UTAH STATE BULLETIN

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

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

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

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EDITOR'S NOTES

NOTICE OF PUBLICATION ERRORS IN THE FEBRUARY 1, 2001, ISSUE OF THE *UTAH STATE BULLETIN*

The Division of Administrative Rules discovered after the publication of the February 1, 2001, issue of the *Utah State Bulletin* (2001-3) that citations for incorporated materials in the rule analysis for several rules were incorrect or omitted. The correct citations are as follows:

R315-2 (DAR No. 23410, 2001-3, page 16) listed 40 CFR 2261.32 which should have been 40 CFR 261.32.

R315-3 (DAR No. 23411, 2001-3, page 22) listed 40 CFR 2670.42 which should have been 40 CFR 267.42.

R414-303 (DAR No. 23420, 2001-3, page 52), the amendment, did not list the following as added incorporations:
Title XIX of the Social Security Act, Sections 1931 (a), (b), and (g) as in effect January 1, 2000.
Title XIX of the Social Security Act, Sections 1925 and 1931 (c) (2) as in effect January 1, 1999.
45 CFR 233.100, 1998 edition.

R414-304 (DAR No. 23421, 2001-3, page 56), the amendment, did not list the following as added or updated incorporations:
20 CFR 416.1110 through 416.1112, updated to the 1999 edition.
45 CFR 233.20(a)(6)(iii) through (iv), updated to the 1999 edition.
45 CFR 233.20(a)(6)(v)(BA), added, the 1999 edition.
45 CFR 223.20(a)(6)(vi) through (vii) and 233.20(a)(11), updated to the 1999 edition.

R414-303 (DAR No. 23396, 2001-3, page 87), the 120-day (emergency) rule, which was effective as of 01/03/2001, did not list the following as added incorporations:
45 CFR 233.100, added, the 1998 edition.
Title XIX of the Social Security Act, Sections 1925 and 1931 (c) (2) as in effect January 1, 1999.

R414-304 (DAR No. 23397, 2001-3, page 89), the 120-day (emergency) rule, which was effective as of 01/03/2001, did not list the following as added or updated incorporations:
20 CFR 416.1110 through 416.1112, updated to the 1999 edition.
45 CFR 233.20(a)(6)(iii) through (iv), updated to the 1999 edition.
45 CFR 233.20(a)(6)(v)(BA), added, the 1999 edition.
45 CFR 223.20(a)(6)(vi) through (vii) and 233.20(a)(11), updated to the 1999 edition.

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

LEGISLATION WHICH MAY AFFECT THE RULEMAKING PROCESS

As of February 8, 2001, two bills have been filed that affect administrative rules in general.

H.B. 27 "Electronic Government Services Amendments - Administrative Rules and Procedures" by Rep. R. Siddoway (R)
This bill originated in the Information Technology Commission. It amends both the Utah Administrative Rulemaking Act (Utah Code Title 63, Chapter 46a) and the Utah Administrative Procedures Act (Utah Code Title 63, Chapter 46b). It standardizes language to facilitate the electronic conduct of state business in regards to rulemaking and administrative procedures.

The bill passed the House on January 15 under suspension of the rules, and passed the Senate on January 26.

H.B. 37 "Reauthorization of Administrative Rules" by Rep. David Ure (R)
This is the Administrative Rules Review Committee's annual bill which is required by Section 63-46a-11.5. The long title of H.B. 37 indicates that the bill "reauthorizes all state agency administrative rules except those enumerated." As introduced, the bill reauthorized all administrative rules EXCEPT Subsection R156-55b-102(2)–Commerce, Division of Occupational and Professional Licensing (DOPL), "Electricians Licensing Rules," "Definitions," definition of "In or out of the immediate presence of the supervising person". The bill provides for an effective date of May 1, 2001.

Based on information provided by DOPL, the House Government Operations Standing Committee amended the bill to also "not reauthorize" Subsection R156-55c-102(3)–Commerce, DOPL, "Construction Trades Licensing Act Plumber Licensing Rules," "Definitions," definition of "Reasonable direction, oversight, inspection, and evaluation of an apprentice plumber by a supervising journeyman plumber". At the House Governmental Operation Standing Committee meeting, a representative from DOPL indicated that the agency did not intend to proceed with administrative rule amendments currently in process (see UTAH STATE BULLETIN, Vol. 2001, No. 1, pages 4-6–No. 23374 and No. 23375), but that additional changes would be filed with the Division of Administrative Rules for publication in an upcoming issue of the UTAH STATE BULLETIN.

The bill passed the House on February 5 and now awaits further action by the Senate. It has been assigned to the Senate State and Local Affairs Standing Committee.

Additional Information
Up-to-date information about legislation related to rulemaking is available on the Internet at *http://www.rules.state.ut.us/law/legis.htm*. Additional information about the 2001 General Session and specific legislation is available from the Legislature's Office of Legislative Research and General Counsel at http://www.le.state.ut.us/~2001/2001.htm. The Legislature's home page can be found at http://www.le.state.ut.us/.

Questions about this legislation may be directed to Ken Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3777, FAX: (801) 538-1773, or Internet E-mail: khansen@das.state.ut.us

End of the Editor's Notes Section

SPECIAL NOTICES

NATURAL RESOURCES
OIL, GAS AND MINING BOARD

PUBLIC NOTICE
EXTENDING THE COMMENT PERIOD AND ADDING AN
ADDITIONAL PUBLIC HEARING FOR DOCKET NO. 2000-017,
CAUSE NO. CLR 2000-002

Notice is hereby given that the Oil, Gas and Mining Board will conduct an additional public hearing and extend the comment period for Docket No. 2000-017, Cause No. CLR 2000-002. This is the result of a request for agency action by the Emery County Water Conservancy District to amend administrative rules in the Utah Coal Regulatory Program. Amendments to Sections R645-100-200 (DAR No. 23385), R645-301-500 (DAR No. 23386), and R645-301-700 (DAR No. 23387), which were published in the January 1, 2001, *Utah State Bulletin*, are the subject of this hearing.

The Oil, Gas and Mining Board held a public hearing on January 24, 2001. The additional public hearing in this matter will be held at 1:00 p.m. on February 28, 2001, in the auditorium (Room 1050) of the Utah Department of Natural Resources at 1594 West North Temple, Salt Lake City, UT.

The comment period has been extended to 5:00 p.m. on April 1, 2001. Written comments should be submitted to the Secretary to the Board of Oil, Gas and Mining, 1594 West North Temple, Ste.1210, Salt Lake City, UT 84114.

Questions may be directed to Ms. Vicki Baily, Secretary to the Board of Oil, Gas and Mining at (801) 538-5340.

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. 01-03, dated February 2, 2001 (http://www.state.lib.ut.us/01-03.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 Begin on the Following Page

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 January 17, 2001, 12:00 a.m., and February 1, 2001, 11:59 p.m., are included in this, the February 15, 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 March 19, 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 June 15, 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.

Health, Children's Health Insurance Program
R382-10
Eligibility

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23458
FILED: 01/29/2001, 13:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is necessary to allow the Department to change the method for determining the amount of business expenses for self-employed individuals who apply for Children's Health Insurance Program (CHIP). The intent is to liberalize the way countable self-employment income is determined.

SUMMARY OF THE RULE OR CHANGE: For self-employed individuals, the Department will allow a flat rate of 40% of the gross self-employment income as the individual's deduction for business expenses. For individuals who have expenses greater than 40%, or the individual wishes to claim actual expenses, the Department will allow the same expenses as are allowed for federal income tax computations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5; and Title 26, Chapter 40

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This program is largely funded by federal money (81%). This rule change will have some net increase of the state funds that would otherwise be expended for the CHIP program. However, the costs will be minimal. The change will simplify administration of the program, which will offset some of the cost. It is estimated that no more than 100 children will be enrolled as a result of this change who would otherwise not have been enrolled. We also believe that the average claim will be $1,000 when the large and small claims are averaged. If so, the total impact on the state budget will be $19,000 (19% of $100,000). Case managers who determine CHIP eligibility will save a significant amount of time because of simplified guidelines.
❖LOCAL GOVERNMENTS: This rule does not apply to local government, so there should be no fiscal impact.
❖OTHER PERSONS: Self-employed individuals who apply for CHIP will be afforded more liberal requirements for CHIP eligibility. There should be no costs to any other agencies or private businesses affected by these changes.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no involvement for affected persons other than that described in the aggregate anticipated cost or savings to State Budget, Local Government, and Other Persons above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Regulated businesses should not see a fiscal impact from this simplification of the eligibility process. Rod L. Betit

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Children's Health Insurance Program
Cannon Health Building
288 North 1460 West
PO Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gayleen Henderson at the above address, by phone at (801) 538-6135, by FAX at (801) 538-6952, or by Internet E-mail at ghenders@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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Rod L. Befit, Executive Director

R382. Health, Children's Health Insurance Program.
R382-10. Eligibility.
R382-10-1. Authority.

This rule sets forth the eligibility requirements for coverage under the Children's Health Insurance Program. It is authorized by Title 26, Chapter 40.

R382-10-2. Definitions.

(1) The Department adopts the definitions found in Sections 2110(b) and (c) of the Social Security Act as enacted by Pub. L. No. 105-33 which are incorporated by reference in this rule.

(2) The following additional definitions also apply:

(a) "Applicant," means a child on whose behalf an application has been made for benefits under the Children's Health Insurance Program, but who is not an enrollee.

(b) "Best estimate" means the Department's determination of a household's income for the upcoming certification period, based on past and current circumstances and anticipated future changes.

(c) "Children's Health Insurance Program" or "CHIP" means the program for benefits under the Utah Children's Health Insurance Act, Title 26, Chapter 40.

(d) "Department" means the Utah State Department of Health.

(e) "Income averaging" means a process of using a history of past or current income and averaging it over a determined period of time that is representative of future income.

(f) "Income anticipating" means a process of using current facts regarding rate of pay, number of working hours, and expected changes to anticipate future income.

(g) "Income annualizing" means a process of determining the average annual income of a household, based on the past history of income and expected changes.

(h) "Local office" means any Bureau of Eligibility Services office location, outreach location, or telephone location where an individual may apply for medical assistance.

(i) "Recertification month" means the last month of the eligibility period for an enrollee.

(j) "Verifications" means the proofs needed to decide if a child meets the eligibility criteria to be enrolled in the program. Verifications may include hard copy documents such as a birth certificate, computer match records such as Social Security benefits match records, and collateral contacts with third parties who have information needed to determine the eligibility of a child.

R382-10-3. Actions on Behalf of a Minor.

(1) A parent or an adult who has assumed responsibility for the care or supervision of a child may apply for CHIP enrollment, provide information required by this rule, or otherwise act on behalf of a child in all respects under the statutes and rules governing the CHIP program.

(a) The child, if 18 years old or an emancipated minor, the child's parent or legal guardian must indicate in writing to the Department who is authorized as the child's representative.

(b) The executive director of the Department or his designee may designate an authorized representative if the child needs a representative but is unable to make a choice either in writing or orally in the presence of a witness.

(2) Where the statutes or rules governing the CHIP program require a child to take an action, the parent or adult who has assumed responsibility for the care or supervision of the child is responsible to take the action on behalf of the child. If the parent or adult who has assumed responsibility for the care or supervision of the child fails to take an action, the failure is attributable as the child's failure to take the action.

(3) Notice to the parent or adult who has assumed responsibility for the care or supervision of the child is notice to the child.

R382-10-4. Applicant and Enrollee Rights and Responsibilities.

(1) A parent or an adult who has assumed responsibility for the care or supervision of a child may apply or reapply at any time for Children's Health Insurance Program benefits on behalf of a child. An emancipated child or an 18 year old child may apply on his own behalf.

(2) The applicant must provide the Department with verifications to establish the eligibility of the child, including information about the parents.

(3) Anyone may look at the eligibility policy manuals located at any local office, except at outreach or telephone locations.

(4) The parent or other individual who arranged for medical services on behalf of the child shall repay the Department for services paid for by the Department under this program if the child is determined not to be eligible for CHIP.

(5) The parent(s) or child, or other responsible person acting on behalf of a child must report certain changes to the local office within ten days of the day the change becomes known. Some examples of reportable changes include:

(a) An enrollee begins to receive coverage under a group health plan or other health insurance coverage.

(b) An enrollee begins to have access to coverage under a group health plan or other health insurance coverage.

(c) An enrollee leaves the household or dies.

(d) An enrollee or the household moves out of state.

(e) Change of address of an enrollee or the household.

(f) An enrollee enters a public institution or an institution for mental diseases.

(6) Applicants and enrollees have the right to be notified about actions the agency takes regarding their eligibility or continued eligibility, the reason the action was taken, and the right to request an agency conference or agency action.

R382-10-5. Verification and Information Exchange.

(1) The applicant and enrollee upon recertification must provide verification of eligibility factors as requested by the Department.

(2) The Department may release information concerning applicants and enrollees and their households to other state and federal agencies to determine eligibility for other public assistance programs.

(3) The Department must release information to the Title IV-D agency and Social Security Administration to determine benefits.

(4) The Department may verify information by exchanging information with other public agencies as described in 42 CFR 435.945, 435.948, 435.952, 435.955, and 435.960, 1997 edition.

R382-10-6. Citizenship and Alienage.

(1) To be eligible to enroll in the program, a child must be a citizen of the United States or a qualified alien as defined in Pub. L. No. 104-193(401) through (403), (411), (412), (421) through (423), (431), and (435), and amended by Pub. L. No. 105-33(5302)(b) and (c), (5303), (5305)(b), (5306), (5562), (5563), and (5571).

(2) Hmong or Highland Lao veterans who fought on behalf of the Armed Forces of the United States during the Vietnam conflict and who are lawfully admitted to the United States for permanent residence, and their family members who are also qualified aliens, may be eligible to enroll in the program regardless of their date of entry into the United States.

(3) One adult household member must declare the citizenship or alien status of all applicants in the household. The applicant must provide verification of his citizenship or alien status.

(4) A qualified alien, as defined in Pub. L. No. 104-193(431) and amended by Pub. L. No. 105-33(5302)(c)(3), (5562), and (5571), admitted into the United States prior to August 22, 1996, may enroll in the program.

(5) A qualified alien, as defined in Pub. L. No. 104-193(431) and amended by Pub. L. No. 105-33(5302)(c)(3), (5562), and (5571), newly admitted into the United States on or after August 22, 1996, may enroll in the program after five years have passed from his date of entry into the United States.

R382-10-7. Utah Residence.

(1) A child must be a Utah resident to be eligible to enroll in the program.

(2) An American Indian child in a boarding school is a resident of the state where his parents reside. A child in a school for the deaf and blind is a resident of the state where his parents reside.

(3) A child is a resident of the state if he is temporarily absent from Utah due to employment, schooling, vacation, medical treatment, or military service.

(4) The child need not reside in a home with a permanent location or fixed address.

R382-10-8. Residents of Institutions.

(1) Residents of institutions described in Section 2110(b)(2)(A) of the Social Security Act as enacted by Pub. L. No. 105-33 are not eligible for the program.

(2) A child under the age of 18 is not a resident of an institution if he is living temporarily in the institution while arrangements are being made for other placement.

(3) A child who resides in a temporary shelter for a limited period of time is not a resident of an institution.

R382-10-9. Social Security Numbers.

(1) The Department may request applicants to provide the correct Social Security Number (SSN) or proof of application for a SSN for each household member at the time of application for the program.

(2) A child may not be denied CHIP enrollment for failure to provide a SSN.

R382-10-10. Creditable Health Coverage.

(1) To be eligible for enrollment in the program, a child must meet the requirements of Sections 2110(b)(1)(C) and (2)(B) of the Social Security Act as enacted by Pub. L. No. 105-33.

(2) A child who is covered under a group health plan or other health insurance coverage including coverage under a parent's or legal guardian's employer, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), is not eligible for CHIP assistance.

(3) A child who has access to health insurance coverage through an employer where the cost to enroll the child in the plan is less than 5% of the household's gross annual income, is not eligible for CHIP assistance. The child is considered to have access to coverage even if the employer offers coverage only during an open enrollment period.

(4) The Department shall deny eligibility if the applicant, a custodial parent, or an absent parent with a legal obligation to provide health insurance coverage has voluntarily terminated health insurance coverage in the three months prior to the application date for enrollment under CHIP. An applicant or applicant's parent(s) who is involuntarily terminated from an employer's plan is eligible for CHIP without a three month waiting period.

(5) If an absent parent is court-ordered to provide health insurance for a child and could enroll the child in the parent's employer's health insurance plan, the child is not eligible for CHIP enrollment.

(6) A child with creditable health coverage operated or financed by the Indian Health Services is not excluded from enrolling in the program.

(7) An applicant must report at application and certification review whether any of the children in the household for whom enrollment is being requested has access to or is covered by a group health plan, other health insurance coverage, or a state employee's health benefits plan.

(8) An enrollee must report when any enrollee in the household begins to receive coverage under, or begins to have access to, any type of group health plan, other health insurance coverage, or a state employee's health benefits plan.

(9) The Department shall deny an application or recertification if the enrollee fails to respond to questions about health insurance coverage for children the household seeks to enroll or recertify in the program.

R382-10-11. Household Composition.

(1) The following individuals who reside together must be included in the household for purposes of determining the household size and whose income will be counted, whether or not the individual is eligible to enroll in the program:

(a) A child who meets the CHIP age requirement and who does not have access to and is not covered by a group health plan or other health insurance;

(b) Siblings, half-siblings, adopted siblings, and step-siblings of the child who meets the CHIP age requirement if these individuals also meet the CHIP age requirement;

(c) Parents and stepparents of any child who is included in the household size;

(d) Children of any child included in the household size.

(2) Any individual described in Subsection (1) of this Section who is temporarily absent solely by reason of employment, school, training, military service, or medical treatment, or who will return home to live within 30 days from the date of application, is part of the household.

(3) A household member described in Subsection (1) of this Section who does not qualify to enroll in the CHIP program due to his alien status is included in the household size and his income is counted as household income.

(4) If an individual is caring for a child of his or her former spouse, in a case in which a divorce has been finalized, the child may be included in the household if the child resides in the home.

R382-10-12. Age Requirement.

(1) A child must be under 19 years of age to enroll in the program.

(2) The month in which a child's 19th birthday occurs is the last month of eligibility for CHIP enrollment.

R382-10-13. Income Provisions.

To be eligible to enroll in the Children's Health Insurance Program, gross household income must be equal to or less than 200% of the federal non-farm poverty guideline for a household of equal size. All gross income, earned and unearned, received by any household member is counted toward household income, unless this section specifically describes a different treatment of the income.

(1) The Department does not count income that is defined in 20 CFR 416(K) Appendix, 1997 edition, which is adopted and incorporated by reference.

(2) Any income in a trust that is available to, or is received by a household member, is countable income.

(3) Payments received from the Family Employment Program, General Assistance, or refugee cash assistance or adoption support services as authorized under Title 35A, Chapter 3 is countable income.

(4) Rental income is countable income. The following expenses can be deducted:

(a) taxes and attorney fees needed to make the income available;

(b) upkeep and repair costs necessary to maintain the current value of the property;

(c) utility costs only if they are paid by the owner; and

(d) interest only on a loan or mortgage secured by the rental property.

(5) Deposits to joint checking or savings accounts are countable income, even if the deposits are made by a non-household member. An applicant or enrollee who disputes household ownership of deposits to joint checking or savings accounts shall be given an opportunity to prove that the deposits do not represent income to the household. Funds that are successfully disputed are not countable income.

(6) Cash contributions made by non-household members are counted as income unless the parties have a signed written agreement for repayment of the funds.

(7) The interest earned from payments made under a sales contract or a loan agreement is countable income to the extent that these payments will continue to be received during the certification period.

(8) In-kind income, which is goods or services provided to the individual from a non-household member and which is not in the form of cash, for which the individual performed a service or is provided as part of the individual's wages is counted as income. In-kind income for which the individual did not perform a service or did not work to receive is not counted as income.

(9) SSI and State Supplemental Payments are countable income.

(10) Death benefits are not countable income to the extent that the funds are spent on the deceased person's burial or last illness.

(11) A bona fide loan that an individual must repay and that the individual has contracted in good faith without fraud or deceit, and genuinely endorsed in writing for repayment is not countable income.

(12) Child Care Assistance under Title XX is not countable income.

(13) Reimbursements of Medicare premiums received by an individual from Social Security Administration or the State Department of Health are not countable income.

(14) Needs-based Veteran's pensions are not counted as income. If the income is not needs-based, only the portion of a Veteran's Administration check to which the individual is legally entitled is countable income.

(15) Earned income of a child is excluded if the child is not the head of a household.

(16) Educational income such as educational loans, grants, scholarships, and work-study programs are not countable income. The individual must verify enrollment in an educational program.

(17) Reimbursements for expenses incurred by an individual are not countable income.

(18) Any payments made to an individual because of his status as a victim of Nazi persecution as defined in Pub. L. No. 103-286 are not countable income, including payments made by the Federal Republic of Germany, Austrian Social Insurance payments, and Netherlands WUV payments.

(19) Victim's Compensation payments as defined in Pub. L. No. 101-508 are not countable income.

(20) Disaster relief funds received if a catastrophe has been declared a major disaster by the President of the United States as defined in Pub. L. No. 103-286 are not countable income.

R382-10-14. Budgeting.

The following section describes methods that the Department will use to determine the household's countable monthly or annual income.

(1) The gross income of all household members is counted in determining the eligibility of a child, unless the income is excluded under this rule. Only expenses that are required to make an income available to the individual are deducted from the gross income. No other deductions are allowed.

(2) The Department shall determine monthly income by taking into account the months of pay where an individual receives a fifth paycheck when paid weekly, or a third paycheck when paid every other week. The Department shall multiply the weekly amount by 4.3 to obtain a monthly amount. The Department shall multiply income paid bi-weekly by 2.15 to obtain a monthly amount.

(3) The Department shall determine a child's eligibility and cost-sharing requirements prospectively for the upcoming certification period at the time of application and at each recertification for continuing eligibility. The Department shall determine prospective eligibility by using the best estimate of the household's average monthly income that is expected to be received or made available to the household during the upcoming certification period. The Department shall prorate income that is received less often than monthly over the certification period to determine an average monthly income. The Department may request prior years' tax returns as well as current income information to determine a household's income.

(4) Methods of determining the best estimate are income averaging, income anticipating, and income annualizing. The Department may use a combination of methods to obtain the most accurate best estimate. The best estimate may be a monthly amount that is expected to be received each month of the certification period, or an annual amount that is prorated over the certification period. Different methods may be used for different types of income received in the same household.

(5) The Department shall determine f[~~F~~]arm and self-employment income[~~ is determined~~] by using the individual's recent tax return forms. If tax returns are not available, or are not reflective of the individual's current farm or self-employment income, the Department shall request income [~~and expense~~]information from a recent time period during which the individual had farm or self-employment income. The Department shall deduct 40% of the gross income as a deduction for business expenses [~~from gross income~~]to determine the countable income of the individual. For individuals who have business expenses greater than 40%, the Department shall request expense information and deduct the expenses from the gross income.[~~For self-employment and farm income, t~~] The Department shall deduct the same expenses from gross income that the Internal Revenue Service allows as self-employment expenses.

(6) The Department may annualize income for any household and in particular for households that have self-employment income, receive income sporadically under contract or commission agreements, or receive income at irregular intervals throughout the year.

(7) The Department may request additional information and verification about how a household is meeting expenses if the average household income appears to be insufficient to meet the household's living expenses.

R382-10-15. Assets.

An asset test is not required for CHIP eligibility.

R382-10-16. Application and Recertification.

The application is the initial request from an applicant for CHIP enrollment for a child. The application process includes gathering information and verifications to determine the child's eligibility for enrollment in the program. Recertification is the process of gathering information and verifications on a periodic basis to determine continued eligibility of an enrollee.

(1) The applicant must complete and sign a written application to become enrolled in the program.

(2) The Department accepts any Department-approved application form for medical assistance programs offered by the state as an application for CHIP enrollment.

(3) Individuals may apply at any local office. Individuals may request that an application form be mailed to them.

(4) The Department may interview applicants, the applicant's parents, and any adult who has assumed responsibility for the care or supervision of the child to assist in determining eligibility.

(5) If eligibility for CHIP enrollment ends, the Department shall review the case for eligibility under any other medical assistance program without requiring a new application. The Department may request additional verification from the household if there is insufficient information to make a determination.

R382-10-17. Eligibility Decisions.

(1) The Department must determine eligibility for CHIP within 30 days of the date of application. If a decision can not be made in 30 days because the applicant fails to take a required action and requests additional time to complete the application process, or if circumstances beyond the Department's control delay the eligibility decision, the Department shall document the reason for the delay in the case record. The Department must inform the applicant of the status of the application and the time frame for completing the application process.

(2) The Department may not use the time standard as a waiting period before determining eligibility, or as a reason for denying eligibility because the Department has not determined eligibility within that time.

(3) The Department shall complete a determination of eligibility or ineligibility for each application unless:

(a) the applicant voluntarily withdrew the application and the Department sent a notice to the applicant to confirm the withdrawal;

(b) the applicant died; or

(c) the applicant can not be located or has not responded to requests for information within the 30 day application period.

(4) The Department must redetermine eligibility at least every 12 months.

(5) At application and recertification, the Department must determine if any child applying for CHIP enrollment is eligible for coverage under Medicaid. A child who is eligible for Medicaid coverage is not eligible for CHIP. A child who must meet a spend-down to receive Medicaid is not eligible for Medicaid until the spend-down has been met.

R382-10-18. Effective Date of Enrollment and Recertification.

(1) The effective date of CHIP enrollment is the date a completed and signed application is received by the Department. The Department will allow a grace enrollment period beginning no earlier than four days before the date a completed and signed application is received by the Department if a child has had an emergency that delayed the completion of the application. The Department shall not pay for any services received before the effective enrollment date.

(2) A household that the Department has determined to be eligible for CHIP, and has a child enrolled in CHIP, may enroll another eligible child. The effective date of enrollment will be the date of report, except as otherwise provided in R382-10-18(1). The effective date for enrollment in CHIP for a child meeting one of the criteria below will be the date of the event listed below, if the household reports the event to the Department within 30 days of the event. The events are:

(a) when a new baby is born to a household member;

(b) when a child is adopted or placed for the purpose of adoption by a household member;

(c) when a parent of an enrolled child, or an enrolled child, marries, and a dependent child meeting CHIP eligibility criteria is added to the household as a result;

(d) when a child who was previously ineligible for CHIP because he had health insurance coverage, or had access to an employer's health insurance plan, loses coverage or access involuntarily.

(3) When the report is made more than 30 days after the specified event, enrollment in CHIP will be effective beginning the date of report, except as otherwise provided in R382-10-18(1).

(4) The effective date of enrollment for a recertification is the first day of the month after the recertification month, if the recertification is completed by the end of the recertification month and the child continues to be eligible.

(5) If both the recertification form and the required verifications are not received by the end of the recertification month, the case will be closed unless the enrollee has good cause for not completing the recertification process on time. Good cause includes a medical emergency, death of an immediate family member, or natural disaster, or other similar occurrence.

(6) The Department may require an interview with the parent, child, or adult who has assumed responsibility for the care or supervision of a child, or other authorized representative as part of the recertification process.

R382-10-19. Enrollment Period.

(1) The enrollment period begins with either the date of application, or an earlier date as defined in R382-10-18, if the applicant is determined eligible for CHIP enrollment. Covered services the child received on or after the effective date of enrollment are payable by CHIP for a child who was eligible upon application.

(2) A child eligible for CHIP enrollment receives 12 months of coverage unless the child turns 19 years of age before the end of the 12-month enrollment period, moves out of the state, becomes eligible for Medicaid, begins to be covered by or have access to coverage under a group health plan or other health insurance coverage, or enters a public institution. The month a child turns 19 years of age is the last month the child is eligible for CHIP.

