

# UTAH STATE BULLETIN

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

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

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# TABLE OF CONTENTS

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## 1. SPECIAL NOTICES

Department of Community and Economic Development, Community Development, Library: Public Notice of Available Utah State Publications .....	1
--	---

## 2. NOTICES OF PROPOSED RULES

### Commerce

Consumer Protection No. 23971 (Amendment): R152-2 (Changed to R152-11). Utah Consumer Sales Practice Act .....	3
---	---

### Environmental Quality

Water Quality No. 23986 (Amendment): R317-6. Ground Water Quality Protection .....	5
---	---

### Governor

Planning and Budget, Chief Information Officer No. 23972 (Repeal and Reenact): R365-3. Computer Software Licensing, Copyright, and Control .....	17
---	----

### Insurance

Administration No. 23985 (New): R590-210. Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts .....	21
--	----

### Tax Commission

Property Tax No. 23994 (Amendment): R884-24P-33. 2001 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301 .....	22
---	----

### Transportation

Motor Carrier No. 23993 (New): R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification .....	30
--	----

## 3. NOTICES OF CHANGES IN PROPOSED RULES

### Environmental Quality

Air Quality No. 23758: R307-110-34. Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County .....	36
---	----

### Insurance

Administration No. 23813: R590-211. Underinsured Motorist Insurer Notification Ruling .....	37
--	----

**4. NOTICES OF 120-DAY (EMERGENCY) RULES**

Alcoholic Beverage Control

Administration

No. 23981: R81-1. Scope of Definitions, and General Provisions ..... 39

No. 23983: R81-3-9. Advertising ..... 43

No. 23982: R81-4A-12. Menus; Price Lists ..... 44

**5. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION**

Agriculture and Food

Plant Industry

No. 23973: R68-7. Utah Pesticide Control Act ..... 46

Career Service Review Board

Administration

No. 23979: R137-1. Grievance Procedure Rules ..... 46

Environmental Quality

Air Quality

No. 23987: R307-210. Stationary Sources ..... 47

Natural Resources

Parks and Recreation

No. 23974: R651-206. Carrying Passengers for Hire ..... 47

No. 23975: R651-215. Personal Flotation Devices ..... 48

No. 23976: R651-222. Muffling Requirements ..... 48

No. 23977: R651-224. Towed Devices ..... 49

No. 23978: R651-611. Fee Schedule ..... 49

**6. NOTICES OF RULE EFFECTIVE DATES ..... 51**

**7. RULES INDEX ..... 53**

# **SPECIAL NOTICES**

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## **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. 01-17, dated August 17, 2001 (<http://www.state.lib.ut.us/01-17.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 it on the World Wide Web at the address above.

**End of the Special Notices Section**

## NOTICES OF PROPOSED RULES

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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 August 2, 2001, 12:00 a.m., and August 15, 2001, 11:59 p.m., are included in this, the September 1, 2001, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least October 1, 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 December 30, 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 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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**The Proposed Rules Begin on the Following Page.**

Commerce, Consumer Protection
R152-2
(Changed to R152-11)
Utah Consumer Sales Practices Act

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 by Internet E-mail at
kolsen@br.state.ut.us.

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 23971
FILED: 08/03/2001, 12:11
RECEIVED BY: NL

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 10/01/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2001

AUTHORIZED BY: Francine A. Giani, Director

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The
reason for the change is to renumber the rule, to clarify the
rules dealing with refunds of deposits, and to recognize
current business practices in authorizing repairs.

SUMMARY OF THE RULE OR CHANGE: The change is to make
more clear the duty of suppliers and consumers when
refunds are due. It is also changed to recognize that in the
automotive repair industry it is common for authorization for
repairs be done over the telephone because of the different
schedules of consumers and the repair businesses. The rule
is being renumbered to be consistent with other rules which
are numbered similar to the chapter that they relate to.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS
RULE: Subsections 13-11-8(2) and 13-2-5(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Because the changes clarify the rule,
there will be less time needed by staff to enforce the rule.
Any savings, however, is probably not measurable.
❖LOCAL GOVERNMENTS: Because local government is not
responsible to administer the Act, there is no effect either
way.
❖OTHER PERSONS: Because the rule is clarified, there should
be less confusion for businesses. Any savings that may be
generated by this, however, is probably not measurable.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The
amendments clarify the supplier's responsibility in regards to
the refunding of payments from consumers. Because the
amendments simply clarify the supplier's responsibility, the
supplier's compliance costs are not adversely affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT
THE RULE MAY HAVE ON BUSINESSES: Any time confusion can
be eliminated from the rules that a business must follow,
there is bound to be some savings to that business. The
savings, however, probably are not measurable.

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 Box 146704

- R152. Commerce, Consumer Protection.
R152-[2]11. Utah Consumer Sales Practices Act.
R152-[2]11-1. Purposes, Rules of Construction.
R152-[2]11-2. Exclusions and Limitations in Advertisement.
R152-[2]11-3. Bait Advertising/Unavailability of Goods.
R152-[2]11-4. Use of the Word "Free" etc.
R152-[2]11-5. Repairs and Service.
R152-[2]11-6. Prizes.
R152-[2]11-7. New for Used.
R152-[2]11-8. Substitution of Consumer Commodities.
R152-[2]11-9. Direct Solicitations.

A. It shall be a deceptive act or practice in connection with a
consumer transaction involving any direct solicitation sale for a
supplier to do any of the following:
(1) Solicit a sale without clearly, affirmatively, and expressly
revealing at the time the seller initially contacts the consumer or
prospective consumer, and before making any other statements or
asking any questions, except for a greeting: the name of the seller,

the name or trade name of the company, corporation or partnership the seller represents, and stating in general terms the nature of the consumer commodities the seller wishes to show or demonstrate.

(2) Represent that the consumer or prospective consumer will receive a discount, rebate, or other benefit for permitting his home or other property, real or personal, to be used as a so-called "model home" or "model property" for demonstration or advertising purposes when such, in fact, is not true;

(3) Represent that the consumer or prospective consumer has been specially selected to receive a bargain, discount, or other advantage when such, in fact, is not true;

(4) Represent that the consumer or prospective consumer is a winner of a contest when such, in fact, is not true;

(5) Represent that the consumer commodities that are being offered for sale cannot be purchased in any place of business, but only through direct solicitation, when such, in fact, is not true;

(6) Represent that the salesman representative, or agent has authority to negotiate the final terms of a consumer transaction when such, in fact, is not true;

(7) Sell, lease, or rent consumer goods or services with a purchase price of \$25 or more and fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution which is in the same language (e.g. Spanish) as that principally used in the oral sales presentation and which shows the date of the transaction and the name and address of the seller.

(8) Except as otherwise provided in the "Home Solicitations Sales Act", Section 70C-5-102(5) and the "Telephone Fraud Prevention Act", Section 13-26-5, to fail to provide a notice of the buyer's right to cancel within three (3) business days at the time of purchase if the total of the sale exceeds \$25, unless the supplier's cancellation policy is communicated to the buyer and the policy offers greater rights to the buyer than three days, which notice shall be in conspicuous statement written in dark bold at least 12 point type on the front page of the purchase documentation, and shall read as follows: "You, the Buyer, May Cancel This Transaction At Any Time Prior to Midnight of the Third Business Day (or Time Period Reflecting the Supplier's Cancellation Policy But Not Less Than Three Business Days) After the Date of This Transaction or Receipt of The Product, Whichever is Later."

(a) Paragraph (8) shall not apply to "fixture" solicitation sales where the supplier:

(i) automatically provides the buyer a right to cancel within three (3) or more business days from the time of purchase; or

(ii) automatically provides a refund for return of goods within three (3) or more business days from the time of purchase, but prior to installation as a fixture; or

(iii) supplies merchandise to a buyer without prior full payment and allows the buyer three (3) or more business days from the time of receipt of the merchandise, but prior to installation as a fixture to cancel the order and return the merchandise; or

(iv) discloses its refund/return policy in its advertising, catalog and contract, and that policy provides for a return of merchandise within a period of three (3) or more business days from the time of purchase, but prior to installation as a fixture or that policy indicates no return or refund will be offered or made on special merchandise (such as uniquely sized items, custom made or special ordered items)[-]; or

(9) Fail or refuse to honor any valid notice of cancellation by a consumer and within 30 business days after the receipt of such notice, to: (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the supplier; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

B. "Direct Solicitation" means solicitation of a consumer transaction initiated by a supplier, at the residence or place of employment of any consumer, and includes a sale or solicitation of sale made by the supplier by direct mail or telephone or personal contact at the residence or place of employment of any consumer. In the case of a subscription or club membership (e.g., tape, book, or record club) solicitation, "direct solicitation" means solicitation of the initial consumer transaction pursuant to a subscription or club membership agreement, made by the supplier at the residence or place of employment of any consumer, and includes a solicitation of an initial sale made by the supplier by direct mail or telephone or personal contact at the residence or place of employment of any consumer, but excludes all subsequent consumer transactions which are provided for in the subscription or club membership agreement.

C. "Time of Purchase" is defined as the day on which the buyer signs an agreement or accepts an offer to purchase consumer goods or services where the total of the sale is \$25 or more.

#### **R152-[2]11-10. Deposits and Refunds.**

A. It shall be a deceptive act or practice in connection with a consumer transaction for a supplier to accept a deposit unless the following conditions are met:

(1) The deposit obligates the supplier to refrain for a specified period of time from offering for sale to any other person the consumer commodities in relation to which the deposit has been made by the consumer if such consumer commodities are unique; provided that a supplier may continue to sell or offer to sell consumer commodities on which a deposit has been made if he has available sufficient consumer commodities to satisfy all consumers who have made deposits;

(2) All deposits accepted by a supplier must be evidenced by dated receipts stating the following information:

(a) Description of the consumer commodity, (including model, model year, when appropriate, make, and color);

(b) The cash selling price;

(c) Allowance on the consumer commodity to be traded in, if any;

(d) Time during which the option is binding;

(e) Whether the deposit is refundable and under what conditions; and

(f) Any additional cost such as delivery charge.

(3) For the purpose of this rule "deposit" means any payment in cash, or of anything of value or an obligation to pay including, but not limited to, a credit device transaction incurred by a consumer as a deposit, refundable or non-refundable option, or as partial payment for consumer commodities.

