22812	R81-1-12	AMD	07/03/2000	2000-10/4
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	22691	R317-4	NSC	03/20/2000	Not Printed
	23163	R317-4	AMD	12/01/2000	2000-19/26
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	23212	R277-904	AMD	12/02/2000	2000-21/9
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	22627	R884-24P-33	AMD	03/28/2000	2000-4/56
	23101	R884-24P-33	AMD	10/03/2000	2000-17/22
	22508	R884-24P-44	AMD	01/20/2000	99-23/107
	22805	R884-24P-57	AMD	06/21/2000	2000-10/47
	22903	R884-24P-60	NSC	06/27/2000	Not Printed
	23256	R884-24P-60	AMD	11/01/2000	2000-19/154
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	22879	R58-17-2	NSC	06/26/2000	Not Printed
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	23284	R628-12	NSC	12/01/2000	Not Printed
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	22868	R527-100	REP	07/05/2000	2000-11/90
	22556	R527-200	AMD	02/01/2000	2000-1/37
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	23030	R527-450	5YR	07/26/2000	2000-16/133
	23031	R527-450	AMD	09/18/2000	2000-16/22
	22488	R527-475	AMD	01/10/2000	99-23/87
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	22966	R156-55b	NSC	08/01/2000	Not Printed
	22910	R156-55b-304	NSC	06/26/2000	Not Printed
	22398	R156-56	AMD	see CPR	99-20/15
	22398	R156-56	CPR	02/15/2000	2000-2/21
	22790	R156-56	AMD	07/01/2000	2000-10/5
	22967	R156-56	NSC	08/01/2000	Not Printed
	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
	22791	R156-56-706	AMD	07/01/2000	2000-10/18
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	22765	R606-3-2	NSC	03/20/2000	Not Printed
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	22962	R251-705	NSC	08/01/2000	Not Printed
	22963	R251-710	NSC	08/01/2000	Not Printed
	23195	R251-303	5YR	10/04/2000	2000-21/71
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	23214	R277-465	5YR	10/13/2000	2000-21/72
	23023	R277-475	NEW	09/01/2000	2000-15/13
	23215	R277-752	5YR	10/13/2000	2000-21/72
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	23154	R861-1A-16	AMD	11/01/2000	2000-19/151
	22890	R861-1A-20	NSC	06/27/2000	Not Printed
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	23002	R686-102	NSC	08/01/2000	Not Printed
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	22676	R606-5-2	NSC	03/20/2000	Not Printed
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	22709	R309-114 (Changed to R309-710)	AMD	06/12/2000	2000-8/9
	23099	R309-150	5YR	08/10/2000	2000-17/87
	22883	R309-200 (Changed to R309-110)	AMD	08/15/2000	2000-12/23
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<u>FINANCIAL AID</u>					
Regents (Board of), Administration	22816	R765-605	AMD	06/15/2000	2000-10/39

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Workforce Services, Employment Development	23063	R986-220	REP	10/02/2000	2000-16/84
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	22921	R414-304	AMD	08/02/2000	2000-13/33
Workforce Services, Employment Development	23057	R986-213	REP	10/02/2000	2000-16/70
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Human Services, Recovery Services	22692	R527-10	5YR	03/01/2000	2000-6/48
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	23108	R331-10	AMD	10/17/2000	2000-18/48
	23222	R628-11	NSC	11/01/2000	Not Printed
Money Management Council, Administration	23221	R628-11	5YR	10/13/2000	2000-21/74
	23283	R628-12	5YR	11/01/2000	2000-22/81
	23284	R628-12	NSC	12/01/2000	Not Printed
	23301	R628-13	5YR	11/07/2000	2000-23/65
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Environmental Quality, Air Quality	22687	R307-122-2	NSC	03/20/2000	Not Printed
<u>FIRE PREVENTION</u>					
Public Safety, Fire Marshal	22557	R710-1	AMD	02/01/2000	2000-1/44
	22982	R710-4	AMD	08/16/2000	2000-14/29
	22560	R710-7	AMD	02/01/2000	2000-1/54
	22561	R710-8	AMD	02/01/2000	2000-1/57
<u>FIREWORKS</u>					
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	22981	R710-2	AMD	08/16/2000	2000-14/27
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Natural Resources, Parks and Recreation	22869	R651-301	AMD	07/04/2000	2000-11/93
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	22693	R657-13-4	AMD	04/24/2000	2000-6/41
	22648	R657-13-12	AMD	04/04/2000	2000-5/45
<u>FISHING</u>					
Natural Resources, Wildlife Resources	22392	R657-13	AMD	01/03/2000	99-20/31
	22693	R657-13-4	AMD	04/24/2000	2000-6/41
	22648	R657-13-12	AMD	04/04/2000	2000-5/45
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	22658	R70-310	AMD	04/03/2000	2000-5/5
	22707	R70-310-2	NSC	05/01/2000	Not Printed
	22596	R70-630	5YR	01/11/2000	2000-3/91
	22597	R70-630	AMD	03/03/2000	2000-3/5