R382-10-20. Termination and Notice.

(1) The Department shall notify an applicant or enrollee in writing of the eligibility decision made on the application or at recertification.

(2) The Department shall notify an enrollee in writing ten days before taking a proposed action adversely affecting the enrollee's eligibility.

(3) Notices under this section shall provide the following information:

(a) The action to be taken;

(b) The reason for the action;

(c) The regulations or policy that support the action;

(d) The applicant's or enrollee's right to a hearing;

(e) How an applicant or enrollee may request a hearing; and

(f) The applicant's or enrollee's right to represent himself, or use legal counsel, a friend, relative, or other spokesperson.

(4) The Department need not give ten-day notice of termination if:

(a) the child is deceased;

(b) the child has moved out of state and is not expected to return; or

(c) the child has entered a public institution, in which case eligibility may cease immediately and without prior notice.

R382-10-21. Case Closure or Withdrawal.

The department shall terminate a child's enrollment upon enrollee request or upon discovery that the child is no longer eligible. An applicant may withdraw an application for CHIP benefits any time prior to approval of the application.

KEY: children's health benefits*
[~~October 10, 2000~~]2001 **26-1-5**
26-40

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-306

Program Benefits

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23459
FILED: 01/29/2001, 13:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is needed to update incorporated references in the rule and to add a change in overnight travel policy.

SUMMARY OF THE RULE OR CHANGE: When a recipient has medical appointments that make it necessary to stay overnight away from home, the Department allows up to $50 for lodging costs. This change proposes that the $50 overnight per diem can include food costs up to $25 of the total $50. Therefore, when lodging costs are less then $50, some of the recipient's food costs may be reimbursed, as noted in Subsection R414-306-6(12). Other changes are to update citations and simplify language.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds Section 1933 of the Compilation of the Social Security Laws, 1999 ed.; and Subsection 1902(e)(8) is updated to the 1999 ed.; and deletes Pub. L. No. 105-33 (4732)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Costs for this revision should remain neutral, as the total allowable amount remains the same regardless of how it is allocated. The total per diem allowed is not increasing, but just allows that part of the per diem can be for food costs. No savings are anticipated, as the per diem is not changing.

❖LOCAL GOVERNMENTS: This rule does not apply to local government, so there would be no fiscal impact.

❖OTHER PERSONS: Because the per diem affects only the recipients, other persons are not involved.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no fiscal impact on affected persons other than that described in the aggregate anticipated cost or savings to State Budget, Local Government and Other Persons above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change should not have an adverse fiscal impact on any Business. Rod L. Betit

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
PO Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gayle Six at the above address, by phone at (801) 538-6895, by FAX at (801) 538-6952, or by Internet E-mail at gsix@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Rod L. Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-306. Program Benefits.
R414-306-1. Medicaid Benefits.

(1) The Department adopts 42 CFR 440.240, 441.56, and 431.625, 1999 ed., which are incorporated by reference.

(2) The Department elects to coordinate Medicaid with Medicare Part B for all Medicaid recipients.

(3) The Department of Health is responsible for defining emergency services which will be paid for by Medicaid for aliens who do not meet citizenship requirements for full Medicaid coverage. Emergency services include medical services given to prevent death or permanent disability. Emergency services do not include prenatal or postpartum services, prolonged medical support, long term care, or organ transplants. Prior authorization is required if the client applies for medical assistance before receiving medical services.

(4) Workers must inform applicants about the Child Health Evaluation and Care (CHEC) program. By signing the application form the client acknowledges receipt of CHEC program information.

R414-306-2. QMB, SLMB, and QI Benefits.

(1) The department adopts Subsection 1905(p) and Section 1933 of the Compilation of the Social Security Laws, 199[~~3~~]9 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.[~~The Department adopts Pub. L. No. 105-33 (4732) which is incorporated by reference.~~]

(2) The Department elects not to cover premiums for enrollment with any health insurance plans except for Medicare.

(3) Benefits covered by the Qualifying Individuals-Group 2 program will be received in the form of a refund check to the individual selected for coverage.

R414-306-3. QMB and SLMB Date of Entitlement.

The Department adopts Subsection 1902(e)(8) of the Compilation of the Social Security Laws, 199[~~5~~]9 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

R414-306-4. Effective Date of Eligibility.

(1) The Department adopts 42 CFR 435.914, 1999 ed., which is incorporated by reference.

(2) Eligibility shall begin no earlier than the third month before the month of application.

(3) Eligibility shall begin on the first day of the month if the individual was eligible any time during that month.

(4) UMAP eligibility shall begin on the first day of the month prior to the month of application, provided eligibility exists.

(5) There is no provision for retroactive QMB assistance.

(6) Institutional Medicaid shall begin on the date that the Department of Health receives verification of nursing home admission from the nursing home. Coverage does not begin earlier than the third month prior to the month of application.

(7) Eligibility under a Home and Community Based Services waiver shall begin on the first day of the month in which the client meets the level-of-care criteria and home and community based services begin. Coverage does not begin earlier than the third month prior to the month of application.

(8) Eligibility for benefits as a Qualifying Individual can begin no more than three months prior to the month of application, and in no case before January 1, 1998. An individual selected to receive QI benefits in a month of the year is entitled to receive such assistance for the remainder of the calendar year if the individual continues to be a qualifying individual. Receipt of benefits as a qualifying individual in one calendar year does not entitle the individual to continued assistance in any succeeding year.

R414-306-5. Availability of Medical Services.

(1) The Department adopts 42 CFR 431.52, 1999 ed., which is incorporated by reference.

(2) A person may receive medical services from an out-of-state provider if that provider accepts the Utah Medicaid reimbursement rate for the service.

(3) If a medical service requires prior approval for reimbursement in-state, the medical service will require prior approval if received out-of-state.

(4) If a person has a primary care provider, the person shall receive medical services from that provider, or obtain authorization from the primary care provider to receive medical services from another medical provider.

(5) If a person has a Health Maintenance Organization as a primary care provider, the person shall receive medical services from the Health Maintenance Organization, or obtain authorization from the Health Maintenance Organization to receive medical services from another medical provider.

R414-306-6. Medical Transportation.

(1) The Department adopts 42 CFR 431.53, 1999 ed., which is incorporated by reference.

(2) Non-emergency medical transportation is limited to transportation to and from a Medicaid provider to obtain a Medicaid covered service that is medically necessary.

(3) If transportation is available without cost, recipients shall use this transportation. Other modes of non-emergency medical transportation include bus passes, special bus services, personal transportation reimbursement, taxi service, non-specialized van transportation, and specialized van transportation. Recipients must use the most reasonable and economical mode of transportation available, or transportation shall not be reimbursed.

(a) Prior authorization is required for special bus services, taxi service, non-specialized van transportation, and specialized van transportation.

(b) Taxi service shall not be authorized for recipients who own a licensed vehicle, or who live in a household with a family member who owns a licensed vehicle, unless the recipient verifies that the nature of the recipient's medical condition or disability makes driving inadvisable and there is no household member who can drive the recipient to and from medical appointments. In the case of an urgent medical care need, if the recipient has no other way of getting needed care, Department staff may authorize taxi service when it is a reasonable and safe mode of transportation.

(c) When personal transportation is used, and it is the most reasonable and economical mode of transportation available, the local office shall reimburse actual mileage at the rate of $0.18 per mile. The Department may deny reimbursement for multiple trips in a day unless the client can demonstrate why multiple trips were

necessary. Total reimbursement for mileage must not exceed $150.00 a month per household, unless:

(i) an eligibility worker determines that higher reimbursement is necessary because a recipient's medical condition requires frequent travel to a Medicaid provider to obtain Medicaid covered services that are medically necessary; or

(ii) an eligibility supervisor determines that higher reimbursement is necessary because a recipient had an unusual medical need in a given month that required frequent or long-distance travel to a Medicaid provider to obtain Medicaid covered services that were medically necessary.

(d) The local office supervisor can authorize advance payment for use of personal transportation, overnight stay costs, or both, if the provider verifies the medical appointment, and the client would be unable to obtain the necessary medical services without an advance.

(4) If a State agency or non-profit organization provides transportation, the only reimbursement will be for actual costs or billed charges.

(5) Transportation reimbursement may be made to the recipient, to a second party, or to the recipient and second party jointly.

(6) If more than one Medicaid recipient travel together in a personal vehicle, reimbursement shall be made to only one recipient, or to the driver, and only for the actual miles traveled.

(7) The Department will not provide non-emergency medical transportation to nursing home residents because the nursing home must provide the transportation as part of its contracted rate.

(8) The Department will not provide non-emergency medical transportation to and from mental health appointments for recipients covered by a prepaid Mental Health Plan because the prepaid Mental Health Plan must provide transportation, as part of its contracted rate, to recipients to obtain covered mental health services.

(9) If medical services are not available locally, a recipient may be reimbursed for transportation to obtain medical services outside of the recipient's local area. If the closest medical provider is out-of-state, a recipient may be reimbursed for transportation to the out-of-state provider if this travel is more cost effective than traveling to an in-state provider. The medical provider's office must verify that the recipient needs to travel outside the local area for medical services, unless:

(a) there are no Medicaid providers in the local area who can provide the services; or

(b) it is the custom in the local area to obtain medical services outside the local area or in neighboring states.

(10) If medical services are not available in-state, a recipient must receive prior authorization from Department to be reimbursed for transportation to obtain the medical services out-of-state.

(11) A recipient who receives medical treatment outside of the recipient's local area may receive reimbursement for lodging costs when staying overnight, if:

(a) the recipient is obtaining a Medicaid covered service that is medically necessary from the nearest Medicaid provider that can treat the recipient's medical condition; and

(b) the recipient must travel over 100 miles to obtain the medical treatment and would not arrive home before 8:00 p.m. due to the drive time; or

(c) the medical treatment requires an overnight stay.

(12) The Department shall reimburse actual lodging and food costs or $50.00 per night, whichever is less. Reimbursement for food costs shall be no more than $25 of the $50 overnight reimbursement rate.

(13) If a recipient has a medical need for a companion or attendant when traveling outside of the recipient's local area, and the recipient is not staying in a medical facility, lodging costs for the companion or attendant may be reimbursed according to the rate specified in subsection (12). The reimbursement may also include salary if the attendant is not a member of the recipient's family, but not for standby time. One parent or guardian may qualify as an attendant if the parent or guardian must receive medical instructions to meet the recipient's needs, or the recipient is a minor child.

(14) Reimbursements for personal transportation shall not be made for trips made more than 12 months before the month the client requests reimbursement, with one exception. If a client is granted coverage for months more than one year prior to the eligibility decision, the client may request reimbursement and provide verification for personal transportation costs incurred during those months. In this case, the client must make the request and provide verification within three months after receiving the eligibility decision.

R414-306-7. State Supplemental Payments for Institutionalized SSI Recipients.

(1) The Department adopts Subsection 1616(a) through (d) of the Compilation of the Social Security Laws, 1993 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

(2) A State Supplemental payment equal to $15 shall be paid to a resident of a medical institution who receives a Supplemental Security Income (SSI) payment.

(3) Recipients must be eligible for Medicaid benefits to receive the State Supplemental payment.

(4) Recipients are eligible to receive the $15 State Supplemental payment beginning with the first month that their SSI assistance is reduced to $30 a month because they stay[~~are residing~~] in an institution and they are eligible for Medicaid[~~in which Medicaid covers 50% or more of their costs~~].

(5) The State Supplemental payment terminates effective the month the recipient no longer meets the eligibility criteria for receiving such supplemental payment.

KEY: program benefits
[~~August 2, 2000~~]2001 **26-18**
Notice of Continuation February 6, 1998

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Health, Health Care Financing, Coverage and Reimbursement Policy
R414-310
Demonstration Programs

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 23452
FILED: 01/23/2001, 13:52
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Utah's Single Parent Demonstration Program no longer exists and is now the Family Employment Program (FEP), Utah's Temporary Assistance for Needy Families (TANF) cash assistance program. The Title XIX waivers associated with the demonstration program expired on December 31, 2000. We can no longer determine eligibility for Transitional Medicaid for Family Employment Program (FEP) recipients using the policies developed under these waivers.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety. Some of the definitions and language regarding the diversion program will be moved to R414-301.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18; and Section 26-1-5

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since this rule will be repealed in its entirety, approximately 1,500 households will lose eligibility for Transitional Medicaid. The children in these households will still be eligible under other Medicaid programs. The net savings from this rule change is estimated to be $403,129 in state dollars and $1,009,871 in federal matching funds.
❖LOCAL GOVERNMENTS: This rule does not apply to local government, so there is no fiscal impact.
❖OTHER PERSONS: It is expected that a large percentage of the children who are not eligible for Medicaid would probably be eligible under CHIP (Children's Health Insurance Program).
COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons are as described in Other Persons above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Utah's waiver that allowed for the Single Parent Demonstration Program expired on December 31, 2000. This rule is now obsolete. Repeal is appropriate. The impact on vulnerable low income Utah residents has been mitigated as much as possible with other rule changes to the extent allowed by federal law. The impact on Utah's health care system should be minimal. Rod L. Betit

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Connie Christensen at the above address, by phone at (801) 538-9349, by FAX at (801) 538-6952, or by Internet E-mail at cchriste@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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Rod L. Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

[~~**R414-310. Demonstration Programs.**~~

~~**R414-310-101. Single Parent Employment Program.**~~

~~1. The department shall operate a Single Parent Employment Demonstration Program as authorized Section 1115 of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.~~

~~2. The following definitions apply:~~

~~a. "Diversion" means a one time Single Parent Employment Program payment that may equal up to three months of AFDC assistance.~~

~~b. "Participant" means any applicant for or recipient of the Single Parent Employment Program.~~

~~3. The goal of the Single Parent Employment Program is to increase family income through employment and child support.~~

~~4. The Single Parent Employment Program will operate in selected offices as determined by the department.~~

~~5. The following exceptions regarding Single Parent Employment Program participants apply to R414-301 through R414-310;~~

~~a. Participants are considered categorically eligible for Family Medicaid provided they are receiving Single Parent Employment Program assistance.~~

~~b. Participants receiving a diversion payment may choose to have Family Medicaid coverage for three months. Participants are considered categorically eligible for Family Medicaid provided participants have received a diversion payment.~~

~~c. Participants are not required to have received a financial payment for three out of six months prior to terminating financial assistance.~~

~~d. Participants who have earned income and become ineligible for financial assistance because of increased income are eligible for 24 month extended Medicaid.~~

~~e. Participants receiving 24 month extended Medicaid must report at the end of each six months of service.~~

~~**KEY: income, demonstration***~~
~~**September 1, 1995** **26-18**~~
~~**Notice of Continuation February 6, 1998**~~]

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Health, Health Systems Improvement, Child Care Licensing
R430-6
Background Screening

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 23450
FILED: 01/23/2001, 11:17
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule identifies the process and exclusions that covered individuals must undergo for criminal background screening for child care.

SUMMARY OF THE RULE OR CHANGE: Section R430-6-3, this section will clarify definitions used throughout the rule - "covered individual" as any person that has unsupervised contact with children listed in Subsection 26-39-107(a); "volunteer"; "direct supervision"; and "unsupervised contact." Section R430-6-4, will provide exclusions from background screening for emergency care providers. Section R430-6-5, further clarifies when a FBI national check is required for covered individuals and excludes those individuals from FBI clearance if they have continuously resided in Utah for the past five years. Section R430-6-6, Exclusions from child care due to criminal convictions or pending charges. The Department will not qualify a covered individual for Misdemeanor A convictions and lists other exclusions. Sets a protocol for reviewing other misdemeanor convictions for qualifying individuals, as long as the conviction did not involve violence against a child or family member or unauthorized sexual conduct with children. Requires child care providers to report to the Department felony and misdemeanor arrests, charges or convictions of covered individuals within 48 hours. Section R430-6-7, Child Abuse Management Information System will include a review all persons residing in the home where child care is provided who may have unsupervised contact for a substantiated findings of abuse. Section R430-6-8, if the Department finds that a covered individual has been arrested or charged with a felony or a misdemeanor which would be excluded under Rule R430-5, the Department will move to protect the health and safety of children that the covered individual may have contact with. Section R430-6-9, penalties section added that describes the assessment of civil money penalties.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-39-107

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: $1,500--the cost of repealing and enacting the rule and distributing a copy of the rule for child care 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 a child care program.
❖OTHER PERSONS: $24,000 savings--this estimate is based on an estimated 1,000 covered individuals who are being licensed or certified after May 1999, who will not be required to obtain the $24 FBI check if they have resided in Utah for the past five years.
COMPLIANCE COSTS FOR AFFECTED PERSONS: $24 savings per individual that has resided in Utah for the past five years and they will not be required to obtain an FBI clearance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Background screening to assure that all possible steps are taken to protect children from care providers with a known history of improper conduct is a key regulatory tool of the Department. This rule will streamline that tool and appropriately reduce costs to the industry without undermining the basic regulatory approach. Listing those convictions that will not disqualify a person from providing child care will also standardize the Department's process. Rod L. Betit.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Health Systems Improvement,
Child Care Licensing
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 dwynkoop@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Rod L. Betit, Executive Director

R430. Health, Health Systems Improvement, Child Care Licensing.
[~~**R430-6. Background Screening.**~~
~~**R430-6-1. Authority.**~~
~~(1) The Utah Code, Section 26-39-107, requires that a Bureau of Criminal Identification screening, referred to as BCI, screening be conducted on each person requesting to be licensed or residential certificate or to renew a license or certificate for existing, new, and proposed owners, directors, members of the governing body, employees, providers of care and volunteers, except parents of children enrolled in the child care program.~~
~~(2) The Utah Code, Section 26-39-104, requires the Department to make and enforce rules to protect children's common~~

needs for a safe and healthy environment and provide for competent care givers. The Department shall review the management information system for licensing and certification purposes pursuant to 62A-4a-116 to screen for individuals who may have a substantiated finding of abuse or neglect since January 1, 1988, unless removed pursuant to Susbsection 62A-4a-116.5.

R430-6-2. Purpose.

The purpose of the screening process using the BCI criminal background and child and adult management information system is to protect children receiving services in a child day care program. The BCI screening process determines whether a covered individual has been convicted of any crime. In addition, the Department screens all individuals using the management information system which is limited to:

1. Substantiated findings of abuse or neglect since January 1, 1988, unless removed pursuant to Subsection 62A-4a-116.5(6);

2. An adjudication of child abuse or neglect by a court of competent jurisdiction; and

3. Any criminal conviction or guilty plea related to neglect, physical abuse, or sexual abuse of any person.

R430-6-3. Definitions.

Terms used in this rule are defined in Title 26, Chapter 39. In addition:

(1) "Covered Individual" means all proposed employees of a child care facility, including owners, volunteers (excluding parents), existing employees, members of governing bodies, and, for family care settings, all individuals residing in the home where a child care programs is to be licensed, who are 18 years old and over.

(2) "Department" means the Utah Department of Health.

(3) "Substantiated" means a finding by the Department of Human Services, at the completion of an investigation by the Department of Human Services, that there is a reasonable basis to conclude that one or more of the following types of abuse or neglect has occurred:

(a) physical abuse;

(b) sexual abuse;

(c) sexual exploitation;

(d) abandonment;

(e) medical neglect resulting in death, disability, or serious illness; or

(f) chronic or severe neglect.

R430-6-4. Bureau of Criminal Identification.

(1) The Utah Code, Section 26-39-107, requires that a BCI be conducted on covered individuals requesting to be licensed, to renew a license, to be a residential certificate provider, or to renew a certificate or to be employed or volunteer in a licensed or residential certificate child care setting.

(a) Immediately upon or prior to employing or licensing or certifying a covered individual, the child care facility shall submit applicant information, fees and releases to the Department to allow the Department to perform a criminal background screening and child abuse screening.

(b) If a covered individual applicant has lived in Utah less that two years, or has unexplained gaps in work or residence record, the covered individual shall request a criminal background screening from the state or country of former residence. The covered individual shall submit the out-of-state criminal background screening within 90-days after application for review by the Department.

(c) If a covered individual has been serving a full-time religious mission out-of-state or has been in military service out-of-state for the immediate past two years, the covered individual shall submit to the Department a letter from their clergy or commanding officer documenting that the covered individual was not convicted of any felony or serious misdemeanor crimes during the time period of the religious or military service.

(2) If the BCI screening indicates that the covered individual has a criminal record that indicates there is a conviction for a felony or misdemeanor, the covered individual shall submit a fingerprint card, waiver and fee upon request by the Department. The Department shall submit them to the Criminal Investigations and Technical Services Division for additional screening.

(a) The fingerprint card that the covered individual submits shall be prepared either by the local law enforcement agency or an agency approved by local law enforcement.

(b) The Criminal Investigations and Technical Services Division, shall report the background screening and forward the fingerprint card to the Department. The Department shall review the criminal convictions within the past five years to determine whether to approve the covered individual for licensing, certification or employment.

(c) If based upon the BCI screening, the Department denies the covered individual a license or certificate, volunteer position or employment, the Department shall send a Notice of Agency Action to the child care provider or covered individual stating that the application is denied.

(3) The Department shall make the following determination if a covered individual has a criminal history record:

(a) If the covered individual was convicted of a felony, the covered individual may not provide child care, volunteer, or own or operate a child care program with a license or certificate issued by the Department.

(b) If the covered individual was convicted of a misdemeanor within the past five years, the covered individual may not provide child care, volunteer, or own or operate a child care program with a license or certificate issued by the Department if the misdemeanor involves offenses identified in the Utah Criminal Code as offenses against the family, offenses against the person, pornography, prostitution, or any type of sexual offense.

(c) If the covered individual is a person with a felony or misdemeanor conviction who resides in a home where child care is provided, the Department shall not issue a license or certificate for day care in the home.

(4) The Executive Director may consider an approval for issuing a license, certificate, or employment of a covered individual who has been convicted of a misdemeanor but not a misdemeanor involving offenses identified in the Utah Criminal Code as offenses against the family, offenses against the person, pornography, prostitution, or any type of sexual offense, according to the following criteria:

(a) If the convictions were older than five years, the covered individual may provide child care and operate a child care program with a license or certificate issued by the Department.

(b) If the convictions were within the last five years, the Department shall make a comprehensive review of the individual

~~circumstances. If the Department finds that the covered individual's conduct is not adverse to the public health, morals, welfare, and safety of children, the covered individual may provide child care and operate a child care program with a license or certificate issued by the Department.~~

~~(c) If the convictions demonstrate a pattern of behavior which indicates that the covered individual's conduct is adverse to the public health, morals, welfare, and safety of children, the covered individual may not provide child care and operate a child care program with a license or certificate issued by the Department.~~

~~(5) The Department shall rely on the BCI as conclusive evidence of the conviction and the Department may revoke or deny a license, certificate and employment based on that evidence.~~

~~(6) If the covered individual is denied a license, certificate or employment based upon the BCI and the covered individual disagrees with the BCI report, the covered individual may seek redress through the Criminal Investigations and Technical Services Division, as provided in Section 77-18-2.~~

~~(7) All covered individuals shall report all felony and misdemeanor convictions of covered individuals for offenses identified in the Utah Criminal Code as offenses against the family, offenses against the person, pornography, prostitution, or any type of sexual offense to the Department within 48 hours of conviction.~~

~~**R430-6-5. Child Abuse Management Information System.**~~

~~(1) Pursuant to Utah Code Subsection 26-39-104(1)(a)(ii) the Department shall screen all covered individuals for a history of substantiated abuse, neglect, or exploitation from the management information system maintained by the Utah Department of Human Services (DHS).~~

~~(2) If a covered individual appears on the data base, the Department may deny or revoke a license, certificate or employment.~~

~~(3) If the Department determines there exists credible evidence that the covered individual poses a threat to the safety and health of children being served in a licensed or certified child care setting, the Department shall not grant or renew a license, certificate or employment. The Department shall review the date of the substantiated finding, type of substantiation, written documentation, and the legal status of the covered individual.~~

~~(4) If the Department denies or revokes a license, certificate or employment based upon the child or adult abuse management information system, the Department shall send a Notice of Agency Action to the licensee and the covered individual.~~

~~(5) If the covered individual disagrees with the record of substantiation of abuse, he must pursue an appeal with the DHS. If the covered individual agrees with the substantiated finding of abuse that was the basis of the Department's denial or revocation, the covered individual may request a hearing with the Department.~~

~~(a) Upon request, the Department may permit the covered individual to be employed under supervision until a decision is reached and if the applicant can demonstrate that the work arrangement does not pose a threat to the safety and health of children being served in the licensed or residential certificate child care setting.~~

~~(b) The Department may hold the license, certificate or employment denial in abeyance until DHS renders a decision, if a covered individual appeals the record of substantiation.~~

~~(6) If the DHS determines a covered individual has a substantiated finding of abuse, neglect or exploitation after the Department issues a license, certificate or grants employment, the licensee and covered individual has five working days to notify the Department. Failure to notify the Department may result in revocation of the license or certificate.~~

~~**KEY: child care facilities**~~

~~**August 20, 1998 26-39**~~]

R430-6. Criminal Background Screening.

R430-6-1. Authority.

(1) The Utah Code, Section 26-39-107, requires that a Bureau of Criminal Identification screening, referred to as BCI, screening be conducted on each person requesting to be licensed or residential certificate or to renew a license or certificate for existing, new, and proposed owners, directors, members of the governing body, employees, providers of care and volunteers, except parents of children enrolled in the child care program.

(2) The Utah Code, Section 26-39-104, requires the Department to make and enforce rules to protect children's common needs for a safe and healthy environment and provide for competent care givers. The Department shall review the management information system for licensing and certification purposes pursuant to Section 62A-4a-116 to screen for individuals who may have a substantiated finding of abuse or neglect since January 1, 1988, unless removed pursuant to Section 62A-4a-116.5.

R430-6-2. Purpose.

The purpose of the screening process using the BCI criminal background and child and adult management information system is to protect children receiving services in a child day care program. The Criminal Background Screening (CBS) process determines whether a covered individual has been convicted of any crime. In addition, the Department screens all individuals using the management information system which is limited to:

(1) Substantiated findings of abuse or neglect since January 1, 1988, unless removed pursuant to Subsection 62A-4a-116.5(6);

(2) An adjudication of child abuse or neglect by a court of competent jurisdiction; and

(3) Any criminal conviction or guilty plea related to neglect, physical abuse, or sexual abuse of any person.

R430-6-3. Definitions.

Terms used in this rule are defined in Title 26, Chapter 39. In addition:

(1) "Covered Individual" means any person that has unsupervised contact with children listed in Utah Code Ann. Subsection 26-39-107(a):

(a) owners;

(b) directors;

(c) members of the governing body;

(d) employees;

(e) providers of care, including children residing in a home where child care is provided;

(f) volunteers, including parents of children enrolled in the program that have unsupervised contact with children in the child care facility; and

(g) all adults residing in a residence where child care is provided.

(2) "Department" means the Utah Department of Health.

(3) "Direct supervision" means that the care giver can see and hear the children under age six, and is near enough to intervene when needed. Care givers must be able to hear school-age children and be near enough to intervene.

(4) "Substantiated" means a finding by the Utah Department of Human Services (DHS), at the completion of an investigation by DHS, that there is a reasonable basis to conclude that one or more of the following types of abuse or neglect has occurred:

(a) physical abuse;

(b) sexual abuse;

(c) sexual exploitation;

(d) abandonment;

(e) medical neglect resulting in death, disability, or serious illness; or

(f) chronic or severe neglect.

(5) "Unsupervised Contact" means contact with children that provides the unsupervised person opportunity and probability for personal communication or touch when not under the direct supervision of a child care provider or employee.