B. It shall be a deceptive act or practice in connection with a consumer transaction when the consumer can provide reasonable proof of purchase from a supplier for the supplier to refuse to give refunds for:



(1) Used, damaged or defective consumer commodities, unless they are clearly marked "as is" or with some other conspicuous disclaimer of any implied or express warranty, and also clearly marked that no refund will be given; or

(2) Non-used, non-damaged or non-defective goods unless:

(a) Such non-refund, exchange or credit policy, including any applicable restocking fee, is clearly indicated by a sign posted at the point of display, the point of sale, the store entrance, or through adequate verbal or written disclosure[;] if the transaction occurs through the mail, over the telephone, via facsimile machine, via e-mail, or over the Internet; or

(b) The consumer commodities are food, perishable items, merchandise which is substantially custom made or custom finished.

(3) For the purpose of this rule "refund" means cash if payment were made in cash provided that if payment were made by check the refund may be delayed until the check has cleared; and further provided that if payment were made by debit to a credit card or other account, then refund may be made by an appropriate credit or refund pursuant to the applicable law.

~~[(4) A supplier is only required to give refunds within a reasonable time, not to exceed thirty days, and for a reasonable amount, considering the nature of the consumer commodity, and the condition of the consumer commodity returned and any depreciation, waste or damage, shipping charges, and any reasonable restocking fee if such was clearly disclosed to the consumer at the time of purchase or at the point of sale.]C. It shall be a deceptive act or practice in connection with a consumer transaction for a supplier who has accepted a deposit and has received from the consumer within a reasonable time a valid request for refund of the deposit to fail to make the refund within 30 business days after receipt of such request.~~

~~(1) In determining the amount required to be refunded under this rule, the supplier may take into consideration the nature of the commodity returned, the condition of the commodity returned, shipping charges if agreed to and any lawful restocking fee.~~

~~(2) For purposes of this rule, "reasonable time" means within 30 days of the date of the deposit unless a longer period is justified due to the nature of the commodity returned or any agreement between the parties.~~

~~[E:]D. No deposit accepted by a supplier to secure the value of equipment or materials provided to a consumer for the consumer's use in any business opportunity where it is anticipated by either the consumer or the supplier that some remuneration will be paid to the consumer for services or goods supplied to the supplier or to some third party in the behalf of the supplier shall exceed the actual cost of the supplies or equipment paid by the supplier or any person acting on behalf of the supplier.~~

**R152-[2]11-11. Franchises, Distributorships, Referral Sales.**

.....

**R152-[2]11-12. Negative Options.**

.....

**R152-[2]11-13. Travel Packages.**

.....

**KEY: advertising, bait and switch, consumer protection**  
**[September 29, 1999]2001** 63-46a-3  
**Notice of Continuation September 11, 1997** 13-2-5  
13-11



**Environmental Quality, Water Quality**  
**R317-6**  
**Ground Water Quality Protection**

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 23986  
FILED: 08/15/2001, 08:49  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These proposed changes encompass editorial changes for clarity, new ground water quality standards, administrative procedure modifications, and updating references to new codes and guidance documents. Most of the changes are the results of activities that have occurred in the ground water protection arena since the last major modification of the rules of this type in 1994.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment updates the ground water standards listed in Table 1 to include new parameters that have had new primary or secondary maximum contaminant levels (MCLs) enacted under the Safe Drinking Water Act since the last ground water protection rule revision. The proposed amendment would change the "permit by rule" section of the rules for agricultural facilities in Subsection R317-6-6(2)(A)(17). The new language would eliminate the permit by rule provisions for the volume criteria for the 4 million gallon lagoons and go to a strict animal unit numbers only criteria. References to guidance documents and CFR dates are being updated to the most current versions. The "probable out of compliance" criteria has been modified so that when a protection level is exceeded, the permittee only has to go to monthly monitoring when the results exceed both the protection level and the two standard deviation criteria.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--The proposed changes will be addressed using existing staff and resources.

❖LOCAL GOVERNMENTS: None--The proposed rule does not incorporate any change directed specifically toward local government. The proposed changes do not expand the regulated community above that which is already covered under the existing rule. In addition, the new proposed standards reflect the same numeric levels (i.e., Safe Drinking Water Act maximum contaminant levels) which are currently incorporated into permits issued under the rule using the discretionary authority of the Executive Secretary. The proposed standards are now being incorporated as non-discretionary numeric levels. As a result, it is not anticipated that there will be any significant change to the permittees' responsibilities to comply with the proposed numeric levels.

❖OTHER PERSONS: None--The proposed changes do not expand the regulated community above that which is already covered under the existing rule. In addition, the new proposed standards reflect the same numeric levels (i.e., Safe Drinking Water Act maximum contaminant levels) which are currently incorporated into permits issued under the rule using the discretionary authority of the Executive Secretary. The proposed standards are now being incorporated as non-discretionary numeric levels. As a result, it is not anticipated that there will be any significant change to the permittees' responsibilities to comply with the proposed numeric levels.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the compliance responsibilities are essentially the same as under the current rule, no significant increases in compliance cost are anticipated as a result of the proposed amendments. The new proposed standards reflect the same numeric levels (i.e., Safe Drinking Water Act maximum contaminant levels) which are currently incorporated into permits issued under the rule using the discretionary authority of the Executive Secretary. The remaining changes either update technical references or clarify existing application of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes do not expand the regulated community as applied to businesses above that which is already covered under the existing rule. In addition, the new proposed standards reflect the same numeric levels (i.e., Safe Drinking Water Act maximum contaminant levels) which are currently incorporated into permits issued under the rule using the discretionary authority of the Executive Secretary. The proposed standards are now being incorporated as non-discretionary numeric levels. As a result, it is not anticipated that there will be any significant change to businesses' responsibilities to comply with the proposed numeric levels.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Larry Mize at the above address, by phone at (801) 538-6146, by FAX at (801) 538-6016, or by Internet E-mail at [lmize@deq.state.ut.us](mailto:lmize@deq.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/05/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/20/2001, 9:00 a.m., Room 125, Cannon Health Building, 288 North 1460 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/31/2001

AUTHORIZED BY: Dianne R. Nielson, Director

### **R317. Environmental Quality, Water Quality.**

#### **R317-6. Ground Water Quality Protection.**

##### **R317-6-1. Definitions.**

1.1 "Aquifer" means a geologic formation, group of geologic formations or part of a geologic formation that contains sufficiently saturated permeable material to yield usable quantities of water to wells and springs.

1.2 "Background Concentration" means the arithmetic mean for the concentration of a pollutant in ground water upgradient or lateral hydraulically equivalent point from a facility, practice or activity or at a compliance monitoring point and which has not been affected by that facility, practice or activity.

1.3 "Best Available Technology" means the application of design, equipment, work practice, operation standard or combination thereof at a facility to effect the maximum reduction of a pollutant achievable by available processes and methods taking into account energy, public health, environmental and economic impacts and other costs.

1.4 "Best Available Technology Standard" means a performance standard or pollutant concentration achievable through the application of best available technology.

1.5 "Board" means the Utah Water Quality Board.

1.6 "Class TDS Limit" means the upper boundary of the TDS range for an applicable class as specified in Section R317-6-3.

1.7 "Community Drinking Water System" means a public drinking water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.

1.8 "Comparable Quality (Source)" means a potential alternative source or sources of water supply which has the same general quality as the ground water source.

1.9 "Comparable Quantity (Source)" means a potential alternative source of water supply capable of reliably supplying water in quantities sufficient to meet the year-round needs of the users served by the ground water source.

1.10 "Compliance Monitoring Point" means a well, seep, spring, or other sampling point used to determine compliance with applicable permit limits.

1.11 "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.

1.12 "Conventional Treatment" means normal and usual treatment of water for distribution in public drinking water supply

systems including flocculation, sedimentation, filtration, disinfection and storage.

1.13 "Discharge" means the release of a pollutant directly or indirectly into subsurface waters of the state.

1.14 "Existing Facility" means a facility or activity that was in operation or under construction after August 14, 1989 and before February 10, 1990.

1.15 "Economically Infeasible" means, in the context of a public drinking water source, the cost to the typical water user for replacement water would exceed the community's ability to pay.

1.16 "Executive Secretary" means the Executive Secretary of the Utah Water Quality Board.

1.17 "Facility" means any building, structure, processing, handling, or storage facility, equipment or activity; or contiguous group of buildings, structures, or processing, handling or storage facilities, equipment, or activities or combination thereof.

1.18 "Gradient" means the change in total water pressure head per unit of distance.

1.19 "Ground Water" means subsurface water in the zone of saturation including perched ground water.

1.20 "Ground Water Quality Standards" means numerical contaminant concentration levels adopted by the Board in or under R317-6-2 for the protection of the subsurface waters of the State.

1.21 "Infiltration" means the movement of water from the land surface into the pores of rock, soil or sediment.

1.22 "Institutional Constraints" means legal or other restrictions that preclude replacement water delivery and which cannot be alleviated through administrative procedures or market transactions.

1.23 "Lateral Hydraulically Equivalent Point" means a point located hydraulically equal to a facility and in the same ground water with similar geochemistry such that the ground water at that point has not been affected by the facility.

1.24 "Limit of Detection" means the concentration of a chemical below which it can not be detected using currently accepted sampling and analytical techniques for drinking water as determined by the U.S. Environmental Protection Agency.

1.25 "New Facility" means a facility for which construction or modification is initiated after February 9, 1990.

1.26 "Permit Limit" means a ground water pollutant concentration limitation specified in a Ground Water Discharge Permit and may include protection levels, class TDS limits, ground water quality standards, alternate concentration limits, permit-specific ground water quality standards, or limits stipulated in the application and use of best available technology. For facilities permitted by rule under R317-6-6.2, a permit limit is a ground water pollutant concentration limitation specified in R317-6-6.2.B.

1.27 "Person" means any individual, corporation, partnership, association, company or body politic, including any agency or instrumentality of the federal, state, or local government.

1.28 "Point of Discharge" means the area within outermost location at which effluent or leachate has been stored, applied, disposed of, or discharged; for a diked facility, the outermost edge of the dikes.

1.29 "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, munitions, trash, chemical

wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into waters of the state.

1.30 "Pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the State, or such discharge of any liquid, gaseous, or solid substance into any waters of the state as will create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

1.31 "Protection Level" means the ground water pollutant concentration levels specified in R317-6-4.