<u>FOOD STAMPS</u>					
Workforce Services, Employment Development	23068	R986-413	REP	10/02/2000	2000-16/99
	23070	R986-415	REP	10/02/2000	2000-16/102
	23071	R986-416	REP	10/02/2000	2000-16/103
	23072	R986-417	REP	10/02/2000	2000-16/105
	23073	R986-418	REP	10/02/2000	2000-16/106
	22834	R986-418-812	NSC	05/25/2000	Not Printed
	23074	R986-419	REP	10/02/2000	2000-16/108
	23075	R986-420	REP	10/02/2000	2000-16/109
	23054	R986-900	NEW	10/02/2000	2000-16/131
	23194	R986-900	NSC	11/01/2000	Not Printed
	<u>FOSTER CARE</u>				
Human Services, Administration, Administrative Services, Licensing	22629	R501-12	AMD	03/17/2000	2000-4/38
	Human Services, Recovery Services	23148	R527-550	AMD	11/16/2000
<u>FRANCHISES</u>					
Commerce, Administration Tax Commission, Auditing	23257	R151-14	NSC	11/01/2000	Not Printed
	22991	R865-6F	NSC	08/01/2000	Not Printed
	22891	R865-6F-14	NSC	06/27/2000	Not Printed
	22892	R865-6F-16	NSC	06/27/2000	Not Printed
	22893	R865-6F-18	NSC	06/27/2000	Not Printed
	22894	R865-6F-19	NSC	06/27/2000	Not Printed
	22895	R865-6F-26	NSC	06/27/2000	Not Printed
	22896	R865-6F-27	NSC	06/27/2000	Not Printed
22897	R865-6F-29	NSC	06/27/2000	Not Printed	
<u>FRAUD</u>					
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	22936	R527-928	AMD	08/01/2000	2000-13/45
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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
	22880	R657-5	AMD	07/18/2000	2000-12/53
	23355	R657-5	5YR	11/30/2000	2000-24/157
	22938	R657-5-15	AMD	08/01/2000	2000-13/55

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	22972	R657-6	AMD	08/15/2000	2000-14/10
	23207	R657-6-6	AMD	12/05/2000	2000-21/21
	23124	R657-10	AMD	10/17/2000	2000-18/76
	23126	R657-11	5YR	08/30/2000	2000-18/99
	23125	R657-11	AMD	10/17/2000	2000-18/79
	23357	R657-17	5YR	11/30/2000	2000-24/158
	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
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	23193	R986-400	NSC	11/01/2000	Not Printed
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	23133	R307-115	5YR	09/06/2000	2000-19/161
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<u>GOVERNMENT DOCUMENTS</u>					
Administrative Services, Records Committee	22787	R35-2	NSC	05/23/2000	Not Printed
<u>GOVERNMENT ETHICS</u>					
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	23127	R156-46b	AMD	10/17/2000	2000-18/39
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	22971	R33-5-510	NSC	08/01/2000	Not Printed
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	23315	R512-75	5YR	11/14/2000	2000-23/65
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	23154	R861-1A-16	AMD	11/01/2000	2000-19/151
	22889	R861-1A-12	NSC	06/27/2000	Not Printed
	22890	R861-1A-20	NSC	06/27/2000	Not Printed
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	22849	R477-11	AMD	07/05/2000	2000-11/80
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	22772	R315-1-1	AMD	07/15/2000	2000-9/43
	23262	R315-1-1	5YR	12/01/2000	Not Printed
	22538	R315-2	NSC	01/25/2000	Not Printed
	22773	R315-2	AMD	07/15/2000	2000-9/45
	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
	22774	R315-3	R&R	see CPR	2000-9/52
	22774	R315-3	CPR	10/20/2000	2000-17/32
	23263	R315-3-6	NSC	11/01/2000	Not Printed
	22654	R315-3-20	NSC	02/25/2000	Not Printed
	22775	R315-4	R&R	see CPR	2000-9/76
	22775	R315-4	CPR	10/20/2000	2000-17/45
	22541	R315-5	NSC	01/25/2000	Not Printed
	22776	R315-5	R&R	see CPR	2000-9/84
	22776	R315-5	CPR	10/20/2000	2000-17/49
	22777	R315-6	R&R	see CPR	2000-9/90
	22777	R315-6	CPR	10/13/2000	2000-17/50
	22542	R315-7	NSC	01/25/2000	Not Printed
	22778	R315-7	AMD	07/15/2000	2000-9/93
	22543	R315-8	NSC	01/25/2000	Not Printed
	22779	R315-8	AMD	see CPR	2000-9/111
	22779	R315-8	CPR	10/13/2000	2000-17/52
	23264	R315-8	5YR	12/01/2000	Not Printed
	22544	R315-13	NSC	01/25/2000	Not Printed
	22545	R315-16	NSC	01/25/2000	Not Printed
	22780	R315-16	AMD	07/15/2000	2000-9/147
	23165	R315-16	5YR	09/15/2000	2000-19/161
	22546	R315-50	NSC	01/25/2000	Not Printed
	22547	R315-101	NSC	01/25/2000	Not Printed
	22781	R315-101	AMD	07/15/2000	2000-9/157
	23166	R315-102	5YR	09/15/2000	2000-19/162
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	22655	R432-270	5YR	02/09/2000	2000-5/64
	22743	R432-270	NSC	05/01/2000	Not Printed
	22852	R432-300	AMD	08/08/2000	2000-11/39
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	23115	R432-750	AMD	11/06/2000	2000-18/64
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	22838	R307-102-1	NSC	08/03/2000	Not Printed
	23093	R307-103	NEW	12/07/2000	2000-17/5