(6) "Volunteer" means an individual who is not directly compensated for providing care, including parents of children enrolled in the program, whose duties assigned by a child care provider or employee include unsupervised contact in a child care facility with children or food consumed by children on a regularly scheduled basis of one or more times per month.

R430-6-4. Exclusions from Criminal Background Screening, Emergency Care Providers.

(1) Any person, including those that would otherwise be covered individuals, involved with a child care facility that the Department is reasonably satisfied will not have unsupervised contact with children is not required to submit information for a criminal background screening.

(2) In an emergency, not anticipated in the provider's emergency plan, a provider may assign a person who has not had a criminal background screening to care for and have unsupervised contact with children.

(a) That person shall make a signed, written declaration to the provider that the person has not been convicted of a felony or misdemeanor.

(b) During the term of the emergency, that person may be counted as a provider of care for purposes of maintaining the required care provider to child ratios.

(c) The provider shall make reasonable efforts to minimize the time that this person has unsupervised contact with children.

R430-6-5. Criminal Background Screening through the Utah Division of Criminal Investigation and National Criminal History Records.

(1) Each child care provider requesting a residential certificate, to be licensed or to renew a license to provide child care shall submit to the Department the name and other identifying information on all covered individuals involved with the child care facility at the time the application is filed. A fingerprint card, waiver and fee, prepared either by the local law enforcement agency or an agency approved by local law enforcement, shall also be submitted unless an exception is granted under (4) below.

(2) The request for a certificate or a license submitted by the provider shall require the provider to state in writing, based upon the provider's best information and belief, that no person who will have unsupervised contact with a child receiving care, including the provider's own children, has ever been convicted of a felony, misdemeanor or had a substantiated finding of abuse or neglect of a child. If the provider is aware of any such conviction or substantiated finding, the Department shall obtain information from the provider to assess the conviction consistent with R430-6-5.

(3) After a license or certificate is issued or renewed, within five (5) days of a new covered individual becoming involved with a child care facility, the child care facility or licensee must submit the identifying information. A fingerprint card, waiver and fee, prepared either by the local law enforcement agency or an agency approved by local law enforcement, shall also be submitted unless an exception is granted under (4) below.

(4) Fingerprint cards are not required if the Department is reasonably satisfied that:

(a) the covered individual has resided in Utah for the last five years;

(b) the covered individual has previously submitted fingerprints under this section for a national criminal history record check and has resided in Utah continuously since that time; or

(c) as of May 3, 1999, the covered individual was involved with a child care facility in a covered individual capacity and has resided in Utah continuously since that time.

(5) If a covered individual has resided in Utah for the last five years, except for religious or military service out-of-state, the covered individual shall submit to the Department a letter from their clergy or commanding officer documenting that the covered individual was not convicted of any felony or misdemeanor during the time period of the religious or military service. The covered individual shall then be deemed to have resided in Utah for the last five years and not be required to submit fingerprint cards.

(6) The Department shall perform a criminal background screening, which includes a review of the database of the Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety (BCI); and if a fingerprint card, waiver and fee were submitted; the Department shall forward the fingerprint card, waiver and fee to the Utah Division of Criminal Investigation and Technical Services for submission to the FBI for a national criminal history record check.

(7) If the BCI portion of the criminal background screening indicates that the covered individual has a conviction for a felony or misdemeanor, regardless of any exception under (4) above, the covered individual shall submit a fingerprint card, waiver and fee upon request by the Department.

(8) The Department shall review any criminal convictions, consistent with R430-6-5, to determine if action should be taken to protect the health and safety of children receiving child care in the facility.

(9) If the Department takes an action adverse to any covered individual, based upon the criminal background screening, the Department shall send a Notice of Agency Action to the child care provider and the covered individual explaining the action and the right of appeal.

R430-6-6. Exclusion from Child Care Due to Criminal Convictions or Pending Charges.

(1) As required by Utah Code Ann. Subsection 26-39-107(2), if the criminal conviction was a felony, or is a misdemeanor that is not excluded under paragraphs (2) or (3) below, the covered individual may not provide child care, volunteer, or own or operate a child care program with a license or certificate issued by the Department. If such a covered individual resides in a home where child care is provided, the Department shall revoke an existing license or certificate and refuse to permit child care in the home until the Department is reasonably convinced that the covered individual no longer resides in the home and will not have unsupervised contact with any child in care at the home.

(2) As allowed by Utah Code Ann. Subsection 26-39-107(3)(a), the Department hereby excludes the following misdemeanors and determines that a misdemeanor conviction listed below does not disqualify a covered individual from providing child care:

(a) any class B or C conviction under Chapter 6, Title 76, Offenses Against Property, Utah Criminal Code;

(b) any class B or C conviction under Chapter 6a, Title 76, Pyramid Schemes, Utah Criminal Code;

(c) any class B or C conviction under Chapter 8, Title 76, Offenses Against the Administration of Government, Utah Criminal Code;

(d) any class B or C conviction under Chapter 9, Title 76, Offenses Against Public Order and Decency, Utah Criminal Code, except for 76-9-301.8, Bestiality; 76-9-702, Lewdness; and 76-9-702.5, Lewdness Involving Child; and

(e) any class B or C conviction under Chapter 10, Title 76, Offenses Against Public Health, Welfare, Safety and Morals, Utah Criminal Code, except for 76-10-1201 to 1229.5, Pornographic and Harmful Materials and Performances; 76-10-1301 to 1314, Prostitution; and 76-10-2301, Contributing to the Delinquency of a Minor.

(3) The Executive Director may exclude, on a case-by-case basis, other misdemeanors not covered under paragraph (2) of this section if the misdemeanor did not involve violence against a child or a family member or unauthorized sexual conduct with a child. The following factors will be used in deciding under what circumstance, if any, the covered individual will be allowed to provide child care, volunteer, or own or operate a child care program with a license or certificate issued by the Department:

(a) Types and number of offenses;

(b) Passage of time since the offense was committed; offenses more than five years old will not bar approval or a license, certificate or employment;

(c) Circumstances surrounding the commission of the offense;

(d) Intervening circumstances since the commission of the offense; and

(e) Relationship of the facts under subsections (a) through (d) of this section to the individual's suitability to work with children.

(4) The Department shall rely on the criminal background screening as conclusive evidence of the conviction and the Department may revoke or deny a license, certificate and employment based on that evidence.

(5) If the covered individual is denied a license, certificate or employment based upon the criminal background screening and the covered individual disagrees with the information provided by the Criminal Investigations and Technical Services Division, the covered individual may challenge the information as provided in Utah Code Ann. Sections 77-18-10 through 77-18-15.

(6) All child care providers must report all felony and misdemeanor arrests, charges or convictions of covered individuals to the Department within 48 hours.

R430-6-7. Child Abuse Management Information System.

(1) Pursuant to Utah Code Subsection 26-39-104(1)(a)(ii) the Department shall screen all covered individuals, including children residing in a home where child care is provided, for a history of substantiated abuse, neglect, or exploitation from the management information system maintained by the Utah Department of Human Services (DHS).

(2) If a covered individual appears on the management information system, the Department shall assess the threat to the safety and health of children. The Department may revoke any existing license or certificate and refuse to permit child care in the home until the Department is reasonably convinced that the covered individual no longer resides in the home and will not have unsupervised contact with any child in care at the home.

(a) Upon request, the Department may permit the covered individual to be employed under supervision until a decision is reached, and if the applicant can demonstrate that the work arrangement does not pose a threat to the safety and health of children being served in the licensed or residential certificate child care setting.

(b) The Department may hold the license, certificate or employment denial in abeyance until DHS renders a decision, if a covered individual appeals the record of substantiation.

(3) If the Department denies or revokes a license, certificate or employment based upon the child or adult abuse management information system, the Department shall send a Notice of Agency Action to the licensee and the covered individual.

(4) If the covered individual disagrees with the record of substantiation of abuse, any appeal must be directed to and follow the process established by DHS. If the covered individual agrees with the substantiated finding of abuse that was the basis of the Department's denial or revocation, but disagrees with the action taken by the Department, the covered individual may request a hearing with the Department.

(5) If the DHS determines a covered individual has a substantiated finding of abuse, neglect or exploitation after the Department issues a license, certificate or grants employment; the licensee and covered individual has five working days to notify the Department. Failure to notify the Department may result in revocation of the license or certificate.

R430-6-8. Covered Individuals with Arrests or Pending Criminal Charges.

(1) If the Department determines there exists credible evidence that a covered individual has been arrested or charged with a felony or a misdemeanor that would not be excluded under R430-6-5(2), the Department shall act to protect the health and safety of children in child care that the covered individual may have contact with. The Department may revoke or suspend any license or certificate of a provider if necessary to protect the health and safety of children in care.

(2) Upon request, the Department may permit the covered individual to be employed under supervision until the felony or misdemeanor charge is resolved, if the Department is satisfied that the work arrangement does not pose a threat to the safety and health of children being served in the licensed or residential certificate child care setting.

(3) If the Department denies or revokes a license, certificate or restricts employment based upon the arrest or felony or misdemeanor charge, the Department shall send a Notice of Agency Action to the licensee and the covered individual notifying them that a hearing with the Department may be requested.

(4) The Department may hold the license, certificate or employment denial in abeyance until the arrest or felony or misdemeanor charge is resolved.

R430-6-9. Penalties.

The department may impose civil monetary penalties in accordance with Title 63, Chapter 46b, Administrative Procedures Act, if there has been a failure to comply with the provisions of this chapter, or rules promulgated pursuant to this chapter, as follows:

(1) if significant problems exist that are likely to lead to the harm of a child, the department may impose a civil penalty of $50 to $1,000 per day; and

(2) if significant problems exist that result in actual harm to a child, the department may impose a civil penalty of $1,050 to $5,000 per day.

KEY: child care facilities
2001 26-39

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Health, Health Systems Improvement, Child Care Licensing
R430-100
Child Care Center

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23451
FILED: 01/23/2000, 11:17
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule identifies the standards for operating a Child Care Center. The reason for the change was to clarify the definitions and the health and safety criteria and standards for operating a facility in the state.

SUMMARY OF THE RULE OR CHANGE: Section R430-100-3, Definitions: Added the definition for "immediately accessible", "accessible", "group", "infant" and "toddler." Section R430-100-5, General Variance Provisions: Added language to ensure that owners may request a variance to an individual rule under certain circumstances. Section R430-100-6, Administration: Consolidated the required policies and procedures to this section, and added new requirements to include policies and procedures on hand washing, fire arms, supervision for mixed group activities, and food service. Changed "job description" to "training and education levels of care giver positions". Deleted the rule requiring "use of medications in amounts known to compromise judgement" as subjective and required medical knowledge and judgement. Section R430-100-7, Personnel: Clarified that the director shall ensure that care givers meet the needs of the children. Required care givers to read and document their understanding of the centers policies and procedures. Added the requirement that the Department provide an Informational Guide to Parents which identifies the minimum standards inspected annually and provided a contact telephone number for parents to report concerns. Deleted the requirement that the center had to provide a copy of the rules to parents. Extended the time for care givers to obtain TB tests to 30 days. Corrected the citation for reporting suspected abuse and neglect of children. Clarified the content of and the documentation for orientation training. Section R430-100-8, Records: Added requirement that care givers shall not discuss personal information regarding children with unauthorized persons. Identified which records are on-site, accessible or immediately accessible. Deleted the required physical examination for enrolled children. Added requirement that personnel records include emergency contact information. Section R430-100-9, Care giver to Child Ratios: Added variance language to permit centers constructed and licensed prior to 1997 to have a variance for group size. Granted an exception to the group size for planned activities and during transition time not to exceed two hours daily. Section R430-100-10, Child Health: Eliminates the requirement of the physical examination by a licensed health care professional. Required the parent to complete an annual health assessment which includes food sensitivities and current medications. Section R430-100-11, Parent Notification/Child Security: Added the requirement to provide parents a copy of the Department Informational Guide for Parents. Required the director to notify the Department within 24 hours to report fatalities, hospitalization, or emergency medical response. Section R430-100-12, Activities: Required the care givers to follow a daily activity plan that is designed for the age, health, safety and welfare of the children. Modified the language to permit indoor play structures for children four to age six to be five and one half-feet high and limits the height to three feet for children age three and younger. Clarified that drinking water is available in outdoor play areas when the outside air temperature is 75 degrees F or higher. Section R430-100-13, Medications: Clarified that the medications stored in the refrigerator shall be in a covered container with a tight fitting lid. Section R430-100-14, Infection Control: Identified the content of the blood and bodily fluid clean-up kit. Moved the diapering standards to a separate section. Identified that if play equipment is not cleanable (books, puzzles, etc.) that care givers and children will wash hands before and after use. Section R430-100-15, Diapering: This new section was previously located in R430-100-14. No substantive change. Section R430-100-16, Safety: Clarified that electrical outlets accessible to children four and under shall have protective caps. Moved infant standards to a separate section. Section

R430-100-17, Child Discipline: Clarified that the discipline measures shall reduce injury and any adverse health effects. Deleted the definition of "time out". Section R430-100-18, Food Service: Added requirement that the Director shall post a list of children's food allergies and sensitivities in the food preparation area and communicate special needs to staff person serving food to the children. Section R430-100-19, Animals: Clarified that the parent or guardian is informed of all animals kept at the center. R430-100-20, Transportation: Clarified that the policies and procedures for transportation are shared with the parents. Section R430-100-21, Housekeeping and Maintenance: Eliminated the requirement for controlling odors, relocated temperature section to Physical Environment and deleted redundant section on outdoor areas. Section R430-100-22, Physical Environment: Eliminated the Table 3 Minimum Lighting Required Foot-Candle and adds "adequate lighting in good working order." Moved infant standards to separate section. Section R430-100-23, Sleep Areas and Equipment: Provided clarification and minimum standard for sanitizing and washing linens. Section R430-100-24, Emergency and Disaster: Required a written emergency plan that addresses the steps a staff person will follow in case of a missing child, medical emergency or injury, or death of a child or staff person. Reference Rule R710-8, Day Care Rules, for fire drills. Moved the first aid rule to this location. Section R430-100-25, Moved all reference to Infants here.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: A cost of $13,430--the Utah Department of Health will distribute a copy of the rule to 281 providers upon the effective date of the rule ($30 each); create a Department Informational Guide for Parents to be distributed to all enrolled families (50,000 printed annually at .07 cents each); and develop template for Policies and Procedures for centers to elect to use (Staff time for this one-time cost of $1,000).

❖LOCAL GOVERNMENTS: No cost or savings anticipated, since local government typically contract with vendors to have on-site child care. Each local agency has their own regulatory powers established by local jurisdiction and do not enforce the Utah Department of Health's child care authority.

❖OTHER PERSONS: A savings of $180,000 for Parents who enroll a child after the effective date and will not be required to obtain a physical examination ($45 for approximately 4,000 children annually.) A cost of no more than $28,100 to the centers to develop and print new policies and procedures, if all were to elect to not use the Department templates (281 centers at $100 each). The Department believes that most centers will adopt the templates and the cost will be minimal to those centers. Total aggregate savings for this rule change is at least $151,900.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In an effort to simplify rule compliance, the Department will be required to develop standard policy and procedure templates that a center may adopt. If adopted, the center will be in compliance with the rule. If a center chooses not to adopt any of the templates, it is estimated that those centers would expend $100 developing their own policies and procedures. Although many rule requirements have been simplified or removed and centers may be able to either reduce costs or limit inflationary increases, parents should at least save $45 with the elimination of the requirement for a pre-enrollment physical examination.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I believe that child care in centers will be more affordable to parents as a result of this rule. This rule change has been carefully reviewed with affected businesses, the Child Care Licensing Advisory Committee and other advocates for child care. I believe that child care centers have identified many areas where the rule had previously gone beyond the Legislative mandate to regulate health and safety issues and leave most other decisions to parents. The Informational Guide to Parents that the Department will develop and require centers to circulate should better empower parents to understand which areas the regulatory inspection process will monitor and which areas will be left up to a parent to monitor. The Department will continue to assess inspection results and feedback from consumers via complaints and other vehicles to determine whether the health and safety of children in centers will be adequately protected under these new rule standards. Rod L. Betit

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

Health
Health Systems Improvement,
Child Care Licensing
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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Rod L. Betit, Executive Director

R430. Health, Health Systems Improvement, Child Care Licensing.
R430-100. Child Care Center.
R430-100-3. Definitions.

(1) "Accessible" means records are available for Department review within 10 days.

([~~1~~]2) "Direct supervision" means that the care giver can see and hear the children under age six, and is near enough to intervene

when needed. Care givers must be able to hear school-age children and be near enough to intervene.

([~~2~~]3) "Conditional enrollment" means that a child is admitted to a child care program and has received at least one dose of each required vaccine prior to enrollment and is on a schedule for subsequent vaccinations.

(4) "Group" means a number of children assigned to one or two care givers, occupying an individual classroom or an area segregated by furniture or other structure within a large room.

(5) "Immediately Accessible" means records for children and staff that are currently enrolled or currently employed shall be available for Department review on-site or within 24 hours.

(6) "Infant" means any child under the age of 12 months.

(7) "Toddler" means a child 13 to 24 months.

R430-100-5. General Variance Provisions.

(1) The Department may grant a variance to an individual rule when:

(a) A requirement does not apply to the center program; or

(b) The center program can satisfy the intent of the rule by other methods.

(2) The owner or director shall request a variance to a rule on a form provided by the Department. The request shall include:

(a) A justification for the requested variance; and

(b) An explanation of how the center program will satisfy the intent of the rule.

(3) The Department may not grant a variance to the rule:

(a) If the requirement is established by Title 26, Chapter 39; or other statute; or

(b) Unless the health, safety and well being of the children are ensured.

(4) The granting of a variance to a rule does not set a precedent, and the Department shall evaluate each request on its own merits.

(5) The time period for granting a variance shall be specified in the letter from the Department and shall be kept on site by the licensee.

R430-100-[~~5~~]6. Administration and Organization.

(1) The licensee shall exercise supervision over the affairs of the facility and establish policies to comply with this rule.

(2) Duties and responsibilities of the licensee include the following:

(a) Compliance with federal, state, and local laws and for the overall organization, management, operation, and control of the facility;

(b) Establishment of written policies and procedures for the health and safety of children in the facility[~~; and~~] shall be available for review by parents and staff. The Department shall provide templates for all required policies and procedures and if the licensee elects to use the approved templates the rule is considered met. The policies and procedures shall address at least each of the following areas:

(i) training and education levels of care giver positions;

(ii) exclusion of care givers and children with infectious and communicable diseases;

(iii) supervision and protection of children when they are sleeping, using the bathroom, in a special mixed group activity, on the playground, and during off-site activities;

(iv) releasing children to authorized individuals;

(v) administration and storage of medications;

(vi) discipline of children;

(vii) transportation to and from school and to and from off-site activities;

(viii) emergency and disaster plans;

(ix) the use and presence of tobacco, alcohol, illegal substances and sexually explicit material; and

(x) hand washing

(xi) firearms; and

(xii) food service.

(c) Appoint, in writing, a qualified director who shall assume [~~full~~]responsibility for the day-to-day operation and management of the facility.

(d) Keep the Department informed of the current center phone number.

(3) The director or designee of a child care center shall have sufficient freedom from other responsibilities to manage the facility and shall be on the premises during operating hours.

(4) The director of the child care center shall have the following qualifications:

(a) Be at least 21 years of age[~~- to be a child care center director~~];

(b) Have knowledge of applicable laws and rules; and

(c) Except for directors of child care centers who are listed as director on a child care license before January 1, 1998, the child care center director must have a high school diploma or GED equivalent and one of the following:

(i) A bachelor's or associate's degree in Early Childhood or Child Development, or a bachelor's degree in a related field and proof of passing four higher education courses in child development; or

(ii) A national or state certification such as a Certified Childcare Professional (CCP), National Administrator Credential, Child Development Associate (CDA), or other credential that the licensee demonstrates to the Department as equivalent.

(5) Duties and responsibilities of the director, or the owner if the duties and responsibilities have not been delegated to the director, include the following:

(a) Designate, in writing, a competent care giver who is at least 21 years of age to act as director in his temporary absence;

(b) Recruit, employ, and train staff to meet the needs of the children;

(c) [~~Review reports of every injury, incident and accident to a child or care giver, take appropriate action, and document corrective action taken;~~

~~(d) On the day of discovery, notify the child's parents and document how notification was completed if there was any accident, injury, medical emergency, or exposure to communicable disease or infestation, such as lice.~~

~~(e) Notify the nearest peace officer, law enforcement agency, or protective services agency whenever there is a reason to believe that a child has been subject to abuse, neglect, or exploitation as required by Section 62A-4-501;~~

~~(f) ~~]On the day of discovery, notify the local health department of any reportable communicable diseases among children or care givers, and any sudden or extraordinary occurrence of serious or unusual illness in accordance with Section R386-702-2; and

([~~g~~]d) Conduct regular inspections of the facility to ensure it is safe from potential hazards to children.

(7) The director, or the owner if the duties and responsibilities have not been delegated to the director, shall establish and enforce policies to ensure that the following are prohibited anywhere on the premises during the hours of operation:

(a) the use of tobacco;

(b) the use of alcohol;

(c) the use or possession of illegal substances; and

(d) the use or possession of sexually explicit material.

R430-100-[6]7. Personnel.

(1) The director shall ensure that adequate direct supervision is maintained whenever the center is operating. The care giver-to-child ratios established in R430-100-[~~8~~]9 are minimum requirements only. The director shall ensure that policies exist to adjust these ratios when the age and the number of children require additional care givers to maintain adequate levels of supervision and care.

(2) The director shall ensure that all care givers meet the needs of the children.

([~~2~~]3) All care givers who provide direct services in a child care center shall be at least 18 years of age or have completed high school or a GED. In addition to the required staff ratios, child care services may be provided by an individual who is 16 years old, if he works under the direct supervision of a [~~competent~~]care giver at least 18 years old.

(a) All care givers shall have access to and have read and documented their understanding of the facility's policies and procedures[~~manual~~];

(b) [~~Each care giver shall have related experience in the job assigned or receive on-the-job training which is documented by the director;~~

~~(c)~~]Each new care giver shall receive [~~documented~~]orientation training prior to being left unsupervised with children. Training shall be documented to show topic, date of completion, and the first date of working unsupervised with the children. Training shall cover the following topics:[~~which shall include:~~]

(i) Job description;

(ii) Introduction and orientation to the children, which includes special conditions, e.g., allergies and medical conditions;

(iii) [~~Policy and procedures; and~~]Procedures for releasing children to parents or guardians;

(iv) Center policies and procedures;

([~~iv~~]v) Reporting requirements for witnessing or suspicion of abuse, neglect and exploitation, according to Section [~~62A-4-511.~~]62A-4a-403(1) and 62A-4a-411 and how to make necessary reports; and

(vi) Department Informational Guide to Parents which identifies the areas inspected annually and a contact telephone number for parents to report concerns. This department guide must be distributed to parents upon enrollment.

([~~3~~]4) [~~The director shall establish a personnel health program through written personnel health policies and procedures.~~

~~(a) The director shall complete a care giver health evaluation for each new care giver hired. The director may use their own evaluation form or the Department-approved form.~~

~~(b) The health evaluation shall obtain at least the care giver's history of the following:~~

~~(i) conditions that predispose the care giver to acquiring or transmitting infectious diseases; and~~

~~(ii) conditions which may prevent the care giver from performing certain assigned duties satisfactorily or safely].~~

~~(c) Each director shall develop and implement policies for care giver health screening and immunization components of personnel health programs.~~

~~(d)~~]Each director shall ensure that all care givers are screened for tuberculosis by the Mantoux tuberculin skin test method within [~~two weeks~~]30 days of assuming care giver responsibilities.[~~Tuberculin skin testing does not need to be repeated during the employment period unless the employee develops signs and symptoms of the disease, as determined by a health care professional.~~]

(a) If the Mantoux test is positive, the care giver will provide documentation of a negative chest radiograph.

(b) Tuberculin skin testing does not need to be repeated during the employment period unless the employee develops signs and symptoms of the disease, as determined by a health care professional.[

~~(i) All care givers with a skin test that indicate potential exposure to tuberculosis shall receive a medical evaluation for tuberculosis disease.~~

~~(ii) All care givers who have documentation of previous positive reaction to the Mantoux tuberculin skin test shall present documentation of completion of therapy for tuberculosis infection or evidence of a negative chest radiograph within the past 12 months.~~

~~(iii) Repeated chest radiographs are not required unless the care giver develops signs and symptoms of tuberculosis disease, as determined by a health care professional.~~

~~(e) The director shall report all infections and communicable diseases reportable by law to the local or state health department in accordance with Section R386-702-2.~~]

([~~4~~]5) All care givers shall receive a minimum of 20 hours of documented in-service training annually. At least 10 hours of the in-service training shall be in person. The training shall include the following:

(a) Principles of good nutrition;

(b) Proper hand washing, OSHA requirements and sanitation techniques;

(c) Proper procedures in administration of medications;

(d) Recognizing early signs of illness and determining when there is a need for exclusion from the facility;

(e) Accident prevention and safety principles;

(f) Reporting requirements for communicable and infectious diseases;

(g) Reporting requirements for abuse, neglect and exploitation according to Section [~~62A-4-501~~]62A-4a-403(1); and

(h) Positive guidance for the management of children.

([~~5~~]6) If the center provides infant care, the following in-service training is required as part of the required in-service hours:

(a) Preventing Shaken Baby Syndrome;

(b) Preventing Sudden Infant Death Syndrome;

(c) Coping with crying babies; and

(d) Development of the brain.[

~~(6) The director of the center shall establish written policies and monitor the care givers and volunteers to ensure that the use of tobacco in any form, the use of alcohol, the ingestion of any~~

~~substance (including prescription medications) in amounts known to compromise responsible judgement, and the use of or possession of illegal substances or sexually explicit materials are prohibited by any person anywhere on the premises during the hours of operation when children are under care.~~]

R430-100-[~~7~~]8. Records.

(1) [~~All records shall be filed, stored safely, and be easily accessible for Department review.~~

~~(2)~~]Records shall be appropriately stored and protected against access by unauthorized individuals.

(a) Care givers shall not disclose or discuss personal information regarding children and their relatives with any unauthorized person.

(b) Confidential information shall only be seen and discussed with care givers who need the information to provide services.

(c) The director shall obtain written permission from parents or legal guardians before sharing information except as provided in paragraph a and b above.

([~~3~~]2) The licensee and director shall maintain the following written records[~~:~~] and the records shall be immediately accessible except for those records designated to be on-site,

(a) Policies and procedures shall be on-site;

(b) Records for each enrolled child shall be available on-site and include the following:

(i) Utah School Immunization record;

(ii) Transportation and medical treatment releases;

(iii) An admission agreement that includes the child's name, date of birth; date of enrollment; the parent or guardian's name, address and phone number; the name, address, and phone number of a person to be notified in the event of an emergency when the parent or guardian cannot be located; and the names of people authorized to pick up the child; and

(iv) Current medication administration release form.

(c) Records for each enrolled child which shall be available within 24 hours include the following:

(i) A six week child attendance record;

(ii) A six week record of injuries, incident and accident reports; and

(iii) A six week record of medications administered.

([~~b~~]d) Personnel records for each currently employed care giver and staff, [~~retained for at least two years following termination of employment,~~]which shall be available on-site include:

(i) Employment application[~~;~~] with emergency contact information; and

(ii) Food Handler's permit for care givers who prepare or serve meals or snacks, obtained within 30 days of hire.