1.32 "Substantial Treatment" means treatment of water utilizing specialized treatment methods including ion exchange, reverse osmosis, electrodialysis and other methods needed to upgrade water quality to meet standards for public water systems.

1.33 "Technology Performance Monitoring" means the evaluation of a permitted facility to determine compliance with best available technology standards.

1.34 "Total Dissolved Solids (TDS)" means the quantity of dissolved material in a sample of water which is determined by weighing the solid residue obtained by evaporating a measured volume of a filtered sample to dryness; or for many waters that contain more than 1000 mg/l, the sum of the chemical constituents.

1.35 "Radius of Influence" means the radial distance from the center of a well bore to the point where there is no lowering of the water table or potentiometric surface because of pumping of the well; the edge of the cone of depression.

1.36 "Upgradient" means a point located hydraulically above a facility such that the ground water at that point has not been impacted by discharges from the facility.

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

1.38 "Waste" see "Pollutant."

1.39 "Water Table" means the top of the saturated zone of a body of unconfined ground water at which the pressure is equal to that of the atmosphere.

1.40 "Water Table Aquifer" means an aquifer extending downward from the water table to the first confining bed.

1.41 "Waters of the State" means all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof; except bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance or a public health hazard, or a menace to fish and wildlife, shall not be considered to be "waters of the state" under this definition.

1.42 "Zone of Influence" means the area contained by the outer edge of the drawdown cone of a water well.

### **R317-6-2. Ground Water Quality Standards.**

2.1 The following Ground Water Quality Standards as listed in Table I are adopted for protection of ground water quality.

TABLE 1  
GROUND WATER QUALITY STANDARDS

Parameter	Milligrams per liter (mg/l) unless noted otherwise and based on analysis of filtered sample except for Mercury and organic compounds
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PHYSICAL CHARACTERISTICS

Color (units)	15.0
Corrosivity (characteristic)	noncorrosive
Odor (threshold number)	3.0
pH (units)	6.5-8.5

INORGANIC CHEMICALS

Asbestos (fibers/l greater than 10 um length)	7.0+06
Cyanide (free)	0.2
Fluoride	4.0
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Total Nitrate/Nitrite (as N)	10.0
Sulfate	250

METALS

Arsenic	0.05
Antimony	0.006
Barium	2.0
Beryllium	0.004
Cadmium	0.005
Chromium	0.1
Copper	1.3
Lead	0.015
Mercury	0.002
Selenium	0.05
Silver	0.1
Thallium	0.002
Zinc	5.0

ORGANIC CHEMICALS

Pesticides and PCBs	
Aldichlor	0.002
Aldicarb	0.00[3]Z
Aldicarb sulfone	0.00[2]Z
Aldicarb sulfoxide	0.00[4]Z
Atrazine	0.003
Carbofuran	0.04
Chlordane	0.002
Dalapon (sodium salt)	0.2
Dibromochloropropane (DBCP)	0.0002
[2,4-D-]Dinoseb	0. [07]007
Diquat	0.02
Dichlorophenoxyacetic acid (2, 4-) (2,4D)	0.07
Endothal	0.1
Endrin	0.002
Ethylene Dibromide (EDB)	0.00005
Heptachlor	0.0004
Heptachlor epoxide	0.0002
Glyphosate	0.7
Lindane	0.0002
Methoxychlor	0.04
Oxamyl (Vydate)	0.2
Polychlorinated Biphenyls	0.0005
Pentachlorophenol	0.001
Picloram	0.5
Toxaphene	0.003
Simazine	0.004
2, 4, 5-TP (Silvex)	0.05
1,2-Dibromo-3-chloropropane (DBCP)	0.0002

VOLATILE ORGANIC CHEMICALS

Benzene	0.005
Benzo(a)pyrene (PAH)	0.0002
Carbon tetrachloride	0.005
[1,2-Dichloroethane]Dichloromethane	0.005
[1,1-Di(2-ethylhexyl)adiate	0.4
Di(2-ethylhexyl)phthalate	0.006
Dioxin(2,3,7,8-TCDD)	0.0000003
Dichloroethane (1,2-)	0.005
Dichloroethylene (1,1-)	0.007
[1,1,1-Trichloroethane]Dichloropropane (1,2-)	0. [200]005
para - Dichlorobenzene	0.075
o-Dichlorobenzene	0.6
cis-1,2 dichloroethylene	0.07
trans-1,2 dichloroethylene	0.1
[1,2-Dichloropropane	0.005]
Ethylbenzene	0.7
Hexachlorobenzene	0.001
Hexachlorocyclopentadiene	0.05
Monochlorobenzene	0.1
Styrene	0.1
Tetrachloroethylene	0.005
Toluene	1
Trichlorobenzene (1,2,4-)	0.07
Trichloroethane (1,1,1-)	0.200
Trichloroethane (1,1,2-)	0.005
Trichloroethylene	0.005
Vinyl chloride	0.002
Xylenes (Total)	10

OTHER ORGANIC CHEMICALS

[Trihalomethanes]Bromodichloromethane (THM)	0.08
Bromoform (THM-Tribromomethane)	0.08
Chloroform (THM-Trichloromethane)	0.08
Dibromochloromethane (THM)	0.08
Total Trihalomethanes (TTHM)	0.08
Bromate	0. [7]01
Chloramine	4.0
Chlorine	4.0
Chlorine Dioxide	0.8
Chlorite	1.0
Dichloroacetic acid	0.06
Monochloroacetic acid	0.06
Epichlorohydrin	Zero
Acrylamide	Zero

RADIONUCLIDES

The following are the maximum contaminant levels for Radium-226 and Radium-228, and gross alpha particle radioactivity, beta particle radioactivity, [and] photon radioactivity and uranium concentration:

Combined Radium-226 and Radium-228	5pCi/l
Gross alpha particle activity, including Radium-226 but excluding Radon and Uranium	15pCi/l
Uranium	0.030 mg/l

Beta particle and photon radioactivity

The average annual concentration from man-made radionuclides of beta particle and photon radioactivity from man-made radionuclides shall not produce an annual dose equivalent to the total body or any internal organ greater than four millirem/year.

Except for the radionuclides listed below, the concentration of man-made radionuclides causing four millirem total body or organ dose equivalents shall be calculated on the basis of a two liter per day drinking water intake using the 168 hour data listed in "Maximum Permissible Body Burden and Maximum Permissible Concentration Exposure", NBS Handbook 69 as amended August 1962, U.S. Department of Commerce. If two or more radionuclides are present, the sum of

their annual dose equivalent to the total body or to any organ shall not exceed four millirem/year.

Average annual concentrations assumed to produce a total body or organ dose of four millirem/year:

Radionuclide	Critical Organ	pCi per liter
Tritium	Total Body	20,000
Strontium-90	Bone Marrow	8

2.2 A permit specific ground water quality standard for any pollutant not specified in Table 1 may be established by the Executive Secretary at a level that will protect public health and the environment. This permit limit may be based on U.S. Environmental Protection Agency maximum contaminant level goals, health advisories, risk based contaminant levels, standards established by other regulatory agencies and other relevant information.

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**R317-6-4. Ground Water Class Protection Levels.**

**4.1 GENERAL**

A. Protection levels are ground water pollutant concentration limits, set by ground water class, for the operation of facilities that discharge or would probably discharge to ground water.

B. For the physical characteristics (color, corrosivity, odor, and pH) and radionuclides listed in Table 1, the values listed are the protection levels for all ground water classes.

**4.2 CLASS IA PROTECTION LEVELS**

A. Class IA ground water will be protected to the maximum extent feasible from degradation due to facilities that discharge or would probably discharge to ground water.

B. The following protection levels will apply:

1. Total dissolved solids concentration may not exceed the lesser of 1.1 times the background [value]concentration or [ 500 mg/l.

2. When a contaminant is not present in a detectable amount as a background concentration, the concentration of the pollutant may not exceed the greater of 0.1 times the ground water quality standard value, or the limit of detection.

3. When a contaminant is present in a detectable amount as a background concentration, the concentration of the pollutant may not exceed the greater of 1.1 times the background concentration or 0.1 times the ground water quality standard; however, in no case will the concentration of a pollutant be allowed to exceed the ground water quality standard.

**4.3 CLASS IB PROTECTION LEVELS**

A. Class IB ground water will be protected as an irreplaceable source of drinking water.

B. The following protection levels will apply:

1. The Total dissolved solids concentration may not exceed the lesser of 1.1 times the background [value]concentration or 2000 mg/l.

2. When a contaminant is not present in a detectable amount as a background concentration, the concentration of the pollutant may not exceed the greater of 0.1 times the ground water quality standard, or the limit of detection.

3. When a contaminant is present in a detectable amount as a background concentration, the concentration of the pollutant may not exceed the greater of 1.1 times the background concentration or

0.1 times the ground water quality standard; however, in no case will the concentration of a pollutant be allowed to exceed the ground water quality standard.

**4.4 CLASS IC PROTECTION LEVELS**

Class IC ground water will be protected as a source of water for potentially affected wildlife habitat. Limits on increases of total dissolved solids and organic and inorganic chemical compounds will be determined in order to meet applicable surface water standards.

**4.5 CLASS II PROTECTION LEVELS**

A. Class II ground water will be protected for use as drinking water or other similar beneficial use with conventional treatment prior to use.

B. The following protection levels will apply:

1. The Total dissolved solids concentration may not exceed 1.25 times the background [value]concentration.

2. When a contaminant is not present in a detectable amount as a background concentration, the concentration of the pollutant may not exceed the greater of 0.25 times the ground water quality standard, or the limit of detection.

3. When a contaminant is present in a detectable amount as a background concentration, the concentration of the pollutant may not exceed the greater of 1.25 times the background concentration or 0.25 times the ground water quality standard; however, in no case will the concentration of a pollutant be allowed to exceed the ground water quality standard.

**4.6 CLASS III PROTECTION LEVELS**

A. Class III ground water will be protected as a potential source of drinking water, after substantial treatment, and as a source of water for industry and agriculture.

B. The following protection levels will apply:

1. The Total dissolved solids concentration may not exceed 1.25 times the background concentration level.

2. When a contaminant is not present in a detectable amount as a background concentration, the concentration of the pollutant may not exceed the greater of 0.5 times the ground water quality standard, or the limit of detection.