Labor Commission, Adjudication	22764	R602-2-1	NSC	05/01/2000	Not Printed
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	22671	R686-100	AMD	04/03/2000	2000-5/53
	23137	R686-100	NSC	11/01/2000	Not Printed
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	22052	R765-604	CPR	02/04/2000	99-20/53
	22816	R765-605	AMD	06/15/2000	2000-10/39
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	22822	R765-626	5YR	05/05/2000	2000-11/103
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	22893	R865-6F-18	NSC	06/27/2000	Not Printed
	22894	R865-6F-19	NSC	06/27/2000	Not Printed
	22895	R865-6F-26	NSC	06/27/2000	Not Printed
	22896	R865-6F-27	NSC	06/27/2000	Not Printed
	22897	R865-6F-29	NSC	06/27/2000	Not Printed
	22992	R865-9I	NSC	08/01/2000	Not Printed
	22984	R865-9I-6	AMD	08/31/2000	2000-14/37
	22898	R865-9I-46	NSC	06/27/2000	Not Printed
	22899	R865-9I-48	NSC	06/27/2000	Not Printed
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	23288	R510-104	5YR	11/01/2000	2000-22/80
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	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
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	22694	R501-3	REP	05/02/2000	2000-6/20
	22813	R501-11	AMD	06/20/2000	2000-10/30
	22629	R501-12	AMD	03/17/2000	2000-4/38
	22661	R501-13	R&R	04/15/2000	2000-5/32
	23318	R501-14	5YR	12/01/2000	Not Printed
	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
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	22649	R657-38	AMD	04/04/2000	2000-5/46
	23359	R657-38	5YR	11/30/2000	2000-24/158
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	22921	R414-304	AMD	08/02/2000	2000-13/33
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	23064	R986-221	REP	10/02/2000	2000-16/85
	23065	R986-222	REP	10/02/2000	2000-16/87
	23069	R986-414	REP	10/02/2000	2000-16/100
	23076	R986-421	REP	10/02/2000	2000-16/110
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	22984	R865-9I-6	AMD	08/31/2000	2000-14/37
	22898	R865-9I-46	NSC	06/27/2000	Not Printed
	22899	R865-9I-48	NSC	06/27/2000	Not Printed
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	22934	R58-21	NEW	08/02/2000	2000-13/11
	23088	R58-21-3	NSC	09/01/2000	Not Printed
	22935	R58-22	NEW	08/02/2000	2000-13/12
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	22920	R590-144	NSC	06/27/2000	Not Printed
	23046	R590-148-14	NSC	09/01/2000	Not Printed
	22641	R590-153	AMD	04/11/2000	2000-4/48
	22745	R590-153	NSC	05/23/2000	Not Printed
	23336	R590-160	NSC	12/01/2000	Not Printed
	22797	R590-160-8	AMD	08/31/2000	2000-10/32
	23160	R590-160-8	AMD	11/14/2000	2000-19/115
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	23237	R590-167	NSC	11/01/2000	Not Printed
	22489	R590-170	AMD	see CPR	99-23/88
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	22941	R590-172	5YR	06/15/2000	2000-13/74
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	22917	R590-94	NSC	06/27/2000	Not Printed
	22665	R590-88	5YR	02/15/2000	2000-5/66
	22918	R590-121	NSC	06/27/2000	Not Printed
	23203	R590-122	NSC	11/01/2000	Not Printed
	23206	R590-130	5YR	10/12/2000	2000-21/73
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	22746	R590-164	5YR	04/11/2000	2000-9/187
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	23248	R590-174	5YR	10/18/2000	2000-22/80
	22416	R590-197	NEW	01/25/2000	99-20/30
	22621	R590-197	NSC	02/25/2000	Not Printed
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	22801	R156-63	AMD	06/15/2000	2000-10/24
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	22737	R156-65	NSC	05/01/2000	Not Printed
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	22695	R501-19	NEW	05/02/2000	2000-6/28
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	22804	R873-22M-38	AMD	06/21/2000	2000-10/47
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	22740	R156-55b	AMD	06/01/2000	2000-9/20
	22966	R156-55b	NSC	08/01/2000	Not Printed
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	22873	R651-606	AMD	09/28/2000	2000-11/98
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	22897	R865-6F-29	NSC	06/27/2000	Not Printed
	22710	R865-12L-9	AMD	06/21/2000	2000-8/29
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	22996	R865-16R	5YR	07/07/2000	2000-15/30
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	22687	R307-122-2	NSC	03/20/2000	Not Printed
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	22898	R865-9I-46	NSC	06/27/2000	Not Printed
	22899	R865-9I-48	NSC	06/27/2000	Not Printed
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	23163	R317-4	AMD	12/01/2000	2000-19/26
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