(e) Personnel records for each currently employed care giver and staff which shall be available within 24 hours shall include the following:

(i[~~i~~]) Date of employment[~~, termination date, and reason for termination of employment~~];

([~~i~~]ii) Initial health evaluation form[~~and health inventory~~];

[~~(iv) Food Handler's permit for care givers who prepare or serve food;~~

]([~~v~~]iii) Criminal Background Screening initial clearance form or the waiver for annual renewal;

(iv) A six week record of hours worked for current care givers and staff;

(v[~~i~~]) Results of TB screening, obtained within 30 days of hire;

(vi[~~i~~]) Documented in-service training hours;

([~~viii~~]vii) Documentation of [~~related experience or on-the-job~~]orientation training completion; and

([~~ix~~]viii) First Aid and CPR [~~certification~~]course completion.

([~~c~~]f) All variance requests granted by the Department;

(g) A log of the results of the past 12 months fire and disaster drills shall be on-site;

(h) A current Local Health Department Inspection shall be on-site;

(i) A current Local fire inspection shall be on-site; and

(j) Required current animal vaccination records shall be on-site.

[~~(d) Children's records that include the following:~~

~~(i) Utah School Immunization Record;~~

~~(ii) Injury, incident and accident reports;~~

~~(iii) Transportation and medical treatment releases;~~

~~(iv) Annual Health Assessment for all children; and~~

~~(v) Current (within six months) Physical examinations for children under the age of six (only at admission).~~

~~(e) A six month record of medications administered;~~

~~(f) A six month record of care giver assignments;~~

~~(g) A six month record of incident and accident reports;~~

~~(h) A six month child attendance record;~~

~~(i) If infant care is provided in a child care center, the center shall maintain a record of diapering, sleeping, and bottle feed times for each infant;~~

~~(j) Fire and Disaster drills;~~

~~(k) Local Health Department Inspections; and~~

~~(l) Local fire inspections.~~]

(3) The following records shall be accessible for Department review:

(a) Personnel files of terminated employees;

(b) Records for disenrolled children; and

(c) Director qualifications.

(4) Custodial parents and legal guardians shall have access to the records on their own children.

(5) Closed records of employees and disenrolled children shall be retained for one year.

R430-100-[~~8~~]9. Care Giver to Child Ratio.

(1) The licensee must maintain minimum care giver to child ratios as provided in Tables 1 and 2.

TABLE 1
Minimum Care Giver to Child Ratios

Staff	Number of Children	Group Size	Ages
1	4	8	0 to 12 months
1	4	8	[~~Under~~]13 to 24 months
1	7	14	2 year old
1	12	24	3 year old
1	15	30	4 year old
1	20	35	5 years and over

(2) There shall be at least two care givers at the center at all times when there are more than six children present or more than two infants present;

(3) [~~There shall be at least two care givers to accompany children when leaving the child care center for activities, at least~~

~~one care giver shall have current first aid and CPR and all ratios shall be maintained at the center and for the activity.~~

~~(4)~~]Centers may maintain [~~variable~~]mixed age groups, and shall comply with Table 2 requirements and the following ratio requirements:

(a) Ratios and group size for [~~variable~~]mixed age groups shall be determined by averaging the ratios of the ages represented in the group;

(b) The ratio for the youngest children shall be utilized if more than half of the group is composed of children in the youngest age group[~~; and~~

~~(c) Variable age groups may not be larger than 25 children~~].

TABLE 2
Minimum Care Giver to Child Ratios - [~~Variable~~]Mixed Age Groups

Ages	Ratio	Group Size
Two Ages Mixed		
Infant and Toddlers	1:4	8
[~~Infant~~]Toddlers and two year olds	1:5	10
Two and three year olds	1:9	18
Three and four year olds	1:14	25
Four years and older	1:18	25
Three Ages Mixed		
[~~Infant~~]Toddlers, two and three year olds	1:7	14
Two, three and four year olds	1:11	22
Three, four and school age	1:16	25
Four Ages Mixed		
[~~Infant~~]Toddlers, two, three and four year olds	1:9	18
Two, three, four and school age	1:13	25
[~~All ages Mixed~~	1:11]	

([~~5~~]4) During nap time the child ratio may double for not more than two hours for children 24 months and older, if a means of communication is maintained with another care giver who is also on-site.[

~~(6) The director shall establish policies and procedures to ensure that there is supervision of children when the children are sleeping or using the bathroom.~~]

([~~7~~]5) A child of an employee or owner age four or older will not be counted for determining care giver to child ratios.

(6) If child to care giver ratios are maintained an exception is granted to group size requirements when a center program has a planned activity and during transition times not to exceed two hours daily.

(7) A variance may be requested as required by R430-100-5 for programs who were licensed prior to July 1997.

R430-100-[9]10. Child Health.

(1) Children admitted to the center shall have immunizations as required by the Utah School Immunization Law, Utah Code Section 53A-11-301. The director may not admit a child without proof of immunization, or evidence of conditional enrollment, or evidence of a personal, medical or religious exemption.

(a) The director shall have a current Utah School Immunization Record (USIR -Pink card) on file for each child.

(b) The director shall submit the Child Care Facilities Annual Summary Report to the Department of Health Immunization Program by November 30 of each year.

(2) The care givers shall not care for ill children except when the child shows signs of illness after arrival.

(a) The director shall ensure that children who develop signs of illness at the center are kept separate from other children.

(b) The director shall contact the parents of ill children and request that they be removed immediately from the center.

(c) The director shall inform parents in writing of communicable illnesses or parasites that are discovered at the center the same day the illness or parasite is discovered.

(d) The care giver shall convey information of illnesses in a manner that protects the confidentiality of care givers and children.

(3) [~~The director shall require a physical assessment (current within six months) for each child ages 0 - 5 years old, within 30 days after admission to the child care center. The physical assessment shall be completed by a licensed physician, nurse practitioner, or registered nurse.~~

~~(4) Annually and upon a child's admission, the~~]The director shall require the parent or guardian to complete and sign a health assessment for each child in care. This form must be obtained upon enrollment of the child and be reviewed with the parent or guardian annually. The annual review shall be signed or initialed on the day of the review. The Health Assessment shall include the following:[~~; which includes an update of the following:~~]

(a) allergies and food sensitivities;

(b) chronic illnesses;

(c) medical conditions;

(d) disabilities;

(e) date of last physical examination;

(f) instructions for routine daily care;

(g) current medications; and

([~~g~~]h) instructions for emergency care.

R430-100-[~~10~~]11. Parent Notification/Child Security.

(1) The Director shall distribute to parents and post a copy of the Department Informational Guide for Parents.[~~The director shall allow parents and legal guardians to access a copy of the child care licensing rules.~~]

(2) [~~The licensee shall provide parents with a two-week notice prior to making changes in the following: fees for services, voluntary closure of the program, and hours of operation.~~

~~(3)~~] The center shall be open to parents and guardians of enrolled children at all times during business hours.

([~~4~~]3) The director shall establish a procedure for ensuring that each child's attendance is accounted for which shall include:

(a) Persons bringing or picking up a child who is not school aged shall sign the child in and out of the center,

(i) The time of day shall be recorded on the sign-in and sign-out form, and

(ii) Personal identifiers, such as a signature, initials or electronic identification may be used to sign in and out.

(b) Care giver[~~'~~]s may sign-in and sign-out a child who is school-aged.

([~~5~~]4) Only parents or persons with written authorization from parents shall be allowed to take any child from the center, except that verbal authorization may be used in emergency situations, if the identity of the person giving verbal authorization can be confirmed.

([~~6~~]5) [~~The director shall develop policies to address verbal identification of parents or guardians to remove their children from the center in emergency situations.~~

~~(7) The director shall establish and implement a procedure for care givers to check who has written authorization to pick up a child.~~]The director or owner shall review reports of every injury, incident, and accident to a child and document the corrective action

taken. The report shall be signed by the director, care giver involved, and the parent of the child.

([~~8~~]6) In the case of a [~~serious~~]life threatening injury to a child[~~ which requires immediate hospital treatment, the director shall attempt to contact the parents or legal guardians after emergency personnel have been contacted~~], the director shall contact emergency personnel before contacting the parents or legal guardians. If the parents or legal guardians cannot be reached, the director shall then attempt to contact the child's emergency contact person.

([~~9~~]7) [~~The director shall report to the Department within five working days any fatality, hospitalization, or emergency medical response for a child while at the center~~]The director shall call the Department within 24 hours to report any fatality, hospitalization or emergency medical response unless the emergency medical transport was part of a child's medical treatment plan identified by the parents and licensee. A written report shall be mailed or faxed to the Department within five days of the incident.

R430-100-[~~11~~]12. Activities.

(1) The director and care givers shall develop and follow a daily activity plan that is designed for the age, [~~and development~~]health, safety and welfare of the children. No activity plan is required for infant or toddler groups. The toys and equipment needed to carry out the plan shall be present.

(2) The activity plan shall be posted for parent and care giver review.

(3) There shall be areas for indoor [~~and outdoor~~]play.

(a) Indoor play areas shall have at least 35 square feet per child of usable play space for each child [~~in care under age 14~~]utilizing the play area at any specific time. The space requirement includes licensee and care giver children who are not counted in the ratios.

(b) [~~Outdoor play areas shall have at least 40 square feet per child for each child in care under age 14. The total outdoor play area shall accommodate at least 33 percent of the licensed capacity at one time.~~

~~(c) Toilet rooms, closets, lockers, wardrobes, hallways, corridors, alcoves or vestibules~~]Bathrooms, closets, lockers, staff desks, stationary storage units, hallways, corridors, alcoves, vestibules, kitchens or offices may not be included in calculating indoor play space.

(i) Play space does not include areas which are [~~designated as office space or~~]designated as a napping room

(ii) Centers licensed prior to the effective date of the rule change 2001, may request a permanent variance to this rule as required by R430-100-5. The exception or variance will be assumable if a change of ownership occurs and the license is not interrupted.

(c) All indoor playground equipment, for example slides and climbers, shall be surrounded by cushioning materials, such as mats, in a six foot fall zone. The cushioning material shall meet the standards of the American Society for Testing and Materials (ASTM), current edition for all equipment over three feet.

(d) If children between the ages of three and six have access to indoor play equipment then the maximum height of any piece of indoor playground equipment shall not exceed five and one-half feet. If children under age three have access to indoor play equipment, then the maximum height of the equipment may not exceed three feet.

(4) Daily activities shall include outdoor play if weather permits.

(5) Outdoor play areas shall:

(a) have at least 40 square feet for each child to accommodate at least 33 percent of the licensed capacity at one time;

(b) be directly adjacent to the building;

(c) be enclosed with a four foot high fence, or have a natural barrier that provides protection from unsafe areas including water hazards;

(i) gaps in the fence shall not be more than three and one half inches.

(ii) the bottom edge of the fence shall not be more than three and one-half inches above the ground.

(d) be free of animal excrement and harmful objects such as trash, broken toys and equipment with rusty or sharp edges, glass, tools and standing water;

(e) have a shaded area to protect children from excessive sun and heat; and

(f) have a source of drinking water in the play area during play time when the outside air temperature is 75 degrees or higher.

(6) Outdoor play equipment shall:

(a) be surrounded by a resilient surface of loose cushioning consistent with the guidelines of the Consumer Product Safety Commission and standards of ASTM; and

(b) have a six foot fall zone surrounding all playground equipment. For facilities licensed prior to July 1997, a variance may be requested to allow time for the licensee to replace or remodel the equipment as required by R430-100-5.

(7) Any particulate cushioning material, such as sand or gravel, within the fall zone of playground equipment shall be checked for packing due to rain or snow, and if compressed, weather permitting, shall be loosened to a depth of nine inches. If the cushioning material cannot be loosened, children shall not play on the equipment.

(8) If off-site activities are offered, care giver ratios must be maintained and:

(a) at least one of the care givers shall have a current first aid and CPR course completion;

(b) written parental consent shall be obtained for each type of activity in advance;

(c) the director shall notify the parents of any schedule changes;

(d) care givers shall take with them the emergency numbers and emergency treatment releases for each of the children in the group;

(e) children shall wear or carry with them the name and phone number of the center;

(f) children's names shall not be used on name tags;

(g) care givers shall provide a way for children to wash hands.

(9) If swimming activities are scheduled, care givers shall remain with the children during the activity. Lifeguards and pool personnel may not be counted towards care giver to child ratios.[~~The director or care giver shall obtain written parental consent for off-site activities.~~

~~(a) Care givers attending off-site activities shall take with them the emergency phone numbers of attending children;~~

~~(b) The director shall ensure that care giver to child ratios for off-site activities are met;~~

~~(c) The child care center shall identify children with a center-specific identifier; and~~

~~(d) The director shall notify the parents of any schedule changes.~~

~~(6) Care givers shall accompany children at pool side during swimming activities. Lifeguards and pool personnel may not be counted towards care giver to child ratios.~~

~~(7) Outdoor play areas shall be fenced or have a natural barrier that provides protection from unsafe areas. Fences shall be at least four feet high. If local ordinances conflict, the director may request a variance from the Department. Any gaps within the fence shall not be greater than three and one-half inches. The bottom edges of the fence shall not be more than three and one-half inches above the ground.~~

~~(a) Outdoor play areas shall have a shaded area to protect children from excessive sun and heat;~~

~~(b) Children shall have access to drinking water at the outdoor play area during play times.~~

~~(8) If care is provided for infants, each infant shall have physical and verbal stimulation every 30 minutes during waking hours by care givers, including the opportunity for physical activity. Physical activity may not be confining an awake child to a single device, such as a chair or swing which restricts active movements for more than 30 minutes.~~]

R430-100-[~~12~~]13. Medications.

(1) [~~Medications may be administered to children only by a trained, designated care giver. A care giver who administers medication shall have documented training to~~]If medications are given, medications shall be administered to children only by a trained, designated care giver. A care giver who administers medication shall be trained to:

(a) check the label and confirm the name of the child,

(b) read the directions regarding measured doses, frequency, expiration date, and other administration guidelines, and

(c) properly document administration of medication records according to Subsection R430-100-[~~12(4~~]13(3).

(2) [~~The over-the counter and prescription medications must be in the original or pharmacy container, have the original label, include the child's name, have child proof caps and have instructions for administration.~~

~~(3)~~]The parent or guardian must complete a medication release form for each child receiving medications at the center that contains:

(a) the name of the medication;

(b) the dosage;

(c) the route of administration;

(d) the times and dates to be administered;

(e) the illness or condition being treated; and

(f) the parent or guardian signature.

([~~4~~]3) Medication records shall be maintained that include:

(a) The times, dates, and dosages of the medications given;

(b) The signature or initials of the care giver who administered the medication; and

(c) Documentation of any errors in administration or adverse reactions.

([~~5~~]4) The center director or designee shall report any adverse reaction to a medication or error in administration to the parent or legal guardian immediately upon recognizing the error or reaction.

([~~6~~]5) Medications shall be secured from access to children.

(6) The over-the counter and prescription medications must be in the original or pharmacy container, have the original label, include the child's name, have child proof caps and have instructions for administration.

(7) Medications stored in refrigerators shall be in [~~spill-proof packaging and shall be kept in a covered, leakproof storage container~~]a covered container with a tight fitting lid.

(8) The director shall return unused prescription and over the counter medications to the parent or guardian. The director shall destroy out-of-date medications or return the medications to the parent or guardian.

R430-100-[~~13~~]14. Infection Control.

(1) [~~All care givers shall comply with universal blood and bodily fluid precautions according to the OSHA Bodily Fluid Blood-Borne Pathogen Standard.~~]The director shall keep and maintain a portable blood and bodily fluid clean-up kit. All care givers shall know the location and how to use the kit.

(a) The kit shall include: a portable container, disposable gloves, absorbent powder or clumping kitty litter, a plastic garbage bag, a miniature dustpan and hand broom, a paper towel and a small container of disinfectant.

(b) All care givers shall comply with the universal blood and bodily fluid precautions according to the OSHA Bodily Fluid Blood-Borne Pathogen standard.

(2) [~~All care givers shall wear new disposable [latex]gloves or an approved equivalent listed in OSHA part 1910.1030 for first aid procedures involving blood or clean-up of bodily fluids.~~

~~(3) Diapering procedures shall be posted by each diapering station which shall include the following:~~

~~(a) If a disposable paper covering is used, it shall be placed between the child and the diapering surface, and shall be disposed of following each diaper change.~~

~~(b) Soiled diapers shall be placed in a container that is lined and has a tightly fitting lid. Containers shall be cleaned and disinfected daily.~~

~~(c) The diapering surface shall be non-absorbent, cleaned and sanitized after each diaper change.~~

~~(d) Sanitizers shall be measured to ensure proper strength, or be commercially prepared, shall be labeled and stored in the diaper changing area, and inaccessible to children.~~

~~(4) If cloth diapers are used for children, the following procedure shall apply:~~

~~(a) Cloth diapers shall not be rinsed at the center;~~

~~(b) After a diaper change, the cloth diaper shall be placed directly into a container labeled with the child's name or diapering service.~~

~~(5) Care givers shall change a child's clothing which is soiled with fecal material or urine promptly and place the clothing in a leak proof container to be sent home with the parent or legal guardian. Clothing soiled with feces or urine shall not be rinsed at the center.~~

~~(6) In child care centers, care givers whose primary responsibility is the care of diapered children shall not prepare food~~

for children or staff outside of the classroom areas used by infants and toddlers.

(7) In child care centers, care givers who prepare food in the kitchen shall not change diapers or assist in toilet training.

(8)]Personal hygiene items such as combs, hair accessories, and toothbrushes may not be shared between children[and shall be labeled (with the child's name) and stored separately].

([9]3) Indoor activity equipment, such as climbing structures and play houses, and toys shall be cleaned and sanitized weekly or more often as necessary. If some equipment is not cleanable the director or owner shall ensure children and care givers wash hands prior to using the equipment, card board puzzles, books, etc.

([a]4) Stuffed animals and dress-up clothes shall be machine [washable]washed weekly.

([b]5) If water play tables are used, the care giver shall wash and sanitize the table daily and children shall wash their hands prior to engaging in the activity.[

(c) If child care centers provide care for 0- 24 month old children, all toys used by the infants during the day shall be washed daily.]

([10]6) [Center hand washing policies shall be followed to assure protection from contamination and the spread of microorganisms.]In child care centers, hand washing procedures shall be posted at all hand washing sinks and followed.

(7) Written hand washing policies shall be established to include:[:]

(a) Care givers and children shall wash and scrub their hands for 20 seconds with liquid soap and warm running water[at times specified in policy]. A variance to using liquid soap may be requested as required by R430-100-5.

(b) The use of hand sanitizers shall not replace hand washing, except during off-site activities.

([b]c) Care givers shall teach children proper hand washing techniques and oversee hand washing whenever possible.

([c]d) Care givers and children shall wash their hands after using the toilet, before and after eating, upon returning from outdoor playtime, after wiping noses, after handling animals and before and after food preparation.

([d) Only protected single use towels or electric hand-drying devices may be used to dry hands]e) Only single use towels from a covered dispenser or electric hand-drying device may be used to dry hands.[

(e) The care giver shall provide for a means for hand washing on field trips.]

R430-100-15. Diapering.

(1) Diapering procedures shall be posted by each diapering station and followed.

(2) Each diapering station shall be equipped with railings to prevent a child from falling. Children shall not be left unattended on the diapering surface.

(3) The diapering surface shall be non-absorbent, cleaned and sanitized after each diaper change.

(a) If a disposable paper covering is used, it shall be placed between the child and the diapering surface, and shall be disposed of following each diaper change.

(b) Sanitizers shall be used per product instruction or be commercially prepared. Sanitizer containers shall be labeled and stored in the diaper changing area, out of the reach of children.

(4) Soiled disposable diapers shall be placed in a container that is lined and has a tightly fitting lid.

(5) Diaper containers shall be cleaned and disinfected daily.

(6) Care givers shall wash their hands directly after changing a diaper and in between diaper changes.

(7) If cloth diapers are used for children, the following applies:

(a) Cloth diapers shall not be rinsed at the center;

(b) After a diaper change, the cloth diaper shall be placed directly into a container labeled with the child's name or diapering service container.

(8) Care givers whose designated responsibility is the care of diapered children, shall not prepare food for children or staff outside of the classroom area used by infants and toddlers.

(9) Staff who prepare food in the kitchen shall not change diapers or assist in toilet training.

R430-100-[14]16. Safety.

(1) Spaces, toys, grounds, and equipment shall be maintained in a safe manner to prevent injury to children.[Infants shall be cared for in separate rooms from other children.]

(2) [Infants and toddlers shall not have access to toys smaller than 1 1/4 inches in total diameter or length, plastic bags, and styrofoam toys and utensils.

(3)]Toys and equipment used by children must be in compliance with the guidelines of the Consumer Product Safety Commission.

[(4) High chairs shall have safety straps or devices to prevent children from falling out.

(5)](3) There shall be no firearms or other weapons accessible to children. Firearms and other weapons shall be stored separately from ammunition and all shall be in a locked cabinet or area.

([6]4) Electrical outlets accessible to children four years of age or younger shall [be protected or capped with safety devices]have protective caps or safety devices when not in use.

([7) Windows within 36 inches from the floor shall have safety glass installed or have a protective safety guard to protect the window from breakage]5) Glass surfaces within 36 inches from the floor shall be of safety glass or have a protective barrier in place.

([8]6) [The care givers]Care givers and staff shall store toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials in a locked or protected area to prevent access to children. All toxic or hazardous chemicals shall be stored in the original container, or labeled in the container.

([9]7) The center may not have portable space heaters[:], Fireplaces[, open-face heaters,] and wood burning stoves that are [shall be in]accessible to children when in use.[

(10) All pieces of outdoor playground equipment shall be surrounded by a resilient surface of loose cushioning, at least nine inches in depth, or mats manufactured for such use, consistent with the guidelines of the Consumer Product Safety Commission and the standards of the American Society for Testing and Materials. For facilities whose playground areas do not meet the guidelines for space between equipment, a variance may be requested to allow time for the licensee to replace or remodel the playground equipment. All indoor playground equipment, for example slides and climbers, shall be surrounded by cushioning materials, such as mats, in a six foot fall zone. Indoor play equipment shall not exceed three feet at the highest point.

~~(11) All water hazards such as a swimming pool, stationary wading pool, ditches, and fish ponds shall be fenced to prevent access by children.~~]

([~~12~~]8) [~~Poisonous plants shall be prohibited from access by children~~]Children shall not have access to poisonous plants.

([~~13~~]9) Strings and cords long enough to [~~encircle~~]choke a child[~~'s neck~~], such as those found on pull toys, window blinds, or drapery cords, shall be inaccessible to children [~~under five years of age~~]four years of age and younger.

([~~14~~]10) Any structure built prior to 1978 which has peeling, flaking, chalking, or failing paint on the interior or exterior shall be tested for lead-based paint. If paint lead levels are equal to or exceed 0.06% by weight, the structure must be remodeled by encapsulation or enclosure when possible or by complete removal of lead-based paint by trained individuals.

[~~(15) Infant walkers with wheels are not permitted in child care facilities.~~

~~(16)~~](11) Hot water accessible to children shall not exceed the scalding standard of 120 degrees Fahrenheit.

R430-100-[~~15~~]17. Child Discipline.

(1) The licensee shall inform all care givers, parents or guardians and children of conduct expected[~~conduct~~] by setting clear and understandable rules.

(2) Disciplinary measures shall be implemented so as to encourage the child's self-control to reduce risk of injury and any adverse health effects to self or others. Positive discipline measures include but are not limited to:[~~Discipline measures shall be explained to the child at the time the discipline is imposed and may include:~~

] (a) positive behavioral rewards;

(b) other forms of positive guidance;

(c) redirection; or

(d) time out.

(3) [~~Care givers shall not do any of the~~]Discipline measures shall not include any of the following:

(a) [~~give~~]corporal punishment, including hitting, shaking, biting, pinching, or spanking;

(b) restraint of a child's movement by binding or tying;

(c) use of abusive, demeaning or profane language;

(d) [~~withdraw food or bathroom opportunities~~]force or withholding of food, rest or toileting; or

(e) [~~confine~~]confining a child in a locked closet, room, or similar area.

(4) [~~"Time out" that enables the child to regain control of himself or herself and that keeps the child in visual contact with the care giver shall be used selectively, taking into account the child's developmental stage and the usefulness of "time out" for the individual child.~~

~~(5) For children 18 months and older "tantrums" shall be interrupted every three minutes until control is obtained.~~

~~(6)~~]The director shall provide each parent and legal guardian a copy of the discipline methods used at the center.

R430-100-[~~16~~]18. Food Service.

(1) If food service is provided, the child care center's food service shall comply with the Utah Department of Health Food Service Sanitation Regulations, Rule R392-100, and with the local health department food service regulations.

(2) [~~If the local health department completes an inspection, the inspection report shall be maintained at the center for review by the Department.~~

~~(3)~~]All food served in the center, including food brought in by parents or care givers, for service to other children, shall be commercially prepared.[~~by the care givers for the children in care shall be from an approved source as provided in Rule R392-100.~~

~~(a) Food brought in by parents for service to other children must be from an approved source or commercially prepared;~~]

([~~b) Food brought in by parents for individual child use must be labeled with the child's name~~]3) Food and drink brought in by parents for an individual child's use must be labeled with the child's full name and refrigerated if needed.

(4) All care givers who prepare or serve food and snacks must have a current food handlers permit approved for child care facilities by the local Health Department.

(5) Children's food shall be served on plates, napkins or other sanitary holders, which includes a high chair tray. Food shall[~~, and shall~~] not be placed on a bare table or eating surface.

(6) [~~High chair trays shall be washed, rinsed, and sanitized with a sanitizer approved in Rule R392-100 for food contact surfaces prior to each use.~~

~~(7) If an infant is unable to sit upright and hold his own bottle, a care giver shall hold the infant during bottle feeding.~~

~~(8)~~]Facilities that provide food service shall meet the following requirements:

(a) A different menu shall be planned for each day of the week[~~and substitutions are permitted~~];

(b) Menus may be cycled[~~at a minimum of two weeks~~];

(c) The current week's menu shall be posted for review by parents and guardians and all substitutions shall be noted on the menu and retained for one week. If substitutions are made, the menu must meet the requirement of the United States Department of Agriculture (USDA) Child Care Food Program guidelines;

(d) Menus shall [~~be Department approved, or approved and signed by a registered dietician or shall be approved through the~~]comply with the USDA[~~United States Department of Agriculture (USDA)~~] Child and Adult Care Food Program guidelines. Centers may use Department standard approved menus. Menus shall be individually approved by the Department, or be approved by a registered dietitian. Dietitian approval shall be noted on the menu;

(e) The director shall post a list of children's food allergies and sensitivities in the food preparation area and communicate special needs to staff serving food to the children unless otherwise requested in writing by the parents.[~~Substitutions to the menu shall be recorded and retained for three months for review by the Department;~~]

(f) The care givers shall provide meals and snacks according to the center policy but at least once every three hours.[

~~(g) Only Grade A fluid milk shall be used for drinking, powdered milk may be used for cooking. Children and infants shall be served special diets, formula, breast milk, or food supplements in accordance with the written instructions from a parent or guardian.~~

~~(9) Baby food, infant formula, and breast milk for infants that are brought from home for an individual child's use shall be:~~

~~(a) marked with the child's name and the date of preparation or opening of the container, such as a jar of baby food; and~~

~~(b) discarded within 24 hours of preparation or opening the container.~~

~~(10) Open containers of baby food, infant formula, and breast milk shall be refrigerated and stored for no more than 24 hours. Infant formula shall be discarded after feeding or within two hours of initiating a feeding.~~]

[**~~R430-100-17. First Aid.~~**

~~(1) There shall be at least one care giver on duty in the center during business hours who has a current certification in basic child and infant first-aid and Cardiac Pulmonary Resuscitation (CPR).~~

~~(2) First-aid and CPR certification refers to courses given by the American Red Cross, the Utah Emergency Medical Training Council, or other courses that the licensee can demonstrate to the Department to be equivalent.~~

~~(3) Each center shall maintain two first aid kits, one to be taken on field trips, as recommended by the American Red Cross First Aid Handbook, current edition, or a comparable kit available on the premises that includes a first aid manual. First aid kits shall be restocked after use and shall be stored in an area inaccessible to children.~~]

R430-100-[~~18~~]19. Animals.