3. When a contaminant is present in a detectable amount as a background concentration, the concentration of the pollutant may not exceed the greater of 1.5 times the background concentration or 0.5 times the ground water quality standard; however, in no case will the concentration of a pollutant be allowed to exceed the ground water quality standard. If the background concentration exceeds the ground water quality standard no increase will be allowed.

**4.7 CLASS IV PROTECTION LEVELS**

Protection levels for Class IV ground water will be established to protect human health and the environment.

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**R317-6-6. Implementation.**

**6.1 DUTY TO APPLY FOR A GROUND WATER DISCHARGE PERMIT**

A. No person may construct, install, or operate any new facility or modify an existing or new facility, not permitted by rule under R317-6-6.2, which discharges or would probably result in a discharge of pollutants that may move directly or indirectly into ground water, including, but not limited to land application of

wastes; waste storage pits; waste storage piles; landfills and dumps; large feedlots; mining, milling and metallurgical operations, including heap leach facilities; and pits, ponds, and lagoons whether lined or not, without a ground water discharge permit from the Executive Secretary. A ground water discharge permit application should be submitted at least 180 days before the permit is needed.

B. All persons who constructed, modified, installed, or operated any existing facility, not permitted by rule under R317-6-6.2, which discharges or would probably result in a discharge of pollutants that may move directly or indirectly into ground water, including, but not limited to: land application of wastes; waste storage pits; waste storage piles; landfills and dumps; large feedlots; mining, milling and metallurgical operations, including heap leach facilities; and pits, ponds, and lagoons whether lined or not, must have submitted a notification of the nature and location of the discharge to the Executive Secretary before February 10, 1990 and must submit an application for a ground water discharge permit within one year after receipt of written notice from the Executive Secretary that a ground water discharge permit is required.

#### 6.2 GROUND WATER DISCHARGE PERMIT BY RULE

A. Except as provided in R317-6-6.2.C, the following facilities are considered to be permitted by rule and are not required to obtain a discharge permit under R317-6-6.1 or comply with R317-6-6.3 through R317-6-6.7, R317-6-6.9 through R317-6-6.11, R317-6-6.13, R317-6-6.16, R317-6-6.17 and R317-6-6.18:

1. facilities with effluent or leachate which has been demonstrated to the satisfaction of the Executive Secretary to conform and will not deviate from the applicable class TDS limits, ground water quality standards, protection levels or other permit limits and which does not contain any contaminant that may present a threat to human health, the environment or its potential beneficial uses of the ground water. The Executive Secretary may require samples to be analyzed for the presence of contaminants before the effluent or leachate discharges directly or indirectly into ground water. If the discharge is by seepage through natural or altered natural materials, the Executive Secretary may require samples of the solution to be analyzed for the presence of pollutants before or after seepage;

2. water used for watering of lawns, gardens, or shrubs or for irrigation for the revegetation of a disturbed land area except for the direct land application of wastewater;

3. application of agricultural chemicals including fertilizers, herbicides and pesticides including but not limited to, insecticides fungicides, rodenticides and fumigants when used in accordance with current scientifically based manufacturer's recommendations for the crop, soil, and climate and in accordance with state and federal statutes, regulations, permits, and orders adopted to avoid ground water pollution;

4. water used for irrigated agriculture except for the direct land application of wastewater from municipal, industrial or mining facilities;

5. flood control systems including detention basins, catch basins and wetland treatment facilities used for collecting or conveying storm water runoff;

6. natural ground water seeping or flowing into conventional mine workings which re-enters the ground by natural gravity flow prior to pumping or transporting out of the mine and without being used in any mining or metallurgical process;

7. leachate which results entirely from the direct natural infiltration of precipitation through undisturbed materials;

8. wells and facilities regulated under the underground injection control (UIC) program;

9. land application of livestock wastes, within expected crop nitrogen uptake;

10. individual subsurface wastewater disposal systems approved by local health departments or large subsurface wastewater disposal systems approved by the Board;

11. produced water pits, and other oil field waste treatment, storage, and disposal facilities regulated by the Division of Oil, Gas, and Mining in accordance with Section 40-6-5(3)(d) and R649-9, Disposal of Produced Water;

12. reserve pits regulated by the Division of Oil, Gas and Mining in accordance with Section 40-6-5(3)(a) and R649-3-7, Drilling and Operating Practices;

13. storage tanks installed or operated under regulations adopted by the Utah Solid and Hazardous Waste Control Board;

14. coal mining operations or facilities regulated under the Coal Mining and Reclamation Act by the Utah Division of Oil, Gas, and Mining (DOG M). The submission of an application for ground water discharge permit under R317-6-6.2.C may be required only if the Executive Secretary, after consideration of recommendations, if any, by DOGM, determines that the discharge violates applicable ground water quality standards, applicable Class TDS limits, or is interfering with a reasonable foreseeable beneficial use of the ground water. DOGM is not required to establish any administrative or regulatory requirements which are in addition to the rules of DOGM for coal mining operations or facilities to implement these ground water regulations;

15. hazardous waste or solid waste management units managed or undergoing corrective action under R315-1 through R315-14;

16. solid waste landfills permitted under the requirements of R315-303;

17. animal feeding operations, as defined in UAC R317-8-3.5(2) that use liquid waste handling systems, which are not located within Zone 1 (100[3] feet) for wells in a confined aquifer or Zone 2 (250 day time of travel) for wells and springs in unconfined aquifers, in accordance with the Public Drinking Water ~~[Rule]~~ Regulations UAC R309-113, and which meet either of the following criteria:

a) operations constructed prior to the effective date of this rule which ~~[incorporate low volume]~~ incorporated liquid waste handling systems ~~[of]~~ and which are either less than 4 million gallons capacity or serve fewer than 1000 animal units, or

b. operations with fewer than the following numbers of ~~[animals]~~ confined animals:

i. 1, ~~[000]~~ 500 slaughter and feeder cattle,

ii. ~~[700]~~ 1,050 mature dairy cattle, whether milked or dry cows,

iii. ~~[2]~~ 3,500 750 swine each weighing over 25 kilograms (approximately 55 pounds), ~~[for facilities without animal waste collection and treatment systems approved by the Executive Secretary.]~~

iv. ~~[1,000,000]~~ pounds steady state live animal weight of swine for facilities with animal waste collection and treatment systems for which a construction permit has been issued by the Executive Secretary;

v. ~~500~~18,750 swine each weighing 25 kilograms or less (approximately 55 pounds),

v. 750 horses,

vi. 1[~~0~~]5,000 sheep or lambs,

vii. [~~55,000~~]82,500 turkeys,

viii. 1[~~0~~]50,000 laying hens or broilers, ~~if the facility has~~ that use continuous [over flow] overflow watering but dry handle wastes,

ix. [~~30~~]45,000 hens or broilers, ~~if the facility has a liquid manure handling system;~~

x. [~~5,000~~]7,500 ducks, or

xi. 1, [~~000~~]500 animal units[;]

18. animal feeding operations, as defined in UAC R317-8-3.5(2), which do not utilize liquid waste handling systems;

19. mining, processing or milling facilities handling less than 10 tons per day of metallic and/or nonmetallic ore and waste rock, not to exceed 2500 tons/year in aggregate unless the processing or milling uses chemical leaching;

20. pipelines and above-ground storage tanks;

21. drilling operations for metallic minerals, nonmetallic minerals, water, hydrocarbons, or geothermal energy sources when done in conformance with applicable regulations of the Utah Division of Oil, Gas, and Mining or the Utah Division of Water Rights;

22. land application of municipal sewage sludge for beneficial use, at or below the agronomic rate and in compliance with the requirements of 40 CFR 503, July 1, [~~1993~~]2000 edition;

23. land application of municipal sewage sludge for mine-reclamation at a rate higher than the agronomic rate and in compliance with 40 CFR 503, July 1, [~~1993~~]2000 edition;

24. municipal wastewater treatment lagoons receiving no wastewater from a significant industrial discharger as defined in R317-8-8.2(12); and

25. facilities and modifications thereto which the Executive Secretary determines after a review of the application will have a de minimis actual or potential effect on ground water quality.

B. No facility permitted by rule under R317-6-6.2.A may cause ground water to exceed ground water quality standards or the applicable class TDS limits in R317-6-3.1 to R317-6-3.7. If the background concentration for affected ground water exceeds the ground water quality standard, the facility may not cause an increase over background. This section, R317-6-6.2B. does not apply to facilities undergoing corrective action under R317-6-6.15A.3.

C. The submission of an application for a ground water discharge permit may be required by the Executive Secretary for any discharge permitted by rule under R317-6-6.2 if it is determined that the discharge may be causing or is likely to cause increases above the ground water quality standards or applicable class TDS limits under R317-6-3 or otherwise is interfering or may interfere with probable future beneficial use of the ground water.

### 6.3 APPLICATION REQUIREMENTS FOR A GROUND WATER DISCHARGE PERMIT

Unless otherwise determined by the Executive Secretary, the application for a permit to discharge wastes or pollutants to ground water shall include the following complete information:

A. The name and address of the applicant and the name and address of the owner of the facility if different than the applicant. A corporate application must be signed by an officer of the

corporation. The name and address of the contact, if different than above, and telephone numbers for all listed names shall be included.

B. The legal location of the facility by county, quarter-quarter section, township, and range.

C. The name of the facility and the type of facility, including the expected facility life.

D. A plat map showing all water wells, including the status and use of each well, topography, springs, water bodies, drainages, and man-made structures within a one-mile radius of the discharge. The plat map must also show the location and depth of existing or proposed wells to be used for monitoring ground water quality.

E. Geologic, hydrologic, and agricultural description of the geographic area within a one-mile radius of the point of discharge, including soil types, aquifers, ground water flow direction, ground water quality, aquifer material, and well logs.

F. The type, source, and chemical, physical, radiological, and toxic characteristics of the effluent or leachate to be discharged; the average and maximum daily amount of effluent or leachate discharged (gpd), the discharge rate (gpm), and the expected concentrations of any pollutant (mg/l) in each discharge or combination of discharges. If more than one discharge point is used, information for each point must be given separately.

G. Information which shows that the discharge can be controlled and will not migrate into or adversely affect the quality of any other waters of the state, including the applicable surface water quality standards, that the discharge is compatible with the receiving ground water, and that the discharge will comply with the applicable class TDS limits, ground water quality standards, class protection levels or an alternate concentration limit proposed by the facility.

H. For areas where the ground water has not been classified by the Board, information on the quality of the receiving ground water sufficient to determine the applicable protection levels.

I. ~~The~~ A proposed Sampling and Analysis monitoring plan[;] which conforms to EPA Guidance for Quality Assurance Project Plans, EPA QA/G-5 (EPA/600/R-98/018, February 1998) and includes a description, where appropriate, of the following:

1. ground water monitoring to determine ground water flow direction and gradient, background quality at the site, and the quality of ground water at the compliance monitoring point;

2. installation, use and maintenance of monitoring devices;

3. description of the compliance monitoring area defined by the compliance monitoring points including the dimensions and hydrologic and geologic data used to determine the dimensions;

4. monitoring of the vadose zone;

5. measures to prevent ground water contamination after the cessation of operation, including post-operational monitoring;

6. monitoring well construction and ground water sampling which conform ~~[to A Guide to the Selection of Materials for]~~ where applicable to the Handbook of Suggested Practices for Design and Installation of Ground-Water Monitoring [Well Construction and] Wells (EPA/600/4-89/034, March 1991), ASTM Standards on Ground Water and Vadose Investigations (1996), Practical Guide for Ground Water Sampling (EPA/600/2-85/104, [f]September 198[3]5) and RCRA Ground Water Monitoring Technical Enforcement Guidance Manual (1986), unless otherwise specified by the Executive Secretary;

7. description and justification of parameters to be monitored[;];

8. quality assurance and control provisions for monitoring data.

J. The plans and specifications relating to construction, modification, and operation of discharge systems.

K. The description of the ground water most likely to be affected by the discharge, including water quality information of the receiving ground water prior to discharge, a description of the aquifer in which the ground water occurs, the depth to the ground water, the saturated thickness, flow direction, porosity, hydraulic conductivity, and flow systems characteristics.

L. The compliance sampling plan which in addition to the information specified in above item I includes, where appropriate, provisions for sampling of effluent and for flow monitoring in order to determine the volume and chemistry of the discharge onto or below the surface of the ground and a plan for sampling compliance monitoring points and appropriate nearby water wells. Sampling and analytical methods proposed in the application must conform with the most appropriate methods specified in the following references unless otherwise [specified]approved by the Executive Secretary:

1. Standard Methods for the Examination of Water and Wastewater, [eighteenth]Twentieth edition, 199[2]8; Library of Congress catalogue number: ISBN: [0-87553-207-1]0-87553-235-7.

2. E.P.A. Methods, Methods for Chemical Analysis of Water and Wastes, 1983; Stock Number EPA-600/4-79-020.

3. Techniques of Water Resource Investigations of the U.S. Geological Survey, ([1982]1998); Book [5, Chapter A3]9.

4. Monitoring requirements in 40 CFR parts 141 and 142, [1991]2000 ed., Primary Drinking Water Regulations and 40 CFR parts 264 and 270, [1991]2000 ed.

5. National Handbook of Recommended Methods for Water-Data Acquisition, GSA-GS edition; Book 85 AD-2777, U.S. Government Printing Office Stock Number 024-001-03489-1.

~~6. Manual of Analytical Methods for the Analysis of Pesticide Residues in Humans and Environmental Samples, 1980; Stock Number EPA-600/8-80-038, U.S. Environmental Protection Agency.]~~

M. A description of the flooding potential of the discharge site, including the 100-year flood plain, and any applicable flood protection measures.

N. Contingency plan for regaining and maintaining compliance with the permit limits and for reestablishing best available technology as defined in the permit.

O. Methods and procedures for inspections of the facility operations and for detecting failure of the system.

P. For any existing facility, a corrective action plan or identification of other response measures to be taken to remedy any violation of applicable ground water quality standards, class TDS limits or permit limit established under R317-6-6.4E. which has resulted from discharges occurring prior to issuance of a ground water discharge permit.

Q. Other information required by the Executive Secretary.

R. A closure and post closure management plan.

#### 6.4 ISSUANCE OF DISCHARGE PERMIT

A. The Executive Secretary may issue a ground water discharge permit for a new facility if the Executive Secretary determines, after reviewing the information provided under R317-6-6.3, that:

1. the applicant demonstrates that the applicable class TDS limits, ground water quality standards, protection levels, and permit limits established under R317-6-6.4E will be met;

2. the monitoring plan, sampling and reporting requirements are adequate to determine compliance with applicable requirements;

3. the applicant is using best available technology to minimize the discharge of any pollutant; and

4. there is no impairment of present and future beneficial uses of the ground water.

B. The Board may approve an alternate concentration limit for a new facility if:

1. The applicant submits a petition for an alternate concentration limit showing the extent to which the discharge will exceed the applicable class TDS limits, ground water standards or applicable protection levels and demonstrates that:

a. the facility is to be located in an area of Class III ground water;

b. the discharge plan incorporates the use of best available technology;

c. the alternate concentration limit is justified based on substantial overriding social and economic benefits; and,

d. the discharge would pose no threat to human health and the environment.

2. One or more public hearings have been held by the Board in nearby communities to solicit comment.

C. The Executive Secretary may issue a ground water discharge permit for an existing facility provided:

1. the applicant demonstrates that the applicable class TDS limits, ground water quality standards and protection levels will be met;

2. the monitoring plan, sampling and reporting requirements are adequate to determine compliance with applicable requirements;

3. the applicant utilizes treatment and discharge minimization technology commensurate with plant process design capability and similar or equivalent to that utilized by facilities that produce similar products or services with similar production process technology; and,

4. there is no current or anticipated impairment of present and future beneficial uses of the ground water.

D. The Board may approve an alternate concentration limit for a pollutant in ground water at an existing facility or facility permitted by rule under R317-6-6.2 if the applicant for a ground water discharge permit shows the extent the discharge exceeds the applicable class TDS limits, ground water quality standards and applicable protection levels that correspond to the otherwise applicable ground water quality standards and demonstrates that:

1. steps are being taken to correct the source of contamination, including a program and timetable for completion;

2. the pollution poses no threat to human health and the environment; and

3. the alternate concentration limit is justified based on overriding social and economic benefits.

E. An alternate concentration limit, once adopted by the Board under R317-6-6.4B or R317-6-6.4D, shall be the pertinent permit limit.

F. A facility permitted under this provision shall meet applicable class TDS limits, ground water quality standards, protection levels and permit limits.



G. The Board may modify a permit for a new facility to reflect standards adopted as part of corrective action.

#### 6.5 NOTICE OF INTENT TO ISSUE A GROUND WATER DISCHARGE PERMIT

The Executive Secretary shall publish a notice of intent to approve in a newspaper in the affected area and shall allow 30 days in which interested persons may comment to the Board. Final action will be taken by the Executive Secretary following the 30-day comment period.

#### 6.6 PERMIT TERM

A. The ground water discharge permit term will run for 5 years from the date of issuance. Permits may be renewed for 5-year periods or extended for a period to be determined by the Executive Secretary but not to exceed 5 years.

B. In the event that new ground water quality standards are adopted by the Board, permits may be reopened to extend the terms of the permit or to include pollutants covered by new standards. The holder of a permit may apply for a variance under the conditions outlined in R317-6-6.4.D.

#### 6.7 GROUND WATER DISCHARGE PERMIT RENEWAL

The permittee for a facility with a ground water discharge permit must apply for a renewal or extension for a ground water discharge permit at least 180 days prior to the expiration of the existing permit. If a permit expires before an application for renewal or extension is acted upon by the Executive Secretary, the permit will continue in effect until it is renewed, extended or denied.

#### 6.8 TERMINATION OF A GROUND WATER DISCHARGE PERMIT BY THE EXECUTIVE SECRETARY

A ground water discharge permit may be terminated or a renewal denied by the Executive Secretary if one of the following applies:

A. noncompliance by the permittee with any condition of the permit where the permittee has failed to take appropriate action in a timely manner to remedy the permit violation;

B. the permittee's failure in the application or during the permit approval process to disclose fully all significant relevant facts at any time;

C. a determination that the permitted facility endangers human health or the environment and can only be regulated to acceptable levels by plan modification or termination; or

D. the permittee requests termination of the permit.

#### 6.9 PERMIT COMPLIANCE MONITORING

##### A. Ground Water Monitoring

The Executive Secretary may include in a ground water discharge permit requirements for ground water monitoring, and may specify compliance monitoring points where the applicable class TDS limits, ground water quality standards, protection levels or other permit limits are to be met.

The Executive Secretary will determine the location of the compliance monitoring point based upon the hydrology, type of pollutants, and other factors that may affect the ground water quality. The distance to the compliance monitoring points must be as close as practicable to the point of discharge. The compliance monitoring point shall not be beyond the property boundaries of the permitted facility without written agreement of the affected property owners and approval by the Executive Secretary.[-

]

##### B. Performance Monitoring

The Executive Secretary may include in a ground water discharge permit requirements for monitoring performance of best available technology standards.

#### 6.10 BACKGROUND WATER QUALITY DETERMINATION

A. Background water quality contaminant concentrations shall be determined and specified in the ground water discharge permit. The determination of background concentration shall take into account any degradation.

B. Background water quality contaminant concentrations may be determined from existing information or from data collected by the permit applicant. Existing information shall be used, if the permit applicant demonstrates that the quality of the information and its means of collection are adequate to determine background water quality. If existing information is not adequate to determine background water quality, the permit applicant shall submit a plan to determine background water quality to the Executive Secretary for approval prior to data collection. One or more up-gradient, lateral hydraulically equivalent point, or other monitoring wells as approved by the Executive Secretary may be required for each potential discharge site.

C. After a permit has been issued, permittee shall continue to monitor background water quality contaminant concentrations in order to determine natural fluctuations in concentrations. Applicable up-gradient, and on-site ground water monitoring data shall be included in the ground water quality permit monitoring report.

#### 6.11 NOTICE OF COMMENCEMENT AND DISCONTINUANCE OF GROUND WATER DISCHARGE OPERATIONS

A. The permittee shall notify the Division of Water Quality immediately upon commencement of the ground water discharge and submit a written notice within 30 days of the commencement of the discharge.

B. The permittee shall notify the Division of Water Quality of the date and reason for discontinuance of ground water discharge within 30 days.

#### 6.12 SUBMISSION OF DATA

##### A. Laboratory Analyses

All laboratory analysis of samples collected to determine compliance with these regulations shall be performed in accordance with standard procedures by the Utah Division of Laboratory Services or by a laboratory certified by the Utah Department of Health.