(1) Any animal on the premises[~~of the center~~] shall be clean and in good health.

(2) [~~Animals not confined in enclosures shall be hand held, under leash control, or under voice control.~~

~~(3)~~]Dogs, cats and other animals shall have current immunization records available at the center for all diseases transmissible to humans.

(3) Animals not confined in enclosures shall be hand held, under leash control, or under voice control.

(4) No dangerous or aggressive animals are allowed on center premises.

(5) Animals are not allowed in food preparation, storage or dining areas.

(6) Animal cages[~~and equipment~~], equipment, and surrounding areas shall be clean and sanitary. Animal cages and equipment shall not be cleaned in food preparation, food storage or dining areas at any time. Children shall not assist with the cleaning of animals, animal cages, pens or animal equipment.

(7) The director shall inform the parent or guardian of [~~any known allergic or immune suppressed child of what types of~~]all animals [~~are~~]kept at the center.

(8) Children shall not be permitted to handle reptiles, including turtles and lizards.

R430-100-[~~19~~]20. Transportation.

(1) Any vehicle used for transporting children shall have a current vehicle registration and safety inspection.

(2) The director shall maintain all vehicles used to transport children in a safe and clean condition.

(3) Each vehicle shall:

(a) Contain a first aid and a body fluid clean-up kit;

(b) Be able to maintain temperatures between 60-90 degrees Fahrenheit;

(c) Be equipped with individual, size-appropriate safety restraints such as car seats and seat belts, which are defined in the federal motor vehicle safety standards contained in the Code of Federal Regulations, Title 49, Section 571.213, for each child that are appropriate to the vehicle type and are installed and used in the manner prescribed by the manufacturer;

(d) Be enclosed; and

(e) Be locked during transport.

(4) One person accompanying children during transport shall have current CPR and first aid [~~certification.~~]course completion.

(5) The child care center shall have written policies and procedures to address transportation of children to and from school that are distributed to parents or posted that include:

(a) How long the children will be unattended at each school before the vehicle arrives or after the vehicle leaves in the morning;

(b) What steps staff will take if children fail to meet the vehicle; and

(c) When and how parents will be notified of delays or problems with transportation to and from school.

(6) Smoking in vehicles is prohibited at all times that children are present.

(7) Any vehicle used for transporting children shall be driven by an adult who holds a current state driver's license that authorizes the driver to operate the type of vehicle driven.

(8) No child shall be permitted to remain unattended in the vehicle. Children shall remain seated while the vehicle is in motion. Keys shall be removed from the vehicle at all times when the driver is not in the driver's seat.

R430-100-[~~20~~]21. Housekeeping and Maintenance.

(1) There shall be adequate housekeeping services to maintain a clean and sanitary environment in the center.

(2) [~~Odors shall be controlled by maintaining cleanliness.~~

~~(3)~~]Laundry shall be washed with soap and water and be thoroughly dried in a clothes dryer.

([~~4~~]3) Clean laundry shall be stored in a manner that protects it from contamination.

([~~5~~]4) The center shall take effective and safe measures to prevent, control and eliminate the presence of insects, rodents, and other vermin on the premises.

([~~6~~]5) Draperies, carpets, and furniture shall be maintained in good repair.

([~~7~~]6) Cracks in plaster, peeling wallpaper or paint, damaged floor coverings, and missing tile shall be repaired promptly.

([~~8~~]7) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow and other hazards.[

~~(9) The center shall maintain air temperatures between 72 degrees Fahrenheit and 85 degrees Fahrenheit as measured 30 inches above the floor. Infant care areas shall maintain temperatures of at least 70 degrees Fahrenheit at floor level.~~

~~(10) Sand boxes and yards shall be kept free of animal excrement and harmful objects.~~]

R430-100-[~~21~~]22. Physical Environment.

(1) All rooms and occupied areas in the facility shall have provisions for ventilation. Windows with screens may be used for ventilation when weather conditions permit, but mechanical ventilation shall be provided during periods of temperature extremes.

(2) The cooling system shall be capable of maintaining temperatures of 80 degrees Fahrenheit (F)[~~F.~~] in areas occupied by children.

(3) The heating system shall be capable of maintaining temperatures of 72 degrees F. in areas occupied by children.

(4) Adequate [~~t~~]light intensity in all facilities shall be maintained by keeping lighting equipment in good working order.[~~at or above the minimum foot-candle in accordance with Table 3.~~

~~TABLE 3~~
~~Center Child Care Minimum Lighting Standards~~

~~Physical Plant~~	~~Foot-Candle~~
~~Corridor~~	~~10~~
~~Stairways~~	~~15~~
~~Common/Play Area~~	~~20~~
~~Eating/Dining~~	~~20~~
~~Laundry~~	~~20~~
~~Toilet Area~~	~~20~~
~~Sleeping Area~~	~~5 or less~~

~~]~~

(5) There shall be one toilet and one lavatory for every 15 children, excluding diapered children.

(6) [~~If infant care is provided, there shall be two sinks in the infant care area:~~

~~(a) one hand wash sink adjacent to the infant diapering area; and~~

~~(b) one sink to provide for food and bottle preparation.~~

~~(7)~~]For centers constructed after July 1, 1997, there shall be a hand washing sink [~~accessible~~]in play areas.

R430-100-[~~22~~]23. Sleep Areas and Equipment.

(1) A separate crib, cot, bed, or mat shall be provided for each child who will be present in the child care center during nap or rest periods.

(2) Sleeping equipment shall be spaced a minimum of [~~three~~]two feet apart to allow for easy access, adequate ventilation and ease of exiting.

(3) [~~In child care centers, mats, mattresses, and cots shall have nonabsorbent surfaces with cleanable coverings.~~

~~(4)~~]Mats and mattresses shall be at least two inches thick and have waterproof, cleanable coverings.

([~~5~~]4) Mats and sleeping equipment shall be cleaned and sanitized as needed, but at least weekly, and prior to use by another child or there shall be a procedure to assign a mat or cot to each child.

([~~6~~]5) [~~Sheets and other mattress and cot covers shall be provided to each child daily and be laundered at least once weekly.~~

~~(7)~~]Each child shall have a sheet and a blanket, or an acceptable alternative, that are:

(a) used daily;

(b) clearly assigned to a child;

(c) stored separately from other children's when not in use, and

(d) laundered at least once weekly, and prior to use by another child.[~~are clearly labeled.~~]

([~~8) The center shall provide a restful environment for sleeping times that includes subdued lighting, low noise levels, and freedom from distractions~~]6) The center shall provide children with an opportunity for rest and sleep in an environment for sleeping that includes subdued lighting, low noise level, and freedom from distractions.[

~~(9) Infants shall sleep in equipment designed for them such as a crib, bassinet, porta crib or play pen. Only one infant shall occupy any one piece of equipment at any time. Infants shall be placed on their backs for sleeping.~~]

R430-100-[~~23~~]24. Emergency and Disaster.

(1) The licensee shall have a written emergency and disaster plan for reporting and evacuating in cases of fire, flood, earthquake, blizzard, power failure or other disasters that could create structural damage or pose a health or safety hazard. [~~The licensee shall have an emergency plan in the case of a missing child or death or serious injury to a child or care giver.~~]The center shall have a written emergency plan that addresses steps to be followed by staff in case of:

(a) a missing child;

(b) a medical emergency or injury involving a child or staff person;

(c) the death of a child or staff person.

(2) [~~The written plans shall be made available to all care givers~~]The written plans shall be on site and immediately accessible to all staff.

(3) As required by R710-8, Public Safety, Fire Marshal, Day Care Rules [~~T~~]the director shall hold simulated disaster drills semi-annually and simulated fire drills shall be held monthly for care givers and children.

(a) The director shall document all drills, including date[~~,~~] and time of the drill, the time it took to evacuate, the number of participants, and any problems encountered.

(b) Drills shall be held on a variety of days and at various times of the day.

(4) Each child care center shall maintain a telephone in working order, unless there is a utility failure.[~~The licensee shall keep the Department informed of the current center phone number.~~]

(5) The emergency plan shall contain:

(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, poison control and other appropriate agencies.

(d) Assignment of personnel to specific tasks during an emergency;

(e) The procedure to transport and evacuate children and staff to other locations; and

(f) Procedures to turn off gas, electricity, and water.

(6) The director shall post evacuation plans in prominent locations in each room or area of the center. The plan shall include evacuation routes, location of fire alarm boxes, and fire extinguishers[~~in prominent locations throughout the center~~].

(7) The [~~local fire authority shall complete an on-site inspection of each child care center at least annually and the licensee shall maintain a copy of the current fire clearance for Department review~~]licensee shall ensure that the center is inspected annually by the local fire authority and shall maintain a copy of the most recent inspection report at the center. Each fire extinguisher shall have a current tag and annual inspection.

(8) There shall be at least one care giver on duty in the center during business hours who has a current department approved course completion or certification in basic child and infant first-aid and Cardiac Pulmonary Resuscitation (CPR).

(9) Each center shall maintain two accessible first aid kits, one kit for the center and one kit to be taken on field trips.

(a) Each first aid kit shall contain supplies as recommended by the American Red Cross First Aid Handbook, current edition, or the department provided list of contents.

(b) Each first aid kit shall contain a first aid manual.

(c) First aid kits shall be restocked after use and shall be stored in an area inaccessible to children.

R430-100-25. Infant Care.

(1) Infants and toddlers shall be cared for in separate areas and shall not use outdoor play areas at the same time as older children. Infant and toddler areas shall not be used as access to other areas or rooms by children and parents, unless the Department has given variance approval.

(2) Infants may be included in mixed age groups only when eight or fewer children are present in the center. No more than two infants shall be included in the mixed age group unless there are two care givers with the group.

(3) Each infant shall be allowed to follow his or her own pattern of sleeping and eating.

(4) Diapers shall be checked as needed but diaper checks shall not exceed every three hours. The child shall be changed when he is found to be wet or soiled.

(5) The center shall maintain a record of diapering activities, sleeping and feeding times for each infant. The care giver shall record each activity as it occurs. The records shall be maintained on site for the current month and be immediately accessible for Department review.

(6) If an infant is unable to sit upright and hold his own bottle, a care giver shall hold the infant during bottle feeding to prevent choking, baby bottle tooth decay, etc. Bottles shall not be propped.

(7) Each infant shall receive physical stimulation and positive verbal interaction at least every 30 minutes. Awake infants shall not be confined for more than 30 minutes in one piece of equipment, including but not limited to swings, high chairs, or cribs. Infants shall have freedom of movement in a safe area.

(8) Infant walkers with wheels are not permitted.

(9) High chairs will have T-shaped safety straps that are used whenever children are placed in the chair.

(10) High chair trays shall be washed, rinsed, and sanitized prior to each use. The sanitizer shall meet the standards in R392-100 for food contact surfaces.

(11) Baby food, infant formula, and breast milk for infants that are brought from home for an individual child's use shall be:

(a) marked with the child's name;

(b) marked with the date of preparation or opening of the container, such as a jar of baby food;

(c) kept refrigerated, if needed; and

(d) discarded within 24 hours of preparation or opening.

(12) Infant formula shall be discarded after feeding or within two hours of initiating a feeding. Powdered formula or dry foods which are opened, but not mixed, is not considered prepared.

(13) Infants shall sleep in equipment designed for them such as a crib, bassinet, porta-crib, or play pen.

(a) Only one infant shall occupy any one piece of equipment at any time.

(b) Infants shall be placed on their backs for sleeping, unless parents document a medical treatment requirement for a clinical condition.

(c) Infants less than 12 months shall not sleep on mats or cots.

(14) There shall be two sinks in each infant and toddler care area. Centers whose infant and toddler areas were constructed and licensed prior to July, 1997, shall be exempt from this rule.

(a) One sink shall be adjacent to the diapering areas and shall be used exclusively for hand washing after diapering and non-food activities.

(b) One sink shall be used exclusively for the preparation of food and bottles.

(15) Infant care areas shall maintain temperature at 70 degrees Fahrenheit at floor level.

(16) All toys used by infants and toddlers shall be washed daily and after being placed in a child's mouth or being contaminated by bodily fluids.

R430-100-[~~24~~]26. Penalty.

[~~Any person who violates any provision of this rule may 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 for violation of a class A misdemeanor as provided in Section 26-23-6 and Section 26-39-108~~]The department may impose civil monetary penalties in accordance with Title 63, Chapter 46b, Administrative Procedures Act, if there has been a failure to comply with the provisions of this chapter, or rules promulgated pursuant to this chapter, as follows:

(1) if significant problems exist that are likely to lead to the harm of a child, the department may impose a civil money penalty of $50 to $1,000 per day; and

(2) if significant problems exist that result in actual harm to a child, the department may impose a civil money penalty of $1,050 to $5,000 per day.

KEY: child care facilities
[~~December 1, 1999~~]2001 **26-39**

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Labor Commission, Industrial Accidents

R612-2-16

Charges for Special or Unusual Supplies, Materials, or Drugs

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23467
FILED: 01/31/2001, 11:51
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment defines the method for computing the reimbursement rate for special or unusual medical supplies and drugs used in treatment of injured workers' under the workers' compensation system.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment clarifies that shipping costs may be included in the purchase price of special or unusual medical supplies and drugs. A 15% restocking fee may then be added, plus any taxes paid, to produce the reimbursement rate.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq. and 34A-3-101 et seq.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The proposed amendment imposes no additional costs or other burdens on state government and will have no effect on the state budget.
❖LOCAL GOVERNMENTS: The proposed amendment imposes no additional costs or other burdens on local government and will have no effect on local government budgets.
❖OTHER PERSONS: The proposed amendment imposes no additional costs or other burdens on other persons and will have no financial impact on them.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment merely establishes a definite methodology for calculating the reimbursement rate for special or unusual medical supplies and drugs used in the treatment of injured workers under the workers' compensation system. The Commission does not anticipate that this methodology will result in any additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: By clarifying the calculation of reimbursement rates for certain medical supplies and drugs, the proposed amendment should make the payment process easier for insurance carriers and self-insured employers. While the fiscal impact on businesses will probably be small, it should be favorable.

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

Labor Commission
Industrial Accidents
Third Floor, Heber M. Wells 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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-2. Workers' Compensation Rules-Health Care Providers.
R612-2-16. Charges for Special or Unusual Supplies, Materials, or Drugs.

A. Charges for special or unusual supplies, materials, or drugs not included as a normal and usual part of the service or procedure shall, upon receipt of an itemized and coded billing, be paid at cost plus 15% restocking fees.

B. For purposes of part A above, the amount to be paid shall be calculated as follows:

1. Applicable shipping charges shall be added to the purchase price of the product;

2. The 15% restocking fee shall then be added to the amount determined in sub part 1;

3. The amount of taxes paid on the purchase of the supplies, materials, or drugs shall then be added to the amount determined in sub part 2, which sum shall constitute the total amount to be paid.

KEY: workers' compensation, fees, medical practitioner
[~~January 1,~~]200[~~0~~]1 **34A-2-101 et seq.**
Notice of Continuation June 15, 1998 **34A-3-101 et seq.**
34A-1-104

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Labor Commission, Industrial Accidents
R612-2-22
Medical Records

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23469
FILED: 01/31/2001, 11:51
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment defines time requirements for paying for medical records. It also updates references to the Resource-Based Relative Value Schedule and Government Records Access and Management Act.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment does not increase or decrease the fees that may be charged for providing copies of medical records, but does set the time when such fees must be paid. The proposed amendment also updates references to the current Resource-Based Relative Value Schedule (RBRVS) and Government Records Access and Management Act (GRAMA).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq. and 34A-3-101 et seq.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The proposed amendment imposes no additional costs or other burdens on state government and will have no effect on the state budget.
❖LOCAL GOVERNMENTS: The proposed amendment imposes no additional costs or other burdens on local government and will result in no cost or savings to local government.
❖OTHER PERSONS: The proposed amendment imposes no additional costs or other burdens on other persons and will result in no costs or savings to them.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment does not change the fees charged for providing copies of medical records, nor does it impose any additional reporting or paperwork requirements. Consequently, the proposed amendment will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment merely establishes time lines for payment of copy fees. It does not change the amount of such fees. It will have no fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Labor Commission
Industrial Accidents
Third Floor, Heber M. Wells 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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-2. Workers' Compensation Rules-Health Care Providers.
R612-2-22. Medical Records.

A. When any medical practitioner provides copies of medical records to the parties of an industrial case, the following charges are presumed reasonable:

1. A search fee of $15 payable in advance of the search,

2. Copies at $0.50 per page including copies of microfilm payable after the records have been prepared, and

3. Actual costs of postage payable after the records have been prepared. Actual costs of postage are deemed to be the cost of regular mail unless the requesting party has requested the delivery of the records by special mail or method.

B. Those persons or entities who are entitled to copies of medical records involving an industrial case are:

1. The injured employee or his/her dependents,
2. The employer of the injured worker,
3. The employer's workers' compensation insurance carrier,
4. The Uninsured Employers' Fund,
5. The Employers' Reinsurance Fund,
6. The Commission, and
7. Any attorney representing any of the above in an industrial injury or occupational disease claim.

C. No other person or entity is entitled to medical records unless ordered by a Court or provided with a notarized release executed by the injured worker.

D. The Commission will operate in the release of its records to the parties/entities as specified above unless the information is classified as confidential under the Government Records Access and Management Act (GRAMA)[~~Utah Privacy Act~~].

E. No fee shall be charged when the [~~Commission's Relative Value Schedule (RVS)~~]RBRVS requires specific documentation for a procedure or when physicians and surgeons are required to report by statute or rule.

F. An injured worker may obtain one of each of the following records related to the industrial injury or occupational disease, at no cost, when the injured worker or his/her dependents have a signed form by the division to substantiate his/her industrial injury/illness claim:

1. History and physical,
2. Operative reports of surgeries,
3. Discharge summary, and
4. Emergency room records,
5. Radiological reports,
6. Specialized testing results,
7. Physician SOAP notes, progress notes or specialized reports.

(a) Alternatively, a summary of the patient's record may be made available to the claimant at the discretion of the physician.

8. And such other records as may be requested by the Commission in order to make a determination of liability.

KEY: workers' compensation, fees, medical practitioner
[~~January 1,~~]200[θ]1 **34A-2-101 et seq.**
Notice of Continuation June 15, 1998 **34A-3-101 et seq.**
34A-1-104

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Labor Commission, Industrial Accidents
R612-2-24
Review of Medical Payments

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23471
FILED: 01/31/2001, 11:51
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed rule change updates references in Section R612-2-24 from the outdated Relative Value Schedule to the Resource-Based Relative Value Schedule which is now in use. The proposed rule also details procedures for resolving overpayments of workers' compensation medical expenses.

SUMMARY OF THE RULE OR CHANGE: The Commission has recently adopted the Resource-Based Relative Value Schedule (RBRVS) as the basis for determining reimbursement rates for medical care provided under the workers' compensation system. This proposed amendment updates Section R612-2-24 by referring to the RBRVS, rather than the Relative Value Schedule (RVS) that was used in this past. The proposed amendment also establishes procedures whereby an insurance carrier or self-insured employer can obtain reimbursement for overpayment of medical expenses from medical providers. In summary, insurance carriers or self-insured employers may submit written requests for reimbursement to medical providers. The providers must then, within 90 days, either provide reimbursement or answer with a detailed written detailed explanation of why reimbursement will not be made. Finally, the proposed amendment establishes the manner in which reimbursement disputes will be resolved by the Commission.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq. and 34A-3-101 et seq.

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The RBRVS has already been adopted by the Commission. Consequently, updating references to the RBRVS in this rule will have no net effect on the state budget. Regarding that part of the rule dealing with medical expense reimbursements, the proposed amendment may result in a small number of reimbursement disputes being presented to Commission for resolution. These disputes can be handled with existing resources. Consequently, there will be no cost to the state budget.
❖LOCAL GOVERNMENTS: The RBRVS has already been adopted by the Commission. Consequently, updating references to the RBRVS in this rule will have no net financial effect on local government. Local governments are subject to the proposed amendment in their capacity as employers. The proposed amendment will simplify processes for obtaining medical expense reimbursements. This may result in some minor savings to local government.
❖OTHER PERSONS: The RBRVS has already been adopted by the Commission. Consequently, updating references to the RBRVS in this rule will have no net financial effect on other persons. The proposed amendment will simplify processes for obtaining medical expense reimbursements. This may result in some minor savings to insurance carriers and self-insured employers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The RBRVS has already been adopted by the Commission. Consequently, updating references to the RBRVS in this rule will not result in compliance costs for affected persons. Disputes regarding medical expense reimbursements already exist and require staff time and attention to resolve. The proposed amendment establishes a more efficient system for addressing and resolving these disputes. For that reason, the Commission does not expect the proposed rule to result in any additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment establishes a systematic and efficient method by which insurance companies and self-insured employers and medical providers can resolve reimbursement disputes. In most cases, the parties will be able to resolve their disputes themselves without Commission intervention. This should reduce overall costs and have a small, but positive, fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Labor Commission
Industrial Accidents
Third Floor, Heber M. Wells 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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-2. Workers' Compensation Rules-Health Care Providers.
R612-2-24. Review of Medical Payments.

A. Health care providers and payors are primarily responsible to resolve disputes over fees for medical services between themselves. However, in some cases it is necessary to submit such disputes to the Division for resolution. The Commission therefore establishes the following procedure for submission and review of fees for medical services.

1. The provider shall submit a bill for services rendered, with supporting documentation, to the payor within one year of the date of service;

2. The payor shall evaluate the bill according to the guidelines contained in the Commission's Medical Fee Guidelines and RBRVS[~~Relative Value Fee Schedule (RVS)~~] and shall pay the

provider the appropriate fee within 45 days as required by Rule R612-2-13.

3. If the provider believes that the payor has improperly computed the fee under the RBRVS[~~RVS~~], the provider or designee shall request the payor to re-evaluate the fee. The provider's request for re-evaluation shall be in writing, shall describe the specific areas of disagreement and shall include all appropriate documentation. The provider shall submit all requests for re-evaluation to the payor within one year of the date of the original payment.

4. Within 30 days of receipt of the written request for re-evaluation, the payor shall either pay the additional fee due the provider or respond with a specific written explanation of the basis for its denial of additional fees. The payor shall maintain proof of transmittal of its response.

B. If the provider continues to disagree with the payor's determination o the appropriate fee, the provider shall submit the matter to the Division by filing with the Division a written explanation of the disagreement. The provider's explanation shall include copies of:

1. The provider's original bill and supporting documentation;

2. The payor's initial payment of that bill;

3. The provider's request for re-evaluation and supporting documentation; and

4. The payor's written explanation or its denial of additional fees.

C. The Division will evaluate the dispute according to the requirements of the Medical Fee Guidelines and RBRVS[~~RVS~~] and, if necessary, by consulting with the provider, payor, or medical specialists. Within 45 days from the date the Division receives the provider's request, the Division will mail its determination to both parties.

D. Any party aggrieved by the Division's determination may file an application for hearing with the Division of Adjudication to obtain formal adjudication of the dispute.

E. A payor seeking reimbursement from a provider for overpayment of a bill shall submit a written request to the provider detailing the circumstances of the payment requested within one year of submission of the bill.

1. Providers should make appropriate reimbursements, or respond in writing detailing the reasons why repayment will not be made, within 90 days or receipt of a written request from a payor.

2. If a dispute as to reimbursement occurs, an aggrieved party may request resolution of the dispute by the Labor Commission.

KEY: workers' compensation, fees, medical practitioner
[~~January 1,~~]200[θ]1 **34A-2-101 et seq.**
Notice of Continuation June 15, 1998 **34A-3-101 et seq.**
34A-1-104

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Labor Commission, Safety
R616-3-3
Safety Codes for Elevators

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 23473
FILED: 01/31/2001, 11:51
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change updates the incorporated references to the most current published editions.

SUMMARY OF THE RULE OR CHANGE: The proposed change incorporates the 1998, 1999, and 2000 Addenda for the ASME A17.1, the 2000 Addenda for the ASME A17.3, the 1998 edition of the ICC/ANSI A117.1, and adds the ASME A18.1-1999 Safety Standard for Platform Lifts and Stairway Chairlifts. It also corrects references to the sections of the ICC/ANSI A117.1 which are being incorporated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-101 et seq.

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: ASME A17.1 1998 Addenda, issued February 19, 1998; 1999 Addenda, issued June 30, 1999; and 2000 Addenda, issued November 30, 2000; ASME A17.3 2000 Addenda, issued February 29, 2000; ICC/ANSI A117.1 1998 edition, approved February 13, 1998; and ASME A18.1-1999 Safety Standard for Platform Lifts and Stairway Chairlifts, issued July 26, 1999

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No increase or decrease in cost is anticipated. Manufacturers of equipment subject to this amendment have already incorporated the changes into their production lines. There will be no cost for special training of the Safety Division inspectors who enforce these standards.

❖LOCAL GOVERNMENTS: No increase or decrease in cost is anticipated. Manufacturers of the equipment subject to this amendment have already incorporated the changes into their production lines. Old equipment is exempt from these standards, but must meet whatever standards were in effect at the time of manufactured/installation.

❖OTHER PERSONS: No increase or decrease in cost is anticipated. Manufacturers of the equipment subject to this amendment have already incorporated the changes into their production lines. Old equipment is exempt from these standards, but must meet whatever standards were in effect at the time of manufactured/installation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The industry has already incorporated these standards. Consequently, there will be no additional compliance costs for any person affected by this rule amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment incorporates nationally recognized standards that have already been adopted by many other jurisdictions. Consequently, these standards are generally followed in the industry and costs related to the standards are already incorporated into the industry price structure. Adoption of

these standards in Utah should not result in any additional fiscal impact on Utah businesses.

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

Labor Commission
Safety
Third Floor, Heber M. Wells Building
160 East 300 South
PO Box 146620
Salt Lake City, UT 84114-6620, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Larry Patrick at the above address, by phone at (801) 530-6872, by FAX at (801) 530-6390, or by Internet E-mail at icmain.lpatrick@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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R616. Labor Commission, Safety.
R616-3. Elevator Rules.
R616-3-3. Safety Codes for Elevators.

The following safety codes are adopted and incorporated by reference within this rule:

A. ASME A17.1, Safety Code for Elevators and Escalators, 1996 ed., with 1997 [~~Supp.~~]Addenda issued December 31, 1996, 1998 Addenda issued February 19, 1998, 1999 Addenda issued June 30, 1999 and 2000 Addenda issued November 30, 2000. This code is issued every three years with annual [~~supplements~~]addenda. New issues and [~~supplements~~]addenda become mandatory only when a formal change is made to these rules. Elevators are required to comply with the A17.1 code in effect at the time of installation. The latest effective version of A17.1 is the 1996 edition with the 1997 [~~supplement~~]addenda, 1998 addenda, 1999 addenda and 2000 addenda.

B. ASME A17.3 - 1996 Safety Code for Existing Elevators and Escalators with 2000 addenda issued February 29, 2000. This code is adopted for regulatory guidance only for elevators classified as remodeled elevators by the Division of Safety.

C. ASME A90.1-1992, Safety Standard for Belt Manlifts.

D. ANSI A10.4-1990, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

E. 1997 Uniform Building Code Chapters 11 and 30.

F. [~~CABO~~]ICC/ANSI A117.1-[~~1992~~]1998 Accessible and Usable Buildings and Facilities, sections [~~4.10~~]407 and [~~4.11~~]408, approved February 13, 1998.