##### B. Field Analyses

All field analyses to determine compliance with these regulations shall be conducted in accordance with standard procedures specified in R317-6-6.3.L.

##### C. Periodic Submission of Monitoring Reports

Results obtained pursuant to any monitoring requirements in the discharge permit and the methods used to obtain these results shall be periodically reported to the Executive Secretary according to the schedule specified in the ground water discharge permit.

#### 6.13 REPORTING OF MECHANICAL PROBLEMS OR DISCHARGE SYSTEM FAILURES

The permittee shall notify the Executive Secretary within 24 hours of the discovery of any mechanical or discharge system failures that could affect the chemical characteristics or volume of the discharge. A written statement confirming the oral report shall be submitted to the Executive Secretary within five days of the failure.

6.14 CORRECTION OF ADVERSE EFFECTS REQUIRED

A. If monitoring or testing indicates that the permit conditions may be or are being violated by ground water discharge operations or the facility is otherwise in an out-of-compliance status, the permittee shall promptly make corrections to the system to correct all violations of the discharge permit.

B. The permittee, operator, or owner may be required to take corrective action as described in R317-6-6.15 if a pollutant concentration has exceeded a permit limit.

6.15 CORRECTIVE ACTION

It is the intent of the Board that the provisions of these regulations should be considered when making decisions under any state or federal superfund action; however, the protection levels are not intended to be considered as applicable, relevant or appropriate clean-up standards under such other regulatory programs.

A. Application of R317-6-6.15

1. Generally - R317-6-6.15 shall apply to any person who discharges pollutants into ground water in violation of Section 19-5-107, or who places or causes to be placed any wastes in a location where there is probable cause to believe they will cause pollution of ground water in violation of Section 19-5-107.

2. Corrective Action shall include, except as otherwise provided in R317-6-6.15, preparation of a Contamination Investigation and preparation and implementation of a Corrective Action Plan.

3. The procedural provisions of R-317-6-6.15 shall not apply to any facility where a corrective or remedial action for ground water contamination, that the Executive Secretary determines meets the substantive standards of this rule, has been initiated under any other state or federal program. Corrective or remedial action undertaken under the programs specified in Table 2 are considered to meet the substantive standards of this rule unless otherwise determined by the Executive Secretary.

TABLE 2

PROGRAM

- Leaking Underground Storage Tank, Sections 19-6-401, et seq.
- Federal Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sections 9601, et seq.
- Hazardous Waste Mitigation Act, Sections 19-6-301 et seq.
- Utah Solid and Hazardous Waste Act, Sections 19-6-101 et seq.

B. Notification and Interim Action

1. Notification - A person who spills or discharges any oil or other substance which may cause pollution of ground waters in violation of Section 19-5-107 shall notify the Executive Secretary within 24 hours of the spill or discharge. A written notification shall be submitted to the Executive Secretary within five days after the spill or discharge.

2. Interim Actions - A person is encouraged to take immediate, interim action without following the steps outlined in R317-6-6.15 if such action is required to control a source of pollutants. Interim action is also encouraged if required to protect public safety, public health and welfare and the environment, or to prevent further contamination that would result in costlier clean-up. Such interim actions should include source abatement and control, neutralization, or other actions as appropriate. A person that has taken these actions shall remain subject to R317-6-6.15 after the interim actions are completed unless he demonstrates that:

- a. no pollutants have been discharged into ground water in violation of 19-5-107; and
- b. no wastes remain in a location where there is probable cause to believe they will cause pollution of ground water in violation of 19-5-107.

C. Contamination Investigation and Corrective Action Plan - General

1. The Executive Secretary may require a person that is subject to R317-6-6.15 to submit for the Executive Secretary's approval a Contamination Investigation and Corrective Action Plan, and may require implementation of an approved Corrective Action Plan. A person subject to this rule who has been notified that the Executive Secretary is exercising his or her authority under R317-6-6.15 to require submission of a Contamination Investigation and Corrective Action Plan, shall, within 30 days of that notification, submit to the Executive Secretary a proposed schedule for those submissions, which may include different deadlines for different elements of the Investigation and Plan. The Executive Secretary may accept, reject, or modify the proposed schedule.

2. The Contamination Investigation or the Corrective Action Plan may, in order to meet the requirements of this Part, incorporate by reference information already provided to the Executive Secretary in the Contingency Plan or other document.

3. The requirements for a Contamination Investigation and a Corrective Action Plan specified in R317-6-6.15.D are comprehensive. The requirements are intended to be applied with flexibility, and persons subject to this rule are encouraged to contact the Executive Secretary's staff to assure its efficient application on a site-specific basis.

4. The Executive Secretary may waive any or all Contamination Investigation and Corrective Action Plan requirements where the person subject to this rule demonstrates that the information that would otherwise be required is not necessary to the Executive Secretary's evaluation of the Contamination Investigation or Corrective Action Plan. Requests for waiver shall be submitted to the Executive Secretary as part of the Contamination Investigation or Corrective Action Plan, or may be submitted in advance of those reports.

D. Contamination Investigation and Corrective Action Plan - Requirements

1. Contamination Investigation - The contamination investigation shall include a characterization of pollution, a characterization of the facility, a data report, and, if the Corrective Action Plan proposes standards under R317-6-6.15.F.2. or Alternate Corrective Action Concentration Limits higher than the ground water quality standards, an endangerment assessment.

a. The characterization of pollution shall include a description of:

(1) The amount, form, concentration, toxicity, environmental fate and transport, and other significant characteristics of substances present, for both ground water contaminants and any contributing surficial contaminants;

(2) The areal and vertical extent of the contaminant concentration, distribution and chemical make-up; and

(3) The extent to which contaminant substances have migrated and are expected to migrate.

b. The characterization of the facility shall include descriptions of:

(1) Contaminant substance mixtures present and media of occurrence;

(2) Hydrogeologic conditions underlying and, upgradient and downgradient of the facility;

(3) Surface waters in the area;

(4) Climatologic and meteorologic conditions in the area of the facility; and

(5) Type, location and description of possible sources of the pollution at the facility;

(6) Groundwater withdrawals, pumpage rates, and usage within a 2-mile radius.

c. The report of data used and data gaps shall include:

(1) Data packages including quality assurance and quality control reports;

(2) A description of the data used in the report; and

(3) A description of any data gaps encountered, how those gaps affect the analysis and any plans to fill those gaps.

d. The endangerment assessment shall include descriptions of any risk evaluation necessary to support a proposal for a standard under R317-6-6.15.F.2 or for an Alternate Corrective Action Concentration Limit.

e. The Contamination Investigation shall include such other information as the Executive Secretary requires.

#### 2. Proposed Corrective Action Plan

The proposed Corrective Action Plan shall include an explanation of the construction and operation of the proposed Corrective Action, addressing the factors to be considered by the Executive Secretary as specified in R317-6-6.15.E. and shall include such other information as the Executive Secretary requires. It shall also include a proposed schedule for completion.

#### E. Approval of the Corrective Action Plan

After public notice in a newspaper in the affected area and a 30-day period for opportunity for public review and comment, the Executive Secretary shall issue an order approving, disapproving, or modifying the proposed Corrective Action Plan. The Executive Secretary shall consider the following factors and criteria in making that decision:

##### 1. Completeness and Accuracy of Corrective Action Plan.

The Executive Secretary shall consider the completeness and accuracy of the Corrective Action Plan and of the information upon which it relies.

##### 2. Action Protective of Public Health and the Environment

a. The Corrective Action shall be protective of the public health and the environment.

b. Impacts as a result of any off-site activities shall be considered under this criterion (e.g., the transport and disposition of contaminated materials at an off-site facility).

#### 3. Action Meets Concentration Limits

The Corrective Action shall meet Corrective Action Concentration Limits specified in R317-6-6.15.F, except as provided in R317-6-6.15.G.

#### 4. Action Produces a Permanent Effect

a. The Corrective Action shall produce a permanent effect.

b. If the Corrective Action Plan provides that any potential sources of pollutants are to be controlled in place, any cap or other method of source control shall be designed so that the discharge from the source following corrective action achieves ground water quality standards or, if approved by the Board, alternate corrective action concentration limits (ACACLs). For purposes of this paragraph, sources of pollutants are controlled "in place" even though they are moved within the facility boundaries provided that they are not moved to areas with unaffected ground water.

#### 5. Action May Use Other Additional Measures

The Executive Secretary may consider whether additional measures should be included in the Plan to better assure that the criteria and factors specified in R317-6-6.15.E are met. Such measures may include:

a. Requiring long-term ground water or other monitoring;

b. Providing environmental hazard notices or other security measures;

c. Capping of sources of ground water contamination to avoid infiltration of precipitation;

d. Requiring long-term operation and maintenance of all portions of the Corrective Action; and

e. Periodic review to determine whether the Corrective Action is protective of public health and the environment.

#### F. Corrective Action Concentration Limits

##### 1. Contaminants with specified levels

Corrective Actions shall achieve ground water quality standards or, where applicable, alternate corrective action concentration limits (ACACLs).

##### 2. Contaminants without specified levels

For contaminants for which no ground water quality standard has been established, the proposed Corrective Action Plan shall include proposed Corrective Action Concentration Limits. These levels shall be approved, disapproved or modified by the Executive Secretary after considering U.S. Environmental Protection Agency maximum contaminant level goals, health advisories, risk-based contaminant levels or standards established by other regulatory agencies and other relevant information.

##### G. Alternate Corrective Action Concentration Limits

An Alternate Corrective Action Concentration Limit that is higher or lower than the Corrective Action Concentration Limits specified in R317-6-6.15.F may be required as provided in the following:

##### 1. Higher Alternate Corrective Action Concentration Limits

A person submitting a proposed Corrective Action Plan may request approval by the Board of an Alternate Corrective Action Concentration Limit higher than the Corrective Action Concentration Limit specified in R317-6-6.15.F. The proposed limit shall be protective of human health, and the environment, and shall utilize best available technology. The Corrective Action Plan shall include the following information in support of this request:

a. The potential for release and migration of any contaminant substances or treatment residuals that might remain after Corrective

Action in concentrations higher than Corrective Action Concentration Limits;

b. An evaluation of residual risks, in terms of amounts and concentrations of contaminant substances remaining following implementation of the Corrective Action options evaluated, including consideration of the persistence, toxicity, mobility, and propensity to bioaccumulate such contaminants substances and their constituents; and

c. Any other information necessary to determine whether the conditions of R317-6-6.15.G have been met.