G. ASME A18.1-1999 Safety Standard For Platform Lifts And Stairway Chairlifts, issued July 26, 1999.

KEY: elevators*, certification, safety
[~~July 2, 1999~~]2001 **34A-1-101 et seq.**
Notice of Continuation February 5, 1997

Natural Resources, Parks and Recreation
R651-205
Zoned Waters

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23439
FILED: 01/17/2001, 17:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To add Lost Creek Reservoir since it has been re-opened to vessels.

SUMMARY OF THE RULE OR CHANGE: More vessels are being used on Lost Creek Reservoir due to the reservoir's small size and long narrow shape that make it too dangerous to operate a vessel above a wakeless speed at anytime, anywhere on the reservoir.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This amendment is strictly for management purposes and a safety tool, and therefore will not affect the aggregate cost or savings to the State budget.
❖LOCAL GOVERNMENTS: Since local government has no authority over State Parks, there is no aggregate anticipated cost or savings.
❖OTHER PERSONS: Other persons using the reservoir will have access to the safety rules of the reservoir.
At this time there is no anticipated cost to other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no expected costs for affected persons since this rule pertains to zoned waters and safety issues.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule will have no fiscal impact on business.

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

Natural Resources
Parks and Recreation
Room 116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: David K. Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.
R651-205. Zoned Waters.
R651-205-1. Obeying Zoned Waters.
The operator of a vessel shall obey zoned water requirements or restrictions.

R651-205-2. Deer Creek Reservoir.
Vessels and all other water activities are prohibited within 1500 feet of the dam. No water skiing in Wallsberg Bay.

R651-205-3. Green River.
The use of motors is prohibited between the Flaming Gorge Dam and the confluence with Red Creek.

R651-205-4. Stansbury Park Lake.
The use of vessels over 20 feet in length and motors, except electric trolling motors, is prohibited.

R651-205-5. Lower Provo River.
The section from where it enters into Utah Lake upstream to the gas pipeline is designated as a wakeless speed area, and the use of motors is prohibited upstream from this point.

R651-205-6. Decker Lake.
The use of motors is prohibited.

R651-205-7. Palisade Lake.
The use of motors is prohibited.

R651-205-8. Ivins Reservoir.
The use of motors whose manufacture listed horsepower is 10 horsepower or more is prohibited.

R651-205-9. Jordan River.
The use of motors is prohibited.

R651-205-10. Ken's Lake.
The use of motors, except electric trolling motors, is prohibited.

R651-205-11. Pineview Reservoir.
The use of motors, except electric motors, is prohibited in the designated area in the North Arm, North Geersten Bay and the Middle Fork of the Ogden River. Vessels are prohibited in the Middle Inlet and Cemetery Point picnic areas.

R651-205-12. Jordanelle Reservoir.
The use of motorboats or sailboats is prohibited in the designated area of Hailstone Beach.

R651-205-13. Little Dell Reservoir.
The use of motors is prohibited.

R651-205-14. Bear Lake.
The use of a vessel is prohibited from July 1 through Labor Day in the area adjacent to Cisco Beach starting at the entrance station and extending approximately 1/4 mile south, when this area is marked with appropriate buoys.

R651-205-15. Lost Creek Reservoir.
A vessel may not be operated at a speed greater than wakeless speed at any time.

KEY: boating
[~~March 27, 2000~~]March 20, 2001 73-18-4([~~3~~]1)(c)
Notice of Continuation May 12, 1997

Natural Resources, Parks and Recreation
R651-219
Additional Safety Equipment

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23440
FILED: 01/17/2001, 17:23
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To modify Section R651-219-3 to change length of vessels required to carry a spare motor, paddle, or oar capable of maneuvering the vessel when needed. Also adds a sentence regarding hard hulled white water kayaks and safety requirements for them.

SUMMARY OF THE RULE OR CHANGE: This change will update the language used and more clearly define the law when it comes to safety equipment on vessels less than 21 feet in length and know the rules for the hard hulled white water kayaks.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This amendment is being filed for management purposes and used as a safety tool, and therefore will not affect the aggregate cost or savings to the State budget.

❖LOCAL GOVERNMENTS: Since local government has no authority over State Parks, there is no aggregate anticipated cost or savings.
❖OTHER PERSONS: Other persons using the reservoir will have access to the safety rules of the reservoir. At this time there are not anticipated costs or savings to other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule amendment is being filed to update the safety equipment definitions and requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed change will have no fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
Room 116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: David K. Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.
R651-219. Additional Safety Equipment.
R651-219-1. Sound Producing Device.

(1) Vessels 16 feet to less than 40 feet in length shall have on board a means of making an efficient sound, horn or whistle, capable of a four-to-six-second blast.

(2) Vessels 40 feet to less than 65 feet in length shall have on board a horn and a bell. The horn shall be capable of a four-to-six-second blast and audible for one-half mile. The bell shall be designed to give a clear tone.

R651-219-2. Bailing Device.

All vessels, not of self-bailing design, shall have on board an adequate bail bucket or be equipped with a mechanical means for pumping the bilge.

R651-219-3. Spare [~~Paddles~~]Propulsion.

[~~Motorboats and sailboats~~]Vessels less than [~~26~~]21 feet in length shall have on board at least one spare motor, paddle or oar capable of maneuvering the vessel when necessary.[~~—All other vessels less than 26 feet in length shall have on board one spare paddle or oar.~~] On rivers when one-or-two-man capacity vessels less than 16 feet in length are traveling in a group, the above requirement may be met by carrying one spare oar or paddle for every three vessels in the group. On hard hulled white water kayaks, paddles designed to be strapped to or worn on the hand must meet this requirement.

R651-219-4. Airboat Requirements.

Airboats operated on the Great Salt Lake and adjacent refuges shall also have on board a compass and one of the following: approved flares, a strobe light, or other visual distress signal.

R651-219-5. Equipment Good and Serviceable.

All required safety equipment shall be in good and serviceable condition.

R651-219-6. Law Enforcement Vessels.

No vessel operator except authorized law enforcement and emergency vessel operators may display red or blue flashing lights or sound a siren on any waters of this state.

R651-219-7. Equipment Exemptions.

(1) Sailboards and personal watercraft are exempt from the following rules: Section R651-219-2 bail buckets; Section R651-219-3 spare paddles; and Section R651-225-4 prohibiting riding on exterior surfaces.

(2) Vessels owned by the Lagoon Corporation and operated by its employees or customers under the controlled use and confines of the Lagoon Amusement Park waterways are exempt from the following Sections: R651-215-11 (3), R651-219-2, and R651-219-3.

(3) Vessels owned by the Salt Lake Airport Hilton Inn and operated by its employees or customers under the controlled use and confines of the Salt Lake Airport Hilton Inn waterways are exempt from the following sections: R651-219-2 and R651-219-3.

(4) Racing vessels participating in a sanctioned race may be exempted from certain equipment requirements by the division upon written request to the division. The equipment exemption shall only be in effect the day before and the day of the race if conditions of the exemption are met.

KEY: boating
[~~1993~~]March 20, 2001 **73-18-8(6)**
Notice of Continuation May 13, 1997

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Natural Resources, Wildlife Resources
R657-27
License Agent Procedures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23455
FILED: 01/25/2001, 14:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To provide clarification of the requirements for a wildlife license agent when selling wildlife documents or big game permits for the division.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to eliminate the Wildlife Habitat Authorization, pursuant to Senate Bill 248, 2000 Legislative Session. This amendment also deletes provisions that allows the division to waive the surety bond requirement for license agents who meet the specific criteria.
(DAR Note: S.B. 248 is found at 2000 Utah Laws 195, and was effective January 1, 2001.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-19-15

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The Division of Wildlife Resources (DWR) determines that this rule will not create any cost or savings impact to the state budget or the DWR's budget. This amendment eliminates the Wildlife Habitat Authorization and deletes provisions to waive the surety bond requirement.
❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment would require a license agent to have a surety bond in place while authorized to sell wildlife documents for the division. The average premium cost of the surety bond would average $50 annually. Otherwise, this rule does not impose any cost requirements or burdens on persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.
R657-27. License Agent Procedures.
R657-27-1. Purpose and Authority.

Under Section 23-19-15, this rule provides the application procedures, standards, and requirements for wildlife license agents.

R657-27-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Application" means a written request to be authorized by the division to sell wildlife documents.

(b) "Conditional Big Game Permit Sales Agreement" means a supplemental agreement to the License Agent Authorization allowing a license agent to sell big game hunting permits that are held under a quota.

(c) "License agent" means a person authorized by the division to sell wildlife documents.

(d) "License Agent Authorization" means an agreement between the division and a license agent, allowing a license agent to sell wildlife documents.

(e) "Presiding officer" means the director of the division or the director's designee.

(f) "Remuneration" means money that a license agent receives for each wildlife document sold as provided in Section 23-19-15.

(g) "Wildlife documents" means licenses, permits, tags[~~, Wildlife Habitat Authorizations~~] and Heritage Certificates.

R657-27-3. Application.

(1) License agent applications may be obtained from the Licensing Section in the Salt Lake Office.

(2) License agent applications shall be accepted from any person located within Utah or in close proximity to Utah.

(3) Applications shall be processed within 30 days.

(4) The applicant must:

(a) complete and return the application to the Licensing Section in the Salt Lake Office; and

(b) pay a non refundable application fee.

(5) A separate application and application fee must be submitted for each location where wildlife documents will be sold.

R657-27-4. License Agent Eligibility - Reasons for Application Denial - Term of Authorization.

(1) The division may deny a license agent application for any of the following reasons:

(a) A sufficient number of license agents already exist in the area;

(b) The applicant does not have adequate security including a safe or locking cabinet in which to store wildlife documents;

(c) The applicant has previously been authorized to sell wildlife documents and the applicant:

(i) failed to comply with the license agent authorization or any provision of statute or rule governing license agents; or

(ii) was terminated by the division as a license agent;

(d) The applicant provided false information on the license agent application;

(e) The applicant has been convicted of a wildlife related violation.

(2) The division shall send the applicant a written notice stating the reason for denial.

(3) If the division approves the license agent application a license agent authorization shall be sent to the applicant.

(4) The license agent authorization is not effective until:

(a) it is signed and notarized by the applicant; and

(b) signed by the director.

(5) The license agent authorization must be returned to the Licensing Section in the Salt Lake Office within 30 days of being received.

(6) Each license agent authorization shall be established for a term of five years.

R657-27-5. Surety Bond Requirement.

(1) After approval, but before the license agent authorization is executed, the division may require the applicant to post a reasonable surety bond in an amount determined by the division.

(2) The division may require any existing license agent to obtain a reasonable surety bond in an amount determined by the division after providing the license agent with 30 days written notice.

(3) The division may require a reasonable increase in the amount of the bond after providing the license agent with 30 days written notice.[

~~(4) The division may waive the surety bond requirement after a person has been authorized as a license agent for a minimum of five consecutive years and meets the following criteria:~~

~~(a) The license agent is located in Utah;~~

~~(b) The license agent is under the jurisdiction of Utah;~~

~~(c) All reports for wildlife documents have been made to the division according to the provisions of this rule and Section 23-19-15;~~

~~(d) The license agent has maintained the surety bond without interruption for 5 years;~~

~~(e) Payment to the division for all wildlife documents sold is current;~~

~~(f) The license agent has complied with the provisions of the license agent authorization, the provisions of Section 23-19-15, and this rule; and~~

~~(g) Payment made to the division has not been returned for non sufficient funds.~~]

R657-27-6. License Agent Big Game Permit Sales Agreement.

(1) Upon approval of license agent authorization, a license agent may only sell any big game permits held under a quota by entering into a Conditional Big Game Permit Sales Agreement with the division.

(2) The division shall, prior to May 1 annually, send a Conditional Big Game Permit Sales Agreement form to each authorized license agent eligible to sell wildlife documents.

(3)(a) The license agent shall:

(i) complete all information indicated in the agreement; and

(ii) sign and date the agreement.

(b) The license agent signature must be notarized.

(c) The agreement must be returned by mail or hand-delivery to any division office and must be received no later than the date indicated under the terms on the agreement form. Facsimiles will not be accepted.

(d) Agreements received after the date as indicated on the agreement form may be returned.

(4)(a) The division may not enter into an agreement with any license agent who was given reasonable notice of the time period for entering into the agreement and fails to return a complete agreement to the division.

(b) The division may notify a license agent who has made an error in completing the agreement form and may afford an opportunity for correction. However, if the division is unable to contact the license agent within two weeks following the filing date indicated on the agreement and correct the error, the agreement shall be void and the license agent may not receive authorization to sell big game permits held under a quota.

(5) By signing the agreement, the license agent agrees to abide by the terms of the agreement.

R657-27-7. License Agent Obligations.

(1) Each license agent shall:

(a) report all wildlife document sales to the division on or before the 10th day of each month;

(b) remit all proceeds from wildlife document sales, minus remuneration, to the division on or before the 10th day of each month;

(c) retain all money obtained from wildlife document sales separate from the private funds of the license agent except remuneration;

(d) keep wildlife documents out of the public view during business hours;

(e) keep wildlife documents in a safe or locked cabinet after business hours;

(f) display all signs and distribute proclamations provided by the division;

(g) have all sales clerks and management staff available for sales training; and

(h) maintain a License Agent Manual provided by the division and make it available to the license agent's staff.

R657-27-8. Lost or Stolen Wildlife Documents.

(1) The license agent shall act as bailee for purposes of safeguarding all wildlife documents issued to the agent by the division.

(2)(a) The license agent shall remit full payment to the division for any wildlife documents lost, stolen, or unaccounted for unless otherwise relieved for good cause by the director.

(b) Payments made to the division for any wildlife documents that are lost or unaccounted for may be refunded if the wildlife documents are returned to the Licensing Section in the Salt Lake office by June 30 of the current fiscal year.

R657-27-9. Audits.

(1) License agents are subject to an audit without prior notification anytime during normal business hours to assess financial and procedural compliance with statute, rule, and the terms of the license agent authorization.

(2) The division shall provide a written report to the license agent of any finding of noncompliance within five days of the completion of the audit.

R657-27-10. Checks Returned for Non-sufficient Funds.

(1) The division may require a license agent to remit payment for wildlife documents in the form of a cashiers check or money order if any check from a license agent is returned to the division for non sufficient funds.

(2) The presiding officer may revoke a license agent authorization pursuant to Section 63-46b-20 if payment is not made to the division within five business days after the license agent receives written notification of the returned check.

R657-27-11. Change of Business Ownership.

(1) License agent authorizations are nontransferable.

(2) The license agent shall notify the division of any anticipated change of ownership of the license agent's business at least 30 days prior to the change of ownership.

(3) Prior to change of ownership the license agent shall:

(a) remit payment for all wildlife documents sold minus remuneration; and

(b) return all unsold wildlife documents to the division.

R657-27-12. Revocation of License Agent Authorization.

(1) The presiding officer may revoke a license agent authorization pursuant to Chapter 46b, Title 63, Utah Administrative Procedures Act, if the presiding officer determines that the agent or the agent's employee violated:

(a) the terms of the license agent authorization;

(b) the terms of the Big Game Permit Sales Agreement;

(c) any provision of Title 23, Wildlife Resources Code; or

(d) any rule promulgated under Title 23, Wildlife Resources Code.

(2) The presiding officer may hold a hearing to determine matters relating to the license agent revocation if the license agent makes a written request for a hearing within 10 days after the notice of agency action is issued.

R657-27-13. Termination of Authorization by the License Agent.

(1) A license agent may terminate a license agent authorization by submitting a written request to the Licensing Section in the Salt Lake Office.

(2) Any request for termination shall state the requested date of termination.

(3) On or before the effective date of termination the license agent shall:

(a) discontinue selling wildlife documents;

(b) return all unsold wildlife documents to the division; and

(c) return to the division any signs, proclamations or other information provided by the division.

(4) On or before the 10th day of the month following the date of termination the license agent shall remit payment for all wildlife documents minus remuneration to the division.

R657-27-14. Reapplying for a License Agent Authorization.

(1) The division may not renew a license agent authorization.

(2) At the end of the five-year term of authorization to sell wildlife documents, a license agent may reapply for a license agent authorization by following the application procedures prescribed in this rule.

R657-27-15. Violation.

(1) It is unlawful for a license agent to sell:

(a) any wildlife documents in violation of the License Agent Authorization; or

(b) any big game permits in violation of the Big Game Permit Sales Agreement.

KEY: licensing, wildlife, wildlife law, rules and procedures
[~~June 8, 2000~~]2001 **23-19-15**
Notice of Continuation April 11, 1997

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Tax Commission, Property Tax

R884-24P-49

Calculating the Utah Apportioned Value of a Rail Car Fleet Pursuant to Utah Code Ann. Section 59-2-201

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23475
FILED: 02/01/2001, 10:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-201 requires the Tax Commission to assess all property that operates as a unit across county lines, if the values must be apportioned among more than one county or state. Subsection 59-1-210(3) authorizes the State Tax Commission to promulgate rules that aide county officials in the performance of any duties relating to the assessment and equalization of property within the county.

SUMMARY OF THE RULE OR CHANGE: This amendment reverses one recent change to this rule and clarifies other changes based on comments, discussions and agreements with the railcar industry that occurred after the public comment period and adoption of the rule. This amendment reverses the change in methodology for the valuation of betterments to more closely align valuation methodology with unique industry practices and defines a working day period in which the majority of light repairs and maintenance are normally accomplished. It also reduces the detailed reporting requirements for the out-of-service adjustment, which was agreed to with industry to lessen the reporting burden and make compliance easier.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-201

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The amount of savings or cost to state government is undetermined. The State receives tax revenue for assessing and collecting and for the uniform school fund based on increased or decreased property value including centrally-assessed property. It is estimated that the overall change to the state budget because of the proposed amendments would be minimal.

❖LOCAL GOVERNMENTS: The amount of savings or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased property value including centrally assessed railcars. It is estimated that these amendments will reduce railcar valuations statewide by $1,630,000, which equates to approximately $20,000 in property tax. For any individual tax entity the dollar impact will be very small.

❖OTHER PERSONS: In the aggregate, the amount of savings or cost to individuals and business is undetermined. Affected persons pay taxes based on increased or decreased property value. Based on year 2000 values, it is estimated that this rule will reduce railcar valuations by approximately $1,630,000 or approximately $20,000 in property tax statewide for all railcar fleets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: One of the major reasons for this change is to reduce the reporting effort required of the railcar industry while still providing the Tax Commission the necessary information to perform accurate assessments. This rule change, reflecting agreements with the railcar industry, provides required information to the Tax Commission in a manner compatible with industry business practices and reporting capabilities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change reflects agreements with the railcar industry related to valuation methodology and reporting requirements. It provides the Tax Commission with appropriate valuation methodology as well as the information necessary to accurately assess railcars. In addition, the amendments have been agreed to with industry as being compatible with industry business practices and reporting capabilities. The fiscal impact will be minimal.

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

Tax Commission
Property Tax
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-49. Calculating the Utah Apportioned Value of a Rail Car Fleet Pursuant to Utah Code Ann. Section 59-2-201.

A. Definitions.

1. "Average market value per rail car" means the fleet rail car market value divided by the number of rail cars in the fleet.

2. "Fleet rail car market value" means the sum of:

a) (1) the yearly acquisition costs[~~, including modifications and betterments,~~] of the fleet's rail cars;

[~~b)~~](2) multiplied by the appropriate percent good factors contained in Class 10 of R884-24P- 33, Personal Property Valuation Guides and Schedules[~~:~~]; and

b) the sum of betterments by year.

(1) Except as provided in A.2.b)(2), the sum of betterments by year shall be depreciated on a 14-year straight line method.

(2) Notwithstanding the provisions of A.2.b)(1), betterments shall have a residual value of two percent.

3. "In-service rail cars" means the number of rail cars in the fleet, adjusted for out-of- service rail cars.

4. a) "Out-of-service rail cars" means rail cars:

(1) [~~with extraordinary damage caused by events such as accident, natural disaster, or vandalism~~]out-of-service for a period of more than ten consecutive hours; or

(2) in storage.

b) Rail cars cease to be out-of-service once repaired or removed from storage.

c) Out-of-service rail cars do not include rail cars idled for less than ten consecutive hours due to light repairs or routine maintenance.

5. "System car miles" means both loaded and empty miles accumulated in the U.S., Canada, and Mexico during the prior calendar year by all rail cars in the fleet.

6. "Utah car miles" mean both loaded and empty miles accumulated within Utah during the prior calendar year by all rail cars in the fleet.

7. "Utah percent of system factor" means the Utah car miles divided by the system car miles.

B. The provisions of this rule apply only to private rail car companies.

C. To receive an adjustment for out-of-service rail cars, the rail car company must report the [~~following information~~]number of out-of-service days to the commission for each of the company's rail car fleets[~~:~~

~~1. the type of rail cars out-of-service;~~
~~2. the number of days each rail car is out-of-service; and~~
~~3. the reason each rail car is out-of-service~~].

D. The out-of-service adjustment is calculated as follows.

1. Divide the out-of-service days by 365 to obtain the out-of-service rail car equivalent.

2. Subtract the out-of-service rail car equivalent calculated in D.1. from the number of rail cars in the fleet.

E. The taxable value for each rail car fleet apportioned to Utah, for which the Utah percent of system factor is more than 50 percent, shall be determined by multiplying the Utah percent of system factor by the fleet rail car market value.

F. The taxable value for each rail car company apportioned to Utah, for which the Utah percent of system factor is less than or equal to 50 percent, shall be determined in the following manner.

1. Calculate the number of fleet rail cars allocated to Utah under the Utah percent of system factor. The steps for this calculation are as follows.

a) Multiply the Utah percent of system factor by the in-service rail cars in the fleet.

b) Multiply the product obtained in F.1.a) by 50 percent.

2. Calculate the number of fleet rail cars allocated to Utah under the time speed factor. The steps for this calculation are as follows.

a) Divide the fleet's Utah car miles by the average rail car miles traveled in Utah per year. The Commission has determined that the average rail car miles traveled in Utah per year shall equal 200,000 miles.

b) Multiply the quotient obtained in F.2.a) by the percent of in-service rail cars in the fleet.

c) Multiply the product obtained in F.2.b) by 50 percent.

3. Add the number of fleet rail cars allocated to Utah under the Utah percent of system factor, calculated in F.1.b), and the number of fleet rail cars allocated to Utah under the time speed factor, calculated in F.2.c), and multiply that sum by the average market value per rail car.

KEY: taxation, personal property, property tax, appraisal
[~~December 19, 2000~~]2001 59-2-201
Notice of Continuation May 8, 1997

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Transportation, Motor Carrier
R909-1
Safety Regulations for Motor Carriers

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23460
FILED: 01/31/2001, 09:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes have been made to 49 CFR Parts 355.5, 387, 390.17, 390.19, 390.21, and 391.43 which this rule incorporates by reference.

SUMMARY OF THE RULE OR CHANGE: The regulations state that state laws need to be compatible, identical or have the same effect as the Federal Motor Carrier Safety Regulations or Hazardous Material Regulations if affecting interstate motor carriers. It will update the list of acute and critical regulations. 390.17 allows for additional equipment to be put on the vehicles as long as it doesn't decrease the safety of operation of the commercial motor vehicles. 390.19 outlines the motor carrier identification report each motor carrier needs to file before commencing operations. 390.21 establishes that motor carriers will need to mark their vehicles with their USDOT number instead of the number issued under the old Interstate Commerce Commission. There will be a two-year phase in period of this for vehicles already being used. New vehicles will be required to have this marking before being used. 391.41(b)(1) and 391.41(b)(1)(ii) has been changed to that a skill performance evaluation certificate needs to be issued, instead of a waiver. 391.43 is revised to ensure that instructions to medical examiners are understandable and consistent. The medical examination form is revised to gain simplicity and efficiency, reflect current medical terminology and include all relevant information necessary to conduct the physical examination and certification. The existing forms may be used until current printed supplies are depleted of until November 6, 2001, whichever occurs first. Private motor carriers will be required to have an MCS-90, Environmental Restoration Endorsement, on file at their principal place of business. The minimum levels of financial responsibility will be $750,000.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-17-203
FEDERAL REQUIREMENT FOR THIS RULE: 49 CFR Parts 350-399

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 49 CFR 350-399 as published by Regulations Management Corporation, October 1, 2000, edition

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--these changes are minor in nature and can be covered in staff meetings and emails.
❖LOCAL GOVERNMENTS: None--these changes are minor in nature and can be covered in staff meetings and emails.
❖OTHER PERSONS: To have new identification numbers put on the vehicles from $30 to $80 per vehicle. This affects only those companies using their ICC number and do not have the USDOT number already on the vehicle. Insurance companies contacted stated there is no additional charge for an MCS-90. If a company does not already have $750,000 liability the average cost to raise it from $300,000 to $750,000 is $400 per vehicle per year.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The marking of vehicles will be phased in over a two-year period, carriers are required to have their names on the both sides of the vehicle now so it is a matter of changing from an ICC number to a DOT number. On an average this will cost $30 to $80 per vehicle. The insurance companies contacted stated there is no additional charge for an MCS-90. If a company does not already have $750,000 liability the average cost to raise it from $300,000 to $750,000.00 is $400 per vehicle per year. This estimate is based the driver being over 23 years old with a good driving record.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Most companies already have $750,000 to $1,000,000 liability, so this will impact very few carriers. The savings given the carrier by having the additional insurance will outweigh the $400 cost per vehicle. Insurance companies contacted have stated there is no additional charge for having an MCS-90 endorsement.

Companies having to replace their ICC numbers for the USDOT markings will be have a cost of $30 to $80 including labor, per vehicle. The companies have two years to change these markings, so this cost can be spread evenly throughout that time period.

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

Transportation
Motor Carrier
Calvin Rampton
4501 South 2700 West
PO Box 148240
Salt Lake City, UT 84114-8240, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Tamy L. Scott at the above address, by phone at (801) 965-4752, by FAX at (801) 965-4847, or by Internet E-mail at tscott@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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Tamy L. Scott, Transportation Safety Investigator

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R909. Transportation, Motor Carrier.
R909-1. Safety Regulations for Motor Carriers.
R909-1-1. Adoption of Federal Regulations.

A. Safety Regulations for Motor Carriers, 49 CFR Parts 350 through 399, as contained in the October 1, [~~1999~~]2000 edition and amendments which appear, November 1, [~~1999~~]2000 and, December 1, 2000, January 1, [~~2000~~]2001, as printed by the Regulations Management Corporation Service, is incorporated by reference, except for Parts 391.11(b)(1), 391.49, 395.1(k), 395.1(l), 395.1(m) and 395.1(n). These requirements apply to all motor carrier(s) as defined in 49 CFR Part 390.5 and UCA 72-9-102(4) engaged in Commerce.

B. In the instance of a driver who is used primarily in the transportation of construction materials and equipment, as defined under 395.2, to and from an active construction site, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 36 or more successive hours.

C. Exceptions to Part 391.41, Physical Qualification may be granted under the rules of Department of Public Safety, Driver's License Division, UCA 53-3-303.5 for intrastate drivers under R708-34[~~;~~].

D. Drivers involved wholly in intrastate commerce shall be at least 18 years old; unless transporting placarded amounts of hazardous materials; or 16 or more passengers including the driver.

E. Drivers [~~in~~]involved in interstate commerce, transporting placarded amounts of hazardous materials, or 16 or more passengers including the driver, shall be at least 21 years old.

R909-1-2. Insurance for Private Intrastate/Interstate Motor Carriers.

A. Definitions: Private motor carriers means a motor carrier which solely transports their own product and does not haul for any other person or motor carrier.

B. Private motor carriers shall have an MCS-90, MCS-90B, MCS-82 or MCS-828 on file at the principal place of business with a minimum amount of $750,000 liability.

KEY: trucks, transportation safety

[~~June 1, 2000~~]2001	**72-9-103**
Notice of Continuation March 31, 1997	**72-9-104**
	54-6-9
	63-49-4

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Transportation, Motor Carrier
R909-75
Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23461
FILED: 01/31/2001, 09:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment incorporates changes made to 49 CFR Parts 107 to 180.

SUMMARY OF THE RULE OR CHANGE: 107.14, 107.105, 107.107, 107.109 add hours of business, current addresses, and e-mail addresses. 171.7 updates the incorporation by reference of the American Society of Mechanical Engineers Code to the 1998 edition, without the 1999 Addenda. In 171.8 changes have been made to the following definitions: "aerosol", "EX number", "Placarded car"; RSPA is adding a new paragraph (d)(5) to require that the original approval (EX) number or traceable product code issued to an air bag inflator or seat-belt pretensioner be entered on the shipping paper in associated with the basic description 171.14(c) non specification fiber drums. 172.101(b)(2) and (b)(6) are revised to clarify that proper shipping names denoted with an "A" or "W" in Column (1) in the Hazardous Materials Table (HMT) may be used to describe hazardous materials (HM) transported in any mode when all requirements are met. 172.101(c)(8) is removed and a new paragraph is added to allow the word "liquid" or "solid" to be included as part of the proper shipping name when a hazardous material specifically listed by name may, due to differing physical states, be a liquid or solid. 172.101(g) changes the reference to 173.428 for an Empty label and adds a label of 6.2 Infectious substance. In the HMT the following HM shipping names are

updated by name or classifications, labels, special provisions or references: "air, compressed", "Chemicals kits or First aid kits (containing hazardous materials)" , "1-chloro - 3bromopropane", "compressed gas, toxic flammable, n.o.s., Inhalation hazard zone A", Cyclohexyl isocyanate", 3,5-Dichloro-2,4,6-trifluoropyridine", "Dichlorofluoromethan or refrigerant gas R21", "Ethyl phophonothioic dichloride, anhydrous", "First aid kits", "Fumigated transport vehicle or freight container see 173.9", "Organic peroxide type C, liquid", Organic pigments, self-heating", "Phenylenediamines", "Polychlorinated biphenyls, liquid", "Polyclorinated biphenyls, solid", "Rare gases and oxygen mixtures, compressed", "sodium chlorate, aqueous solution", and "Uranyl nitrate hexahydrate solution". 172.101 Appendix A in number 3 the reference to 172.101(c)(8) is revised to refer to 172.101(c), Acrolein is added to Table 1 - Hazardous Substances Other Than Radio nuclides. Special provisions 68, 78, 79, 140, B7, B110, N10, and N20 are revised. Section 172.201(a)(ii) references are updated. 172.204 shipping certification is updated with a phase in period of 10 years. 172.332 is amending 172.332(a) and 172.336(b) to authorize the use of white square on point configurations for display of identification number markings. 172.403(g)(2) activity units must be expressed in appropriate SI units. 172.504 is revising the Class 9 table entry to reference 172.504(f)(9) and regarding the placarding of a material classed as a combustible liquid that also meets the definition of a Class 9 is removed, this exception is clarified in 173.150. A new (f)(8) is added to provide an exception in domestic transportation from meeting the requirement to display a POISON INHALATION HAZARD placard on a transport vehicle if it already displays a POISON GAS placard. 172.516(a) is revised to change the wording "Motor vehicle" to "transport vehicle". 172.519(b)(3) is revised to clarify that text is required on a DANGEROUS placard and not required on an OXYGEN placard when the specific identification number is displayed on the placard. 172.604 is revised to clarify that HM transported under the proper shipping name "Consumer commodity" does not require emergency response information. 173.4(a)(1)(i)(ii) and (iii) are revised to clarify that the one-gram limit for 6.1 material per inner receptacle applies only to materials that are a poison inhalation hazard. 173.7(e) incorporates and expands the existing exception in 173.62(d) for Class 1 explosives owned by the Department of Defense. 173.12(b)(3) is revised to clarify that materials poisonous by inhalation are not authorized in lab packs. 173.13(a) is revised to clarify that use of the CARGO AIRCRAFT ONLY label is required. 173.32(e)(3) is amended to authorize smaller markings on specification portable tanks. 173.60(b)(14) allows large explosive articles normally intended for military use to be transported unpackaged under specified conditions.173.61(a) revised to clarify that explosives may be packed with non-hazardous materials that will not adversely affect the explosive. 173.62(d) is removed. 173.150(f)(3)(viii) is revised to replace 177.834 with 177.834(j) and a new paragraph to 177.837(d) authorizing operators of cargo tank motor vehicles unloading combustible liquids to monitor the unloading operating from a distance of up to 150 feet from the cargo tank and 25 feet from the delivery hose, and must be observed at least once every five minutes. 173.166(c) to except shippers of Division 2.2 air bag modules and inflators or seat-belt pretensioners from entering the EX number on shipping papers; 173.166(e) to clarify that Class 9 devices must be in outer UN packaging meeting the Packing Group III performance level. 173.242(c)(1) obsolete references is removed and replaced with specific portable tank venting requirements. 173.306(h)(2) that shipping papers are required for a class 2 materials that have been reclassed as a consumer commodity if it also meets the definition for marine pollutant. 173.307(a)(4) exceptions for HMR refrigerating machines. 177.834(j)(3) & 177.837(d) new exception from attendance requirements for combustible liquids. 177.848(c) clarifies loading requirements of cyanides or cyanide mixtures with acids. 178.3(a) specification markings on a UN standard packaging must be marked on a non-removable component of a packaging. 178.345-13 removed obsolete references.178.603(f)(5) allows for a slight discharge from a closure if it ceases immediately after impact and there is no further leakage. 178.703 references are corrected. 178.815(c)(4)(iii) authorizes dynamic compression testing for IBC's. 180.417(a)(2) allows cargo tank owner to retain the vehicle certification report and related papers at principal place of business. These updates also correct typographical, non substantive errors and removes redundant regulations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-9-103
FEDERAL REQUIREMENT FOR THIS RULE: 49 CFR Part 350

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 49 CFR 107-181 as published by Regulations Management Corporation, October 1, 2000, edition

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--the changes are minimal and will be covered in staff meetings.
❖LOCAL GOVERNMENTS: None--the changes are minimal and will be covered in staff meetings.
❖OTHER PERSONS: Changes in the labeling requirements would add an additional $.35 per package shipped to shipments of Infectious substances. Adding acrolein to the hazardous substance table, it will now be required to be ship in performance packages with labels, shipping papers, markings. Packaging types vary too widely to estimate the cost. The shipping papers will be the cost of paper at $.03 to $.10, one and half hour wages for person completing it can range from $3 to $6.50; this cost is also for shipping papers for class 2 materials that have been reclassed as a consumer commodity that meets the definition for marine pollutant. Authorizing that the ID number markings may be on white square on point allows the motor carrier to buy a $.85 placard instead of a $2.50 placard. Clarifying that a POISON INHALATION HAZARD placard is not required if a POISON GAS placard is already displayed saves $.85 per placard. Allowing shipping papers to not have an emergency response number for consumer commodities saves the cost of paying someone to man the phone line in case of emergency.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Changes in the labeling requirements would add an additional $.35 per package shipped to shipments of Infectious substances. Adding acrolein to the hazardous substance table, it will now be required to be ship in performance packages with labels, shipping papers, markings. Packaging types vary too widely to estimate the cost. The shipping papers will be the cost of paper at $.03 to $.10, one and half hour wages for person completing it can range from $3.00 to $6.50; this cost is also for shipping papers for class 2 materials that have been reclassed as a consumer commodity that meets the definition for marine pollutant. Authorizing that the ID number markings may be on white square on point allows the motor carrier to buy a $.85 placard instead of a $2.50 placard. Clarifying that a POISON INHALATION HAZARD placard is not required if a POISON GAS placard is already displayed saves $.85 per placard. Allowing shipping papers to not have an emergency response number for consumer commodities saves the cost of paying someone to man the phone line in case of emergency.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost to Private industry to implement these changes will have no major impact, the broader picture would indicate that there will in fact be a savings. These savings would not be recognized by all motor carriers, but only those hauling "Poison Gas", consumer commodities, and ID number markings to be put on white square on point.

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

Transportation
Motor Carrier
Calvin Rampton
4501 South 2700 West
PO Box 148240
Salt Lake City, UT 84114-8240, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Tamy L. Scott at the above address, by phone at (801) 965-4752, by FAX at (801) 965-4847, or by Internet E-mail at tscott@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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Tamy L. Scott, Transportation Safety Investigator

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R909. Transportation, Motor Carrier.
R909-75. Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes.
R909-75-1. Adoption of Federal Regulations.

Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes, 49 CFR, Sub-Chapter C, of the October 1, [~~1999~~]2000, edition as printed in the Regulations Management Corporation Service, are incorporated by reference. In addition, amendments to the same edition, which appear November 1, [~~1999~~]2000, December 1, [~~1999~~]2000, and January 1, [~~2000~~]2001,[~~February 1, 2000, March 1, 2000, and April 1, 2000,~~] are incorporated by reference within this rule. This applies to all private, common, and contract carriers by highway in commerce.

KEY: hazardous materials transportation, hazardous substances, hazardous waste, safety regulation
[~~August 15, 2000~~]2001 **72-9-103**
Notice of Continuation April 22, 1997 **72-9-104**

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Workforce Services, Employment Development

R986-900-902

Options and Waivers

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23474
FILED: 01/31/2001, 16:13
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has determined that requiring Employment and Training activities does not assist people in obtaining employment in counties with high unemployment.

SUMMARY OF THE RULE OR CHANGE: The federal government has allowed states to opt out of the Employment and Training requirements in counties with high unemployment. The Department originally opted to maintain these requirements but has since discovered that they do not lead to helping people obtain employment in sufficient numbers to justify retention of the requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Food stamps is a federally-funded program. There are no costs or savings associated with this change.
❖LOCAL GOVERNMENTS: This rule does not apply to local government therefore, there are no costs or savings.
❖OTHER PERSONS: There are no costs or savings associated with this change.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this change because all costs related to this rule are included within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on business as a result of these changes.

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

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.
R986-900. Food Stamps.
R986-900-902. Options and Waivers.

The Department administers the food stamp program in compliance with federal law with the following exceptions or clarifications:

(1) The following options not otherwise found in R986-100 have been adopted by the Department where allowed by the applicable federal law or regulation:

(a) The Department has opted to hold hearings at the state level and not at the local level.

(b) The Department does not offer a workfare program for ABAWDs (Able Bodied Adults Without Dependents).

(c) An applicant is required to apply at the local office which serves the area in which they reside.

(d) The Department has opted to adopt a standard utility allowance for utilities rather than allow the actual utility expense as a deduction from income when determining eligibility for food stamps. The standard utility allowance is updated annually and is available upon request from the Department.

(e) The Department does not use photo ID cards. ID cards are available upon request to homeless, disabled, and elderly clients so that the client is able to use food stamp benefits at a participating restaurant.

(f) The state has opted to provide food stamp benefits through the use of an electronic benefit transfer system known as the Horizon Card.

(g) The Department counts diversion payments in the food stamp allotment calculation.

(h) The Department has opted to exempt individuals from mandatory participation in Food Stamp Employment and Training activities in counties that have been designed as Labor Surplus Areas by the Department of Labor. These counties change each year based on Department of Labor statistics and a list of counties is available from the Department. They are the same counties as referenced in subsection (2)(a) below.

(2) The Department has been granted the following applicable waivers from the Food and Nutrition Service:

(a) Certain Utah counties have been granted a waiver which exempts ABAWDs from the work requirements of Section 824 of PRWORA. The counties granted this waiver change each year based on Department of Labor statistics. A list of counties granted this waiver is available from the Department.

(b) If a client fails to appear for the scheduled face-to-face interview required by 7 CFR 273.2 (e)(3), the Department is not required to attempt to schedule another interview unless the client contacts the Department and requests another interview. If the client misses two scheduled interviews and does not express an interest in pursing the application, the application can be denied without waiting until the 30th day as required by 7 CFR 273(g)(3).

(c) If a client does not provide initial verification as requested within ten days of the interview, the Department can deny the household's application at the expiration of the ten days and is not required to wait until the 30th day following the date of application.

(d) The Department is not required to conduct a face-to-face interview for each recertification period as required by 7 CFR 273.14(b)(3)(i), provided that at least one face-to-face interview, in conjunction with recertification, is conducted each year.

(e) The Department requires that a household need only report changes in earned income if there is a change in source, the hourly rate or salary, or if there is a change in full-time or part-time status. A client is required to report any change in unearned income over $25 or a change in the source of unearned income.

(f) The Department uses a combined Notice of Expiration and Shortened Recertification Form. Notice of Expiration is required in 7 CFR 273.14(b)(1)(i). The Recertification Form is found under 7 CFR 273.14(b)(2)(i).

(g) The Department conducts the Family Nutrition Education Program for individuals even if they are otherwise ineligible for food stamps.

(h) FEP and FEPTP clients may opt to have their food stamp benefits paid as cash. This waiver will expire on December 31, 2000.

(i) The Department may deduct overpayments that resulted from an IPV from a household's monthly entitlement.

(j) If the application was received before the 15th of the month and the client has earned income, the certification period can be no longer than six months. The initial certification period may be as long as seven months if the application was received after the 15th of the month.

KEY: food stamps, public assistance
[~~October 2, 2000~~]2001 **35A-3-103**

End of the Notices of Proposed Rules Section

Notices of Changes in Proposed Rules Begin on the Following Page

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 March 19, 2001. At its option, the agency may hold public hearings.

From the end of the waiting period through June 15, 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.

Community and Economic Development, Community Development, Energy Services
R203-1
Utah Clean Fuels Grant and Loan Program

NOTICE OF CHANGE IN PROPOSED RULE
DAR FILE NO.: 23377
FILED: 02/01/2001, 17:31
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Responding to public comment.

SUMMARY OF THE RULE OR CHANGE: This change clarifies grant component of the Utah Clean Fuels Loan Program.
(**DAR Note:** This change in proposed rule has been filed to make additional changes to an amendment that was published in the January 1, 2001, issue of the *Utah State Bulletin*, on page 6. 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: Section 9-1-706

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No additional costs or savings over the original rule amendment.
❖LOCAL GOVERNMENTS: No additional costs or savings over the original rule amendment.
❖OTHER PERSONS: No additional costs or savings over the original rule amendment.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to affected persons as stated in rules originally published.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Local business and government agencies will see energy cost savings as they participate in the program due to the lower price of clean fuels. For example, Newspaper Agency Corporation saves over $300,000 per year in fuel costs by compressed natural gas (CNG) instead of gasoline in their fleet of delivery vans. In August 2000, gasoline prices were approximately $1.50 per gallon compared to CNG at $.70 per gallon equivalent. Additional cost savings result from greater mileage between oil changes, resulting in lower maintenance time and lower cost of fewer oil changes.

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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

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.

(10) "Hybrid" vehicle means a vehicle that employs a combustion engine system together with an electric propulsion system.

R203-1-4. Application.

All 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) 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 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 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 to the Department and to execute[~~per National~~] UCC Financing Statement (Form UCC1).[~~ to the Department.~~] 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.

(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. Loan Program Limitations.

Under no circumstance shall the Program administrator approve a[~~n~~] loan 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 $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.~~](10) the vehicle purchased or leased with loan funds is a hybrid vehicle.

R203-1-8. Grant Program Limitations.

Under no circumstance shall the Program administrator approve a grant 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 Fund balance is zero;

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

(6) the amount of a grant for any vehicle exceeds 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.

(7) the vehicle purchased or leased with grant funds is a hybrid vehicle;

(8) the maximum of ten vehicles per fleet is exceeded;

(9) the maximum of $100,000 annually is exceeded.

R203-1-[~~8~~]9. 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~~]10. 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.

R203-1-1[~~0~~]1. 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.

R203-1-1[~~1~~]2. 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.

R203-1-1[~~2~~]3. Indemnification.

The state government of Utah, any subdivision, or any agent of state government with responsibility for, or obligation to the Program cannot be held liable for injury or damage to persons, vehicles or other property caused by or involved with any equipment or vehicle purchased or converted to use a clean fuel in this Program.

R203-1-1[~~3~~]4. Notices.

An application, notice, report or data submitted under the Program shall be addressed in the following manner:

Utah Department of Community Development
ATTN: Office of Energy Services
Utah Clean Fuels Loan Program
324 South State, Suite 500
Salt Lake City, Utah 84111
(801) 538-8690 or 1-800-662-3633

KEY: fuel, clean*, loan program*
2001 **9-1-706(1)(b)**

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Public Service Commission, Administration
R746-340
Service Quality for Telecommunications Corporations

NOTICE OF CHANGE IN PROPOSED RULE
DAR FILE NO.: 23328
FILED: 01/31/2001, 13:24
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes are being made as a result of comments received during the comment period.

SUMMARY OF THE RULE OR CHANGE: In Subsection R746-340-1(B)(19)(c), deleted "either" and "or" and inserted "and." Also made some changes for clarification and to improve wording in Subsections R746-340-2(E)(1) and R746-340-5(C); and the beginning of Section R746-340-8. Also deleted the last sentence of Subsection R746-340-7(A)(2)(b).

(**DAR Note:** This change in proposed rule has been filed to make additional changes to an amendment that was published in the December 1, 2000, issue of the *Utah State Bulletin*, on page 49. 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: Section 54-8b-3.3

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No additional costs are anticipated for state agencies. Those agencies currently involved in addressing service quality standards of telecommunications providers will incorporate any new activities into their existing activities and procedures without additional budgetary expenditures. State agencies will realize savings to the extent that compliance with the proposed service quality standards reduces the occurrence, frequency and duration of service interruptions or outages. Quantification of the savings is not possible to the Public Service Commission.

❖LOCAL GOVERNMENTS: No additional costs are anticipated for local governments as the proposed changes do not require any activity or modification of activity by local government entities.

❖OTHER PERSONS: To the extent that the proposed changes incorporate existing industry standards, no additional costs will be incurred with compliance. Qwest (formerly US West Communications), the largest provider of access lines in the State, has agreed to implement or comply with the proposed standards as part of the public benefit proffered in support of approval of it's merger. The rule incorporates those service quality standards already agreed to by Qwest as part of the merger process, so no additional costs will be incurred through the promulgation of those aspects of the rule. The minimal standards for all telecommunications corporations could result in additional costs, but the Commission anticipates that current industry practice and market demands already require all telecommunications corporations to have established practices and procedures that will permit compliance with the minimal standards without incurring additional costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will be incurred by telecommunications service providers where it is necessary to install additional facilities or personnel in order to comply with the proposed standards. However, the company potentially receiving the greatest impact from the rule, Qwest, has agreed to incur the expenses associated with much of the rule as a benefit to the State of Utah in support of its merger with US West Communications. Hence, these costs of compliance do not derive from the rule itself, but from the companies' decision to merge and provide benefits to the merged company's owners, customers and the State of Utah. The monitoring and reporting requirements of the proposed change could entail additional compliance costs, but the Public Service Commission has adopted the same reporting scheme utilized by the Federal Communications Commission (FCC). Since companies are required to comply with the FCC's process,

and the Public Service Commission anticipates using the same process and scheme for the state's rule, it will not require any significant expenditures. The proposed crediting provisions of the change are estimated to produce approximately $22,000,000 in benefits. This estimate is calculated in assuming that the complaints filed with the Public Service Commission represent one in two hundred occurrences of actual service failure or problem. While the proposed rule requires a $50 credit to be given to the customer, the Public Service Commission also estimates that the "costs" to a customer for a service failure or problem are approximately $200 on average (e.g., value for time taken out of a customer's work schedule to wait for missed service repair or installation appointments, lost business opportunities when service failures occur, labor costs expended in resolving billing disputes and errors, etc.). Using annual estimates of service failures or problems, based upon reported complaints during January 2000, through April 2000, we estimate that customer credits could total approximately $7,000,000; to offset $30,000,000 in customer detriments from service failures and problems. Compliance with the proposed service quality would reduce each of these estimates and complete compliance would result in a net benefit of approximately $22,000,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Public Service Commission receives numerous customer complaints regarding failures in the delivery of telecommunications services or in the installation of facilities for the provision of telecommunications services. Many of these complaints allege that the customer has sustained various costs or lost opportunities for income due to the failure, delay, or errors in providing service. Compliance with the proposed service quality standards should result in significant reduction in the burden currently borne by customers or potential customers.

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
PO Box 45585
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sandy Mooy or Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at 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 03/19/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2001

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.
R746-340. Service Quality for Telecommunications Corporations.
R746-340-1. General.

A. Application of Rules -- These rules promulgated herein shall apply to each telephone corporation, as defined in Subsection 54-8b-2(16).

1. These rules govern the furnishing of communications services and facilities to the public by a telecommunications corporation subject to the jurisdiction of the Commission. The purpose of these rules is to establish reasonable service standards to the end that adequate and satisfactory service will be rendered to the public.

2. The adoption of these rules by the Commission shall in no way preclude it from altering or amending its rules pursuant to applicable statutory procedures, nor shall the adoption of these rules preclude the Commission from granting temporary exemptions to rules in exceptional cases as provided in R746-100-16, Deviation from Rules.

B. Definitions -- In the interpretation of these rules, the following definitions shall apply:

1. "Allowed Service Disruption Event" -- an event when a telecommunications corporation is prevented from providing adequate service due to:

a. A customer's act;

b. A customer's failure to act;

c. A governmental agency's delay in granting a right-of-way or other required permit;

d. A disaster or an act of nature that would not have been reasonably anticipated and prepared for by the telecommunications corporation;

e. A disaster of sufficient intensity to give rise to an emergency being declared by state government.

f. A work stoppage, which shall include a grace period of six weeks following return to work.

g. A cable cut outside the telecommunications corporation's control affecting more than 20 pairs.

h. A public calling event, busy calling or dial tone loss due to mass calling or dial-up event.

2. "Central Office" -- A building that contains the necessary telecommunications equipment and operating arrangements for switching, connecting, and inter-connecting the required local, interoffice, and interexchange services for the general public.

3. "Central Office Area" -- A geographic area served by a central office.

4. "CFR" means the Code of Federal Regulations, 2000 edition.

5. "Choke Network Trunk Groups" -- A network with special trunking and special prefixes in place to manage the use of mass-calling-numbers.

6. "Commission" -- Public Service Commission of Utah.

7. "Commitment" -- A promise by a telecommunications corporation to a customer specifying a date and time to provide a service.

8. "Customer" -- A person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency, provided with telecommunications services by a telecommunications corporation.

9. Customer trouble reports include:

a. "Trouble Report" -- A customer report attributable to the malfunction of a telecommunications corporation's facilities and includes repeat trouble reports.

b. "Out of Service Trouble Report" -- A report used when a customer reports there is neither incoming nor outgoing telecommunications capability.

c. "Repeat Trouble Report" -- A report received on a customer access line within 30 days of a closed trouble report.

10. "Exchange" -- A unit established by a telecommunications corporation for the administration of telecommunication services in a specified geographic area. It may consist of one or more central office areas together with associated outside plant facilities used in furnishing telecommunications services in that area.

11. "Exchange Service Area" -- The geographical territory served by an exchange.

12. Held Order -- A request for basic exchange line service delayed beyond the initial commitment date due to a lack of facilities which the telecommunications corporation is responsible for providing.

13. "Interconnection Trunk Group" -- Connects the telecommunications corporation's central office or wire center with an other telecommunications corporation's facilities.

14. "Local Access Line" -- A facility, totally within one central office area, providing a telecommunications connection between a customer's service location and the serving central office.

15. "Out of Service" -- When there exists neither incoming nor outgoing telecommunication capability.

16. "Party Line Service" -- A grade of local exchange service which provides for more than one customer to be served by the same local access line.

17. "Tariff" -- A portion or the entire body of rates, tolls, rentals, charges, classifications and rules, filed by the telecommunications corporation and approved by the Commission.

18. "Telecommunications Corporation" -- A "telephone corporation" as defined in Section 54-2-1(24).

19. "Voice Grade Service" -- Service that at a minimum, includes:

a. providing access to E911, which identifies the exact location of the emergency caller;

b. Two-way communications with a clear voice each way;

c. Ability to[~~either~~] place [~~or~~]and receive calls; and

d. Voice band between 300 HZ and 3000 HZ.

20. "Wire Center" -- The building in which one or more local switching systems are installed and where the outside cable plant is connected to the central office equipment.

R746-340-2. Records and Reports.

A. Availability of Records -- Each telecommunications corporation shall make its books and records open to inspection by representatives of the Commission, the Division of Public Utilities, or the Committee of Consumer Services (or any successor agencies) during normal operating hours.

B. Retention of Records -- All records required by these rules shall be preserved for the period of time specified at 47 CFR 42, incorporated by this reference.

C. Reports --

1. Each telecommunications corporation shall maintain records of its operations in sufficient detail to permit review of its service performance.

2. Central offices with more than 500 local access lines, shall each report as promptly as possible to the Commission and the local news media, including, but not limited to, radio, TV, and newspaper, when applicable, failure or damage to the equipment or facilities which disrupts the local or toll service of 25 percent or more of the local access lines in that central office for a time period in excess of two hours.

D. Uniform System of Accounts -- The Uniform System of Accounts for Class A and Class B telephone utilities, as prescribed by the Federal Communications Commission at 47 CFR 32 is the prescribed system of accounts to record the results of Utah intrastate operations.

E. Data to be Filed with the Commission --

1. Terms and Conditions of Service -- Each telecommunications corporation shall have its tariff,[-] price lists, etc., which describe the terms and conditions under which it offers public telecommunications services on file with the Commission, and where applicable, in accordance with the rules governing the filing of the information as prescribed by the Commission. [~~They~~]It shall also provide the same information to the Commission in electronic format as requested by the Commission.

2. Exchange Maps -- Each telecommunications corporation shall have on file with the Commission an exchange area boundary map for each of its exchanges within the state. Each map shall clearly show the boundary lines of the exchange area wherein the telecommunications corporation serves. Exchange boundary lines shall be located by appropriate measurement to an identifiable location where that portion of the boundary line is not otherwise located on section lines, waterways, railroads, roads, etc. Maps shall show the location of major highways, section lines, geographic township and range lines and major landmarks located outside municipalities. An approximate distance scale shall be shown on each map.

R746-340-3. Engineering.

A. Utility Plant -- Utility plant shall be designed, constructed, maintained and operated in accordance with the provisions outlined in the National Electrical Safety Code, 1993 edition, incorporated by reference.

B. Party-line Service -- When party-line service is to be provided, no more than eight customers shall be connected on one local access line, unless approved by the Commission. The telecommunications corporation may re-group customers as may be necessary to carry out the provisions of this rule.

R746-340-4. Emergency Operation.

A. Emergency Service -- Telecommunications corporations shall make reasonable arrangements to meet emergencies resulting from failures of service, unusual and prolonged increases in traffic, illness of personnel, fire, storm or other acts of God, and inform its employees as to procedures to be followed in the event of emergency in order to prevent or minimize interruption or impairment of telecommunication service.

B. Battery Power -- Each central office shall have a minimum of three hours battery reserve.

C. Auxiliary Power -- In central offices exceeding 5,000 lines, a permanent auxiliary power unit shall be installed.

R746-340-5. Maintenance.

A. Maintenance of Plant and Equipment --

1. Each telecommunications corporation shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system to permit the rendering of safe, adequate and continuous service at all times.

2. Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safety and the adequate service performance of the plant affected.

B. Customer Trouble Reports --

1. Each telecommunications corporation shall provide for the receipt of customer trouble reports at all hours, and shall make a full and prompt investigation of and response to each complaint. The telecommunications corporation shall maintain a record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date and nature of the report, and the action taken to clear the trouble or satisfy the complaint.