#### 2. Lower Alternate Corrective Action Concentration Limits

The Board may require use of an Alternate Corrective Action Concentration Limit that is lower than the Corrective Action Concentration Limit specified in R317-6-6.15.F if necessary to protect human health or the environment. Any person requesting that the Board consider requiring a lower Alternate Corrective Action Concentration Limit shall provide supporting information as described in R317-6-6.15.G.3.

#### 3. Protective of human health and the environment

The Alternate Corrective Action Concentration Limit must be protective of human health and the environment. In making this determination, the Board may consider:

a. Information presented in the Contamination Investigation;

b. Other relevant cleanup or health standards, criteria, or guidance;

c. Relevant and reasonably available scientific information;

d. Any additional information relevant to the protectiveness of a Corrective Action; and

e. The impact of additional proposed measures, such as those described in R317-6-6.15.E.5.

#### 4. Good cause

An Alternate Corrective Action Concentration Limit shall not be granted without good cause.

a. The Board may consider the factors specified in R317-6-6.15.E in determining whether there is good cause.

b. The Board may also consider whether the proposed remedy is cost-effective in determining whether there is good cause. Costs that may be considered include but are not limited to:

(1) Capital costs;

(2) Operation and maintenance costs;

(3) Costs of periodic reviews, where required;

(4) Net present value of capital and operation and maintenance costs;

(5) Potential future remedial action costs; and

(6) Loss of resource value.

#### 5. Conservative

An Alternate Corrective Action Concentration Limit that is higher than the Corrective Action Concentration Limits specified in R317-6-6.15.F must be conservative. The Board may consider the concentration level that can be achieved using best available technology if attainment of the Corrective Action Concentration Limit is not technologically achievable.

#### 6. Relation to background and existing conditions

a. The Board may consider the relationship between the Corrective Action Concentration Limits and background concentration limits in considering whether an Alternate Corrective Action Concentration Limit is appropriate.

b. No Alternate Corrective Action Concentration Limit higher than existing ground water contamination levels or ground water

contamination levels projected to result from existing conditions will be granted.

#### 6.16 OUT-OF-COMPLIANCE STATUS

A. Accelerated Monitoring for Probable Out-of-Compliance Status

If the ~~[concentration]~~value of a single analysis of a pollutant concentration in any compliance monitoring sample exceeds an applicable permit limit, the facility shall:

1. Notify the Executive Secretary in writing within 30 days of receipt of data;

2. ~~[Initiate]~~Immediately initiate monthly sampling if the value exceeds both the background concentration of the pollutant by two standard deviations and an applicable permit limit, unless the Executive Secretary determines that other periodic sampling is appropriate, for a period of two months or until the compliance status of the facility can be determined.

#### B. Violation of Permit Limits

Out-of-compliance status exists when:

1. The value for two consecutive samples from a compliance monitoring point exceeds:

a. one or more permit limits; and

b. the ~~[mean ground water pollutant]~~background concentration for that pollutant by two standard deviations (the standard deviation and mean being calculated using values for the ground water pollutant at that compliance monitoring point); or

2. the concentration value of any pollutant in two or more consecutive samples is statistically significantly higher than the applicable permit limit. The statistical significance shall be determined using the statistical methods described in Statistical Methods for Evaluating Ground Water Monitoring Data from Hazardous Waste Facilities, Vol. 53, No. 196 of the Federal Register, Oct. 11, 1988 and supplemental guidance in Guidance For Data Quality Assessment (EPA/600/R-96/084 January 1998).

C. Failure to Maintain Best Available Technology Required by Permit

#### 1. Permittee to Provide Information

In the event that the permittee fails to maintain best available technology or otherwise fails to meet best available technology standards as required by the permit, the permittee shall submit to the Executive Secretary a notification and description of the failure according to R317-6-6.13. Notification shall be given orally within 24 hours of the permittee's discovery of the failure of best available technology, and shall be followed up by written notification, including the information necessary to make a determination under R317-6-6.16.C.2, within five days of the permittee's discovery of the failure of best available technology.

#### 2. Executive Secretary

The Executive Secretary shall use the information provided under R317-6-6.16.C.1 and any additional information provided by the permittee to determine whether to initiate a compliance action against the permittee for violation of permit conditions. The Executive Secretary shall not initiate a compliance action if the Executive Secretary determines that the permittee has met the standards for an affirmative defense, as specified in R317-6-6.16.C.3.

#### 3. Affirmative Defense

In the event a compliance action is initiated against the permittee for violation of permit conditions relating to best

available technology, the permittee may affirmatively defend against that action by demonstrating the following:

- a. The permittee submitted notification according to R317-6-6.13;
- b. The failure was not intentional or caused by the permittee's negligence, either in action or in failure to act;
- c. The permittee has taken adequate measures to meet permit conditions in a timely manner or has submitted to the Executive Secretary, for the Executive Secretary's approval, an adequate plan and schedule for meeting permit conditions; and
- d. The provisions of 19-5-107 have not been violated.

**6.17 PROCEDURE WHEN A FACILITY IS OUT-OF-COMPLIANCE**

- A. If a facility is out of compliance the following is required:
  - 1. The permittee shall notify the Executive Secretary of the out of compliance status within 24 hours after detection of that status, followed by a written notice within 5 days of the detection.
  - 2. The permittee shall initiate monthly sampling, unless the Executive Secretary determines that other periodic sampling is appropriate, until the facility is brought into compliance.
  - 3. The permittee shall prepare and submit within 30 days to the Executive Secretary a plan and time schedule for assessment of the source, extent and potential dispersion of the contamination, and an evaluation of potential remedial action to restore and maintain ground water quality and insure that permit limits will not be exceeded at the compliance monitoring point and best available technology will be reestablished.

4. The Executive Secretary may require immediate implementation of the contingency plan submitted with the original ground water discharge permit in order to regain and maintain compliance with the permit limit standards at the compliance monitoring point or to reestablish best available technology as defined in the permit.

5. Where it is infeasible to re-establish BAT as defined in the permit, the permittee may propose an alternative BAT for approval by the Executive Secretary.

**6.18 GROUND WATER DISCHARGE PERMIT TRANSFER**

A. The permittee shall give written notice to the Executive Secretary of any transfer of the ground water discharge permit, within 30 days of the transfer.

B. The notice shall include a written agreement between the existing and new permittee establishing a specific date for transfer of permit responsibility, coverage and liability.

**6.19 ENFORCEMENT**

These rules are subject to enforcement under Section 19-5-115 of the Utah Water Quality Act.

**6.20 HEARING AND APPEALS**

- A. Any person may request a hearing before the Board who:
  - 1. is denied a permit by rule by the Executive Secretary under R317-6-6.2;
  - 2. objects to a discharge limit established by the Executive Secretary;
  - 3. objects to conditions or limitations proposed or established by the Executive Secretary in the ground water discharge permit; or
  - 4. objects to monitoring, sampling, information, or other requests or requirements made by the Executive Secretary;
  - 5. objects to denial by the Executive Secretary of a proposed Corrective Action Plan under R317-6-6.15; or

6. objects to conditions proposed or established by the Executive Secretary in a Corrective Action Plan under R317-6-6.15.

B. Any person who is denied a permit or whose permit is proposed to be terminated or revoked by the Executive Secretary may appeal that decision to the Executive Director of the Department of Environmental Quality pursuant to Section 19-5-112(2).

C. Hearings under R317-6 will be conducted using the Utah Administrative Procedures Act, Title 63, Chapter 46b.

**KEY: water quality, ground water**

~~March 20, 1995~~ **2001**

**19-5**

**Notice of Continuation December 12, 1997**



**Governor, Planning and Budget, Chief Information Officer**

**R365-3**

**Computer Software Licensing, Copyright, and Control**

**NOTICE OF PROPOSED RULE**

(Repeal and reenact)

DAR FILE NO.: 23972

FILED: 08/07/2001, 15:12

RECEIVED BY: NL

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rule contained outdated references, incorrect citations to the State Code, and vague language that had the potential of increasing the State's liability.

**SUMMARY OF THE RULE OR CHANGE:** Deleted some portions of the rule that were vague or unclear, and inserted more specific language where necessary. Made amendments to the practices a state agency is required adopt with respect to computer software. Deleted references to outdated sources, and changed citations made to the wrong sections of the Utah Code. Shifted responsibility for approval of software transfer agreements from the Information Technology Policy and Strategy Committee (ITPSC) to the Chief Information Officer (CIO).

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 63D-1-301.5, 63-46a-3, 34-39-1, and 63-2-101

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--This is a re-write of a rule that has been in existence for a number of years. However, some of the wording has been confusing for people attempting to comply with it to understand. The only major change is a shift in responsibility for approval of software transfer agreements from the ITPSC to the CIO. Since we will absorb

this change in our existing budgets there is no financial impact.

❖LOCAL GOVERNMENTS: None--Because the Chief Information Officer's authority is restricted to State agencies.

❖OTHER PERSONS: None--Because the Chief Information Officer's authority is restricted to State agencies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This is a re-write of a rule that has been in existence for a number of years. However, some of the wording has been confusing for people attempting to comply with it to understand. The only major change is a shift in responsibility for approval of software transfer agreements from the ITPSC to the CIO. Since we will absorb this change in our existing budgets there is no financial impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Chief Information Officer has reviewed the rule and found that there would be no fiscal impact on business.

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

Governor  
Planning and Budget, Chief Information Officer  
5110 State Office Building  
116 State Capitol  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alan C. Sherwood at the above address, by phone at (801) 538-1195, by FAX at (801) 538-1547, or by Internet E-mail at asherwood@utah.gov.