2. Provision shall be made to clear emergency out-of-service trouble at all hours, consistent with the bona fide needs of customers and the personal safety of utility personnel.

3. Provisions shall be made to clear other out-of-service trouble not requiring unusual repair, within 48 hours of the report received by the telecommunications corporation, unless the customer agrees to another arrangement.

4. If unusual repairs are required, or other factors preclude clearing of reported trouble promptly, reasonable efforts shall be made to notify affected customers.

C. Inspections and Tests -- Each telecommunications corporation shall adopt a program of periodic tests, inspections and prevent[~~at~~]ive maintenance aimed at achieving efficient operation of its system and rendering safe, adequate, and continuous service. [~~The~~]It shall file a description of its inspection and testing program [~~must be approved by~~]with the Commission showing how it will monitor and report compliance with Commission rules or standards.

D. Planned Service Interruptions -- If service must be interrupted for purposes of rearranging facilities or equipment, the work shall be done at a time which will cause minimal inconvenience to customers. Each telecommunications corporation shall attempt to notify each affected customer in advance of the interruption. Emergency or alternative service shall be provided, during the period of the interruption, to assure communication is available for local law enforcement and public safety units and agencies.

R746-340-6. Safety.

A. Safety -- Each telecommunications corporation shall:

1. require its employees to use suitable tools and equipment to perform their work in a safe manner;

2. instruct employees in safe work practices;

3. exercise reasonable care in minimizing the hazards to which its employees, customers and the general public may be subjected.

R746-340-7. End User Service Standards For All Telecommunications Corporations.

A. Public Telecommunications Services -- A telecommunications corporation providing public telecommunications services shall, excluding documented Allowed Service Disruption events listed under R746-340-1(B)(1):

1. meet minimum voice grade requirements as defined in R746-340-1(B)(19);

2. meet network call completion standards:

a. provide dial tone within three seconds on at least 98 percent of tested calls placed during average daily busy hours each month for each wire center; and

b. assure that no interoffice facilities entirely within a telecommunications corporation's network, except choke network trunks, exceed two percent blocking. Intertandem facilities shall be governed by R746-365.[~~-- The minimum engineering design standard applicable to interconnection trunk groups shall be p.02.~~]

R746-340-8. End User Service Standards for Incumbent Telecommunications Corporations with 30,000 or More Access Lines in Utah, Not Subject to Sufficient Competition.

Except, after public notice and hearing, as ordered by the Commission upon finding that sufficient competition exists in a defined geographic area to waive one or more of the following standards and rely upon market operations to ensure adequate end user service quality, each incumbent telecommunications corporation with 30,000 or more access lines in Utah shall comply with the following service standards with respect to tariffed public telecommunications services. An incumbent telecommunications corporation subject to Rule 746-340-8 will[~~not~~] be subject to 54-7-25 penalties for the failure to comply with any of these service standards for any time period [~~of less then~~]greater than three consecutive months, unless the Commission determines, pursuant to a request for agency action by an interested person and proceedings thereon, that the corporation's failure(s) to comply with these standards warrant imposition of such penalties for a [~~ny such~~] shorter time period.

A. Installations -- Excluding documented Allowed Service Disruption events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. install 90 percent of all new, transfer, and change orders within three business days or on the customer-requested due dates, whichever is later, on a wire center basis. Beginning July 2001, install 95 percent of all new, transfer, and change orders within three business days or on the customer-requested due dates, whichever is later, on a wire center basis;

2. allow no more than five held orders per 1,000 new, transfer and change orders at the end of any month on a statewide basis for all areas not previously exempted under this rule. Beginning January 1, 2002, allow no more than four held orders per 1,000 new, transfer and change orders at the end of any month on a statewide basis for all areas not previously exempted under this rule;

3. meet 90 percent of all new, transfer and change order installation commitments, excluding customer trouble reports within seven days of initial installation, on a wire center basis, unless the customer requests a later date; and

4. automatically credit $10 to a residential customer, $40 to a small business customer, for missing an installation commitment.

B. Repairs -- Excluding documented Allowed Service Disruption Events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. Repair 80 percent of all out-of-service troubles within one business day, on a wire center basis. Beginning July 1, 2001, repair 85 percent of all out-of-service troubles within one business day, on a wire center basis;

2. repair 90 percent of all troubles within two business days, on a wire center basis;

3. automatically credit $10 to a residential customer, $40 to a small business customer, for missing a repair commitment.

4. Trouble reports received after 4:00 p.m. Monday through Friday are deemed received at 8:00 a.m. on the following business day.

C. Billing Requirements -- Excluding documented Allowed Service Disruption events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. correct a billing error upon receiving a customer request by correcting the error on the customers account within one week.

2. Maintain and provide to the Division of Public Utilities upon request, evidence documenting its activities, the purposes, dates, volumes, and times of those activities in:

a. making billing corrections within one week, and

b. investigating to determine whether or how to make billing corrections.

D. Disconnection of Service Requirements -- Excluding documented Allowed Service Disruption Events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. disconnect a customer for nonpayment no earlier than the disconnect date listed on the telecommunications corporation's disconnect notice to the customer; and

2. maintain and provide to the Division of Public Utilities upon request, evidence documenting its activities and the dates of those activities when disconnecting customers no earlier than the disconnect dates specified on their disconnect notices; and disconnecting only those customers eligible to be disconnected.

E. Incoming Repair and Business Office Calls -- Excluding documented Allowed Service Disruption Events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. assure that incoming repair and business office calls experience no more than a 120-second time in queue on average;

2. beginning January 1, 2001 through July 7, 2001, assure that incoming repair and business office calls experience no more than a 45-second time in queue on average; and

3. beginning July 8, 2001, assure incoming repair and business office calls experience no more than a 35-second time in queue on average.

R746-340-9. Reporting Requirements For Compliance with R746-340-8 Standards.

A. Reporting Requirements -- A telecommunications corporation, subject to R746-340-8, shall separately document the specific cause, the duration, and the magnitude of each failure to comply with a R746-340-8 requirement. A telecommunications corporation shall provide quarterly service quality monitoring reports covering the measures listed under R746-340-8. Monthly results will be recorded, summarized, and reported quarterly and on a wire-center basis as applicable. Wire-center specific data shall be treated as proprietary until 120 days after the close of the last month reflected in the report.

B. Monthly Results -- For each requirement, the reported monthly results shall measure outcomes both meeting and not meeting the R746-340-8 standards.

C. Audits of Service Outcomes or Complaints -- A telecommunications corporation shall cooperate in Division of Public Utilities' audits regarding its service outcomes or Commission complaints regarding those outcomes.

KEY: procedure, telecommunications, telephone utility regulation

2001	**54-4-1**
Notice of Continuation June 26, 1998	**54-4-14**
	54-4-23

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End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

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

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Commerce, Consumer Protection
R152-1
Utah Division of Consumer Protection: "Buyer Beware List"

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 23457
FILED: 01/29/2001, 09:45
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: This rule is promulgated pursuant to Subsection 13-2-5(1) for the purpose of assisting in the administration of those particular sections of Title 13 which are administered by the Division of Consumer Protection.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received during and since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The "Buyer Beware List" is one of the enforcement tools available to the Division, with the purpose of providing protection to consumers.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Commerce
Consumer Protection
Heber M. Wells Building
160 East 300 South
PO 146704
Salt Lake City, UT 84114-6704, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kevin V. Olsen at the above address, by phone at (801) 530-6929, by FAX at (801) 530-6001, or Internet E-mail at kolsen@br.state.ut.us.

AUTHORIZED BY: Francine A. Giani, Director

EFFECTIVE: 01/29/2001

Community and Economic Development, Indian Affairs
R230-1
Native American Grave Protection and Repatriation

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 23476
FILED: 02/01/2001, 11:05
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: This rule is authorized under Sections 9-9-403 and 9-9-405, the Native American Grave Protection and Repatriation Act and Subsection 9-9-104(2)(c). These statutes authorize the Division to issue rules to provide appropriate guidance, as to the disposition of Human Remains and associated funerary objects found on state lands, and also provides for a minimal

process for scientific study on discovered remains to determine cultural affiliation.

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 Division of Indian Affairs has conducted a review of all Native American Grave Protection and Repatriation Act files, and determined that the office didn't receive any comments regarding the rule over the past five years (02/07/1996 - 02/07/2001).

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Indian Affairs has determined that the rule is still required in order to facilitate the appropriate disposition of human remains, and to allow for minimal scientific study when necessary for discoveries found on state lands.

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

Community and Economic Development
Indian Affairs
Suite 500
324 South State Street
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Forrest S. Cuch at the above address, by phone at (801) 538-8808, by FAX at (801) 538-8803, or Internet E-mail at fscuch@dced.state.ut.us.

AUTHORIZED BY: Forrest S. Cuch, Director

EFFECTIVE: 02/01/2001

Human Services, Aging and Adult Services

R510-1

Authority and Purpose

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 23453
FILED: 01/23/2001, 16:40
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: This rule documents all the laws by which the agency operates--Older Americans Act, PL 89-73, 42 USC Section 3001 et seq.; Utah Division of Aging and Adult Services, Title 62A, Chapter 3, Parts 1, 2, and 3; Job Training Partnership Act, 29 USC Section 1503 et seq.; and the Social Services Block Grant, 45 CFR Parts 16, 74, and 96.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule gives the statutory authority to conduct the Aging and Adult Services program.

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

Human Services
Aging and Adult Services
Room 325
120 North 200 West
PO Box 45500
Salt Lake City, UT 84145-0500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sally Anne Brown at the above address, by phone at (801) 538-8250, by FAX at (801) 538-4395, or Internet E-mail at sbrown@hs.state.ut.us.

AUTHORIZED BY: Helen Goddard, Director

EFFECTIVE: 01/23/2001

Natural Resources, Parks and Recreation

R651-101

Adjudicative Proceedings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 23441
FILED: 01/18/2001, 09:23
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 63-46b-2 contains definitions for terms used in the Administrative Rules Act under Adjudicative Proceedings. This rule establishes and governs the administrative proceedings before the Division Director, as required by Section 63-46b-5

and all adjudicative proceedings commenced on or after January 1, 1993.

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: There is a continuing need for defining terms and outlining procedures of the Adjudicative Proceedings Section that determine the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all Division actions.

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

Natural Resources
Parks and Recreation
Room 116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 01/18/2001

Natural Resources, Parks and Recreation

R651-223

Vessel Accident Reporting

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 23456
FILED: 01/26/2001, 14:53
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 73-18-13(1) requires the operator of a vessel involved in an accident, if he can do so without endangering their own vessel, crew, or passengers, to render aid to those affected by the accident as may be practicable. The operator gives name, address and ID of his vessel, in writing, to any person injured or to the owner of any property damaged in the accident. Also requires the Board to adopt rules governing the notification and reporting procedure for vessels in accidents and such rules shall be consistent with federal requirements. States that all reports shall be for confidential use of the Division or other state agencies having use for the records for accident prevention purposes, except to disclose identity of a person involved in an accident when the person's identity is not otherwise known or when the person denies his presence at the accident.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: To continue to provide a step-by-step process for those operating a vessel on the waters of Utah to report an accident and follow up with reporting to the proper officials for any action to be taken after an accident.

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

Natural Resources
Parks and Recreation
Room 116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 01/26/2001

End of the Five-Year Notices of Review and Statements of Continuation Section

Notices of Rule Effective Dates Begin on the Following Page

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services
Finance
No. 23366 (AMD): R25-14. Payment of Attorneys Fees in Death Penalty Cases.
Published: December 15, 2000
Effective: January 22, 2001

Fleet Operations
No. 23345 (NEW): R27-7. Safety and Loss Prevention of State Vehicles.
Published: December 15, 2000
Effective: January 31, 2001

Community and Economic Development
Community Development
No. 23231 (AMD): R199-8. Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance.
Published: November 1, 2000
Effective: January 23, 2001

Environmental Quality
Radiation Control
No. 23312 (AMD): R313-19. Requirements of General Applicability to Licensing of Radioactive Material.
Published: December 1, 2000
Effective: January 26, 2001

Water Quality
No. 23164 (CPR): R317-1-3. Requirements for Waste Discharges.
Published: December 15, 2000
Effective: January 23, 2001

No. 23162 (CPR): R317-7. Underground Injection Control (UIC) Program.
Published: December 15, 2000
Effective: January 23, 2001

No. 23161 (CPR): R317-8. Utah Pollutant Discharge Elimination System (UPDES).
Published: December 15, 2000
Effective: January 23, 2001

Health
Health Care Financing, Coverage and Reimbursement Policy
No. 23347 (NEW): R414-63. Medicaid Policy for Pharmacy Reimbursement.
Published: December 15, 2000
Effective: January 17, 2001

No. 23349 (AMD): R414-309. Utah Medical Assistance Program (UMAP).
Published: December 15, 2000
Effective: January 17, 2001

Health Care Financing, Medical Assistance Program
No. 23351 (AMD): R420-1. Utah Medical Assistance Program.
Published: December 15, 2000
Effective: January 23, 2001

Health Systems Improvement, Emergency Medical Services
No. 23344 (AMD): R426-2. Air Medical Services Rules.
Published: December 15, 2000
Effective: January 23, 2001

No. 23185 (AMD): R426-6. Emergency Medical Services Grants Program Rules.
Published: October 15, 2000
Effective: January 17, 2001

No. 23186 (NEW): R426-7. Emergency Medical Services Prehospital Data System Rules.
Published: October 15, 2000
Effective: January 30, 2001

No. 23202 (NEW): R426-8. Emergency Medical Services Per Capita Grants Program Rules.
Published: November 1, 2000
Effective: January 30, 2001

Health Systems Improvement, Health Facility Licensure
No. 23292 (NEW): R432-106. Speciality Hospital - Critical Access.
Published: December 1, 2000
Effective: January 23, 2001

Labor Commission

Occupational Safety and Health

No. 23372 (AMD): R614-1-4. Incorporation of Federal Standards.
Published: January 1, 2001
Effective: February 1, 2001

Transportation

Preconstruction

No. 23198 (AMD): R930-6. Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way.
Published: November 1, 2000
Effective: January 19, 2001

End of the Notices of Rule Effective Dates Section

RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2001, including notices of effective date received through February 1, 2001, the effective dates of which are no later than February 15, 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/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
5YR = Five-Year Review
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
* = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
Finance					
R25-14	Payment of Attorneys Fees in Death Penalty Cases	23366	AMD	01/22/2001	2000-24/5
Fleet Operations					
R27-2	Safety and Loss Prevention of State Vehicles	23345	NEW	01/31/2001	2000-24/6
AGRICULTURE AND FOOD					
Animal Industry					
R58-10	Meat and Poultry Inspection	23306	AMD	01/03/2001	2000-23/9
Chemistry Laboratory					
R63-1	Fee Schedule	23404	5YR	01/10/2001	2001-3/94

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Plant Industry					
R68-1	Utah Bee Inspection Act Governing Inspection of Bees	23434	5YR	01/16/2001	2001-3/94
R68-2	Utah Commercial Feed Act Governing Feed	23435	5YR	01/16/2001	2001-3/95
R68-6	Utah Nursery Act	23436	5YR	01/16/2001	2001-3/95
R68-10	Quarantine Pertaining to the European Corn Borer	23437	5YR	01/16/2001	2001-3/96
R68-12	Quarantine Pertaining to Mint Wilt	23438	5YR	01/16/2001	2001-3/96
Regulatory Service					
R70-610	Uniform Retail Wheat Standards of Identity	23430	5YR	01/16/2001	2001-3/96
R70-620	Enrichment of Flour and Cereal Products	23432	5YR	01/16/2001	2001-3/97
COMMERCE					
Consumer Protection					
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	23457	5YR	01/29/2001	2001-4/61
Occupational and Professional Licensing					
R156-1-308d	Denial of Renewal of Licensure-Classification of proceedings-Conditional Renewal During Pendency of Adjudicative Proceedings, Audit or Investigation	23295	AMD	01/04/2001	2000-23/9
R156-26a	Certified Public Accountant Licensing Act Rules	23296	AMD	01/04/2001	2000-23/11
COMMUNITY AND ECONOMIC DEVELOPMENT					
Community Development					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	23321	AMD	01/23/2001	2000-21/3
Indian Affairs					
R230-1	Native American Grave Protection and Repatriation	23476	5YR	02/01/2001	2001-4/61
CORRECTIONS					
Administration					
R251-102	Release of Communicable Disease Information	23313	AMD	01/04/2001	2000-23/18
ENVIRONMENTAL QUALITY					
Drinking Water					
R309-150	Water System Rating Criteria	23252	AMD	01/04/2001	2000-22/33

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Radiation Control					
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	23312	AMD	01/26/2001	2000-23/19
Solid and Hazardous Waste					
R315-315-8	Petroleum Contaminated Soils	22858	AMD	see CPR (First)	2000-11/18
R315-315-8	Petroleum Contaminated Soils	22858	CPR (First)	see CPR (Second)	2000-17/67
R315-315-8	Petroleum Contaminated Soils	22858	CPR (Second)	01/05/2001	2000-23/58
Water Quality					
R317-1-3	Requirements for Waste Discharges	23164	AMD	see CPR	2000-19/25
R317-1-3	Requirements for Waste Discharges	23164	CPR	01/23/2001	2000-24/74
R317-7	Underground Injection Control (UIC) Program	23162	AMD	see CPR	2000-19/34
R317-7	Underground Injection Control (UIC) Program	23162	CPR	01/23/2001	2000-24/75
R317-8	Utah Pollutant Discharge Elimination System (UPDES)	23161	AMD	see CPR	2000-19/40
R317-8	Utah Pollutant Discharge Elimination System (UPDES)	23161	CPR	01/23/2001	2000-24/78
GOVERNOR					
Planning and Budget					
R361-1	Rule for Implementation of the Resource Development Co-ordinating Committee Act, 1981	23408	5YR	01/11/2001	2001-3/97
HEALTH					
Health Care Financing, Coverage and Reimbursement Policy					
R414-63	Medicaid Policy for Pharmacy Reimbursement	23347	NEW	01/17/2001	2000-24/23
R414-303	Coverage Groups	23396	EMR	01/03/2001	2001-3/87
R414-304	Income and Budgeting	23397	EMR	01/03/2001	2001-3/89
R414-305	Resources	23398	EMR	01/03/2001	2001-3/91
R414-309	Utah Medical Assistance Program (UMAP)	23349	AMD	01/17/2001	2000-24/24
Health Care Financing, Medical Assistance Program					
R420-1	Utah Medical Assistance Program	23351	AMD	01/23/2001	2000-24/28
Health Systems Improvement, Emergency Medical Services					
R426-2	Air Medical Services Rules	23344	AMD	01/23/2001	2000-24/32
R426-6	Emergency Medical Services Grants Program Rules	23185	AMD	01/17/2001	2000-20/27

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R426-7	Emergency Medical Services Prehospital Data System Rules	23186	NEW	01/30/2001	2000-20/29
R426-8	Emergency Medical Services Per Capita Grants Program Rules	23202	NEW	01/30/2001	2000-21/14
Health Systems Improvement, Health Facility Licensure					
R432-106	Specialty Hospital-Critical Access	23292	NEW	01/23/2001	2000-23/31
HUMAN SERVICES					
Administration, Administrative Services, Licensing					
R501-7	Child Placing Agencies	23121	AMD	see CPR	2000-18/65
R501-7	Child Placing Agencies	23121	CPR	01/16/2001	2000-23/59
R501-8	VII. Section C: Categorical Standards	23322	AMD	01/16/2001	2000-23/33
R501-17	Adult Foster Care Standards	23323	AMD	01/16/2001	2000-23/39
Aging and Adult Services					
R510-1	Authority and Purpose	23453	5YR	01/23/2001	2001-4/62
INSURANCE					
Administration					
R590-205	Privacy of Consumer Information Compliance Deadline	23247	NEW	01/11/2001	2000-22/35
LABOR COMMISSION					
Occupational Safety and Health					
R614-1-4	Incorporation of Federal Standards	23372	AMD	02/01/2001	2001-1/4
Safety					
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	23310	AMD	01/03/2001	2000-23/42
NATURAL RESOURCES					
Oil, Gas and Mining; Oil and Gas					
R649-4	Determination of Well Categories Under the Natural Gas Policy Act of 1978	23304	NEW	01/03/2001	2000-23/43
Parks and Recreation					
R651-101	Adjudicative Proceedings	23441	5YR	01/18/2001	2001-4/62
R651-223	Vessel Accident Reporting	23456	5YR	01/26/2001	2001-4/63
Wildlife Resources					
R657-5	Taking Big Game	23356	AMD	01/16/2001	2000-24/40
R657-13	Taking Fish and Crayfish	23189	AMD	01/02/2001	2000-21/23
R657-17	Lifetime Hunting and Fishing License	23358	AMD	01/16/2001	2000-24/51
R657-38	Dedicated Hunter Program	23360	AMD	01/16/2001	2000-24/53

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R657-41	Conservation and Sportsman Permits	23362	AMD	01/16/2001	2000-24/56
R657-42	Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits	23364	AMD	01/16/2001	2000-24/60
PUBLIC SAFETY					
Fire Marshal					
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	23339	AMD	01/16/2001	2000-24/61
R710-6	Liquefied Petroleum Gas Rules	23367	AMD	01/16/2001	2000-24/63
R710-9	Rules Pursuant to the Utah Fire Prevention Law	23340	AMD	01/16/2001	2000-24/64
TRANSPORTATION					
Program Development					
R926-6	Transportation Corridor Preservation Revolving Loan Fund	23311	AMD	01/03/2001	2000-23/55
Preconstruction					
R930-6	Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way	23198	AMD	01/19/2001	2000-21/43

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KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ACCIDENTS					
Administrative Services, Fleet Operations	23345	R27-7	NEW	01/31/2001	2000-24/6
Natural Resources, Parks and Recreation	23456	R651-223	5YR	01/26/2001	2001-4/63
ACCOUNTANTS					
Commerce, Occupational and Professional Licensing	23296	R156-26a	AMD	01/04/2001	2000-23/11

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE PROCEDURES					
Environmental Quality, Drinking Water	23252	R309-150	AMD	01/04/2001	2000-22/33
Natural Resources, Parks and Recreation	23441	R651-101	5YR	01/18/2001	2001-4/62
ARC (Accident Review Committee)					
Administrative Services, Fleet Operations	23345	R27-7	NEW	01/31/2001	2000-24/6
ATTORNEYS					
Administrative Services, Finance	23366	R25-14	AMD	01/22/2001	2000-24/5
BEEKEEPING					
Agriculture and Food, Plant Industry	23434	R68-1	5YR	01/16/2001	2001-3/94
BIG GAME SEASONS					
Natural Resources, Wildlife Resources	23356	R657-5	AMD	01/16/2001	2000-24/40
BOATING					
Natural Resources, Parks and Recreation	23441	R651-101	5YR	01/18/2001	2001-4/62
BOILERS					
Labor Commission, Safety	23310	R616-2-3	AMD	01/03/2001	2000-23/42
BUDGETING					
Health, Health Care Financing, Coverage and Reimbursement Policy	23397	R414-304	EMR	01/03/2001	2001-3/89
CAPITAL PUNISHMENT					
Administrative Services, Finance	23366	R25-14	AMD	01/22/2001	2000-24/5
CERTIFICATION					
Labor Commission, Safety	23310	R616-2-3	AMD	01/03/2001	2000-23/42
CHEMICAL TESTING					
Agriculture and Food, Chemical Laboratory	23404	R63-1	5YR	01/10/2001	2001-3/94
CHILD PLACING					
Human Services, Administration, Administrative Services, Licensing	23121	R501-7	AMD	see CPR	2000-18/65
	23121	R501-7	CPR	01/16/2001	2000-23/59
CLEARINGHOUSE					
Governor, Planning and Budget	23408	R361-1	5YR	01/11/2001	2001-3/97
COMMUNICABLE DISEASES					
Corrections, Administration	23313	R251-102	AMD	01/04/2001	2000-23/18
CONSUMER PROTECTION					
Commerce, Consumer Protection	23457	R152-1	5YR	01/29/2001	2001-4/61
COVERAGE GROUPS					
Health, Health Care Financing, Coverage and Reimbursement Policy	23396	R414-303	EMR	01/03/2001	2001-3/87
DISCHARGE PERMITS					
Environmental Quality, Water Quality	23161	R317-8	AMD	see CPR	2000-19/40
	23161	R317-8	CPR	01/23/2001	2000-24/78
DIVERSION PROGRAM					
Commerce, Occupational and Professional Licensing	23295	R156-1-308d	AMD	01/04/2001	2000-23/9

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
DRINKING WATER					
Environmental Quality, Drinking Water	23252	R309-150	AMD	01/04/2001	2000-22/33
EFFLUENT STANDARDS					
Environmental Quality, Water Quality	23164	R317-1-3	AMD	see CPR	2000-19/25
	23164	R317-1-3	CPR	01/23/2001	2000-24/74
EMERGENCY MEDICAL SERVICES					
Health, Health Systems Improvement, Emergency Medical Services	23344	R426-2	AMD	01/23/2001	2000-24/32
	23185	R426-6	AMD	01/17/2001	2000-20/27
	23186	R426-7	NEW	01/30/2001	2000-20/29
	23202	R426-8	NEW	01/30/2001	2000-21/14
ENVIRONMENTAL PROTECTION					
Environmental Quality, Drinking Water	23252	R309-150	AMD	01/04/2001	2000-22/33
ETHICS					
Natural Resources, Wildlife Resources	23360	R657-38	AMD	01/16/2001	2000-24/53
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Natural Resources, Wildlife Resources	23189	R657-13	AMD	01/02/2001	2000-21/23
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Natural Resources, Wildlife Resources	23189	R657-13	AMD	01/02/2001	2000-21/23
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	23432	R70-620	5YR	01/16/2001	2001-3/97
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	23358	R657-17	AMD	01/16/2001	2000-24/51
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Natural Resources, Wildlife Resources	23360	R657-38	AMD	01/16/2001	2000-24/53
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Natural Resources, Wildlife Resources	23358	R657-17	AMD	01/16/2001	2000-24/51
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Administrative Services, Fleet Operations	23345	R27-7	NEW	01/31/2001	2000-24/6
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Environmental Quality, Radiation Control	23312	R313-19	AMD	01/26/2001	2000-23/19
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	23296	R156-26a	AMD	01/04/2001	2000-23/11
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	23121	R501-7	CPR	01/16/2001	2000-23/59
	23322	R501-8	AMD	01/16/2001	2000-23/33
	23323	R501-17	AMD	01/16/2001	2000-23/39
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Commerce, Occupational and Professional Licensing	23295	R156-1-308d	AMD	01/04/2001	2000-23/9
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Human Services, Aging and Adult Services	23453	R510-1	5YR	01/23/2001	2001-4/62
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Public Safety, Fire Marshal	23339	R710-4	AMD	01/16/2001	2000-24/61
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Environmental Quality, Radiation Control	23312	R313-19	AMD	01/26/2001	2000-23/19
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SOLID WASTE MANAGEMENT					
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UMAP (Utah Medical Assistance Program)					
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Environmental Quality, Water Quality	23162	R317-7	AMD	see CPR	2000-19/34
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Natural Resources, Wildlife Resources	23356	R657-5	AMD	01/16/2001	2000-24/40
	23189	R657-13	AMD	01/02/2001	2000-21/23
	23358	R657-17	AMD	01/16/2001	2000-24/51
	23360	R657-38	AMD	01/16/2001	2000-24/53
	23362	R657-41	AMD	01/16/2001	2000-24/56
	23364	R657-42	AMD	01/16/2001	2000-24/60
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Natural Resources, Wildlife Resources	23189	R657-13	AMD	01/02/2001	2000-21/23
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Natural Resources, Wildlife Resources	23362	R657-41	AMD	01/16/2001	2000-24/56
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