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 10/01/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2001

AUTHORIZED BY: Phillip Windley, Chief Information Officer

**R365. Governor, Planning and Budget, Chief Information Officer.**

~~[R365-3. Computer Software Licensing, Copyright, and Control.~~

~~**R365-3-1. Purpose.**~~

~~— The purpose of this rule is to establish the state's position and its intent to:~~

~~— (1) comply with computer software licensing agreements and federal laws, including copyright and patent laws;~~

~~— (2) define the methods by which the state will control and protect computer software; and~~

~~— (3) establish the state's right, title and interest in state-developed computer software, including its sale and transfer under certain conditions.~~

~~**R365-3-2. Application.**~~

~~— All state agencies of the executive branch of government shall comply with this rule, which shall apply to all computer software, regardless of the operating environment or source of that software.~~

~~**R365-3-3. Authority.**~~

~~— This rule is issued by the Chief Information Officer, pursuant to the Information Technology Act, Section 63D-1-301, and in accordance with the Utah Rulemaking Act, Section 63-46a-3, Utah Code Annotated, 1953.~~

~~**R365-3-4. Definitions.**~~

~~— As used in this rule:~~

~~— (1) "Audit" means audit of compliance with laws, rules and policy applicable to computer software and related documentation; and reporting findings and conclusions.~~

~~— (2) "Commercial computer software" means computer software which is used regularly for other than Government purposes and is sold, licensed, or leased in significant quantities to the general public at established market or catalog prices.~~

~~— (3) "Computer data base" means a collection of data in a form capable of being processed and operated on by a computer.~~

~~— (4) "Computer program" means a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program.~~

~~— (5) "Computer software" means computer programs and computer data bases.~~

~~— (6) "State agency" means any agency or administrative subunit of state government except the following:~~

~~— (a) legislative and judicial branches;~~

~~— (b) State Board of Education;~~

~~— (c) Board of Regents; and~~

~~— (d) institutions of higher education.~~

~~— (7) "State-developed computer software" means computer software and related documentation developed under contract or under the conditions set forth in the Employment Inventions Act, Section 34-39-1 et seq., Utah Code Annotated, 1953.~~

~~**R365-3-5. Compliance and Responsibilities.**~~

~~— (1) Each state agency and its employees shall comply with computer software licensing agreements and federal laws, including copyright and patent laws.~~

~~— (2) Each state agency shall adopt the following practices to control computer software:~~

~~— (a) Keep and maintain an inventory control listing of all state-owned computer software.~~

~~— (b) Designate an employee to keep track of all computer software license agreements for a state agency. Each designated employee shall make requests for interpretation of a computer software license agreement to the Chief Information Officer, when necessary.~~

~~— (c) Provide enough legally purchased copies of computer software to enable all employees to meet management's expectations and reduce any necessity for computer software piracy.~~

— (d) Ensure that all data or computer software is removed from the storage media of any computer device before disposition or transfer of equipment, unless computer software and related documentation are included as part of the transfer.

— (e) Carefully research computer software licensing agreements before purchasing computer software:

— (3) A state agency may retain the right, title and interest in any state-developed computer software. To do so, each agency shall:

— (a) clearly define who has ownership in all contracts for the development of computer software and related documentation:

— (b) mark all computer software and related documentation developed by employees with the copyright symbol, year, and label "Utah State Government", on all media on which the computer software or documentation is stored and also at the beginning of computer software execution:

— (4) A state agency may sell or otherwise transfer the right, title and interest in any state-developed computer software as permitted by the State Attorney General's Office Informal Opinion No. 85-65: Such action shall meet the following requirements:

— (a) submit a request for approval to sell or otherwise transfer state-developed computer software to the Information Technology Policy and Strategy Committee, through the Chief Information Officer. Included within this request shall be all applicable contractual and other pertinent information:

— (b) clearly specify within the transfer documents whether costs associated with copying and sending the state-developed computer software will be recovered from the receiver:

— (c) clearly specify within the transfer documents whether costs of development will be recovered from the receiver in the selling price of the state-developed computer software:

— (d) clearly specify within the transfer documents that the receiver is responsible for acquiring any commercial computer software upon which the state-developed computer software may be dependent:

— (e) clearly specify within the transfer documents that no additional services, such as installation, training, or maintenance, will be provided unless negotiated otherwise:

— (f) clearly specify within the transfer documents that the state-developed computer software is being transferred in "as is" condition and that the State will not be held liable for any incidental and consequential damages under any circumstances:

— (g) account for funds received as "revenue" (dedicated credits) or a "refund of expenditure," subject to the provisions of Appropriation Control, I-02-02.00 as of 25 January 1988 and Internal Service and Enterprise Funds, I-07 et seq., as of 1 July 1988, State Accounting Policies and Procedures, Budgetary Procedures Act, Section 63-38-3 and 63-38-3.5, Utah Code Annotated, 1953; and the conditions articulated by the Division of Finance Opinion dated March 23, 1992, wherein:

— (i) A state agency enters into a cost sharing agreement with another entity to develop computer software. (Note: In this situation, any collections from the other entity for their share of the cost will be deposited as a refund of expenditure.)

— (ii) A state agency develops computer software and then shares the computer software with other entities. (Note: The only costs recovered by the developing agency are those costs to

duplicate and distribute the computer software and manuals, which would also be a refund of expenditure. An agency should make sure the expenditure and the refund of expenditure are both recorded in the same fiscal year.)

— (iii) A state agency wishes to market its state-developed computer software similar to a commercial enterprise. (Note: The intent is to recover the full cost of developing and distributing the computer software. In this situation the collections for sale of the computer software should be deposited as revenue (dedicated credits) to the agency.)

— (h) retain records of sales and other transfers, and process them in accordance with the Government Records Access and Management Act, Section 63-2-101 et seq., Utah Code Annotated, 1953:

— (5) A state agency may initiate a "Memorandum of Understanding" when reasons exist to share state-developed computer software with other states or entities. Such agreements shall conform with the provisions of the Utah Attorney General's letter of December 13, 1985, to the Office of Planning and Budget, or other pertinent legal documentation:

— (6) The Chief Information Officer shall measure compliance of a state agency and its employees with this rule by conducting a periodic audit in accordance with Section 63D-1-301, Utah Code Annotated, 1953, and utilizing external auditors and an agency's internal auditor(s) where such resources are available and appropriate:

— (7) A state employee who is found to not be in compliance with this rule may be subject to disciplinary action, including dismissal.

**KEY: computer software\*, licensing, copyright, control\***  
**September 15, 1997** ~~63D-1-301~~  
~~63-46a-3~~  
~~34-39-1 et seq.]~~

**R365-3. Computer Software Licensing, Copyright, Control, Retention, and Transfer.**

**R365-3-1. Purpose.**

The purpose of this rule is to establish the State of Utah's position and its intent to:

- (1) comply with computer software licensing agreements and applicable federal laws, including copyright and patent laws;
- (2) define the methods by which the State of Utah (State) will control and protect computer software; and
- (3) establish the State's right, title and interest in state-developed computer software, including the sale and transfer of such software under certain conditions.

**R365-3-2. Application.**

All state agencies of the executive branch of the State government shall comply with this rule, which applies to the use, acquisition and transfer of all computer software, regardless of the operating environment or source of the software.

**R365-3-3. Authority.**

This rule is issued by the Chief Information Officer under the authority of Section 63D-1-301.5 of the Information Technology Act, and in accordance with Section 63-46a-3 of the Utah Rulemaking Act, Utah Code Annotated.

**R365-3-4. Definitions.**

As used in this rule:

(1) "Audit" means to review compliance with laws, rules and policies that apply to computer software and related documentation; and to report findings and conclusions.

(2) "Commercial computer software" means computer software that is sold, licensed, or leased in significant quantities to the general public at established market or catalog prices.

(3) "Computer program" means a set of statements or instructions used in an information processing system to provide storage, retrieval, and manipulation of data from the computer system and any associated documentation and source material that explain how to operate the program.

(4) "Computer software" means sets of instructions or programs structured in a manner designed to cause a computer to carry out a desired result.

(5) "State agency" means any agency or administrative sub-unit of the executive branch of the State government except:

(a) the State Board of Education; and

(b) the Board of Regents and institutions of higher education.

(6) "State-developed computer software" means computer software and related documentation developed under contract with the State or by State employees under the conditions set forth in the Employment Inventions Act, Section 34-39-1 et seq., Utah Code Annotated.

**R365-3-5. Compliance and Responsibilities: Software Licensing.**

(1) Each state agency and its employees shall comply with computer software licensing agreements, state laws, federal contracts, federal funding agreements, and federal laws, including copyright and patent laws.

(2) Each state agency shall adopt the following practices with respect to computer software:

(a) Keep and maintain an inventory of all state-owned computer software and software licensing agreements.

(b) Ensure that all data and computer software is removed from the storage media of any computer device before disposing of or transferring the equipment, unless the computer software and related documentation are included as part of the transfer.

(c) Understand the conditions of computer software licensing agreements before purchasing computer software, and inform State employees, whose responsibility it is to monitor the State's compliance with computer software licensing agreements, of these conditions.

(d) Inform employees that are engaged in developing or controlling the distribution of software for the State, that any state-developed software is an asset owned by the State and controlled according to the terms of this rule.

**R365-3-6. Compliance and Responsibilities: Retention and Transfer of State-Developed Computer Software.**

(1) Unless otherwise prohibited by federal law, regulation, contract or funding agreement, a state agency may retain the right, title and interest in any state-developed computer software. To do so, the agency shall:

(a) clearly define in all contracts that it controls the ownership rights for computer software development and related documentation; and

(b) mark all computer software and related documentation developed by employees of the State with the copyright symbol and year, and label "Utah State Government" on all media on which the computer software or documentation is stored and at the beginning of the computer software execution.

(2) A state agency may sell or otherwise transfer the right, title and interest in any state-developed computer software. In order to carry this out, the agency must do the following:

(a) Submit a request to and obtain approval from the Chief Information Officer prior to the sale or transfer of state-developed computer software. The agency's request shall include a copy of the transfer agreement and any other contractual information. A summary report of these requests will be provided to the Information Technology Policy and Strategy Committee. An example of a model transfer or sale of state-developed software agreement may be obtained from the Chief Information Officer.

(b) Clearly specify within the transfer documents whether the costs of development will be recovered from the receiver.

(c) Clearly specify within the transfer documents whether the costs associated with copying and sending the state-developed computer software will be recovered from the receiver.

(d) Clearly specify within the transfer documents that the receiver is responsible for acquiring any commercial computer software upon which the state-developed computer software may be dependent.

(e) Clearly specify within the transfer documents that no additional services, such as installation, training, or maintenance, will be provided unless the parties have agreed otherwise.

(f) Clearly specify within the transfer documents that the state-developed computer software is being transferred in "as is" condition, and that the State will not be held liable for any incidental or consequential damages under any circumstances.

(g) Retain a record of the transfer, and process it in accordance with the Government Records Access and Management Act, Section 63-2-101 et seq., Utah Code Annotated.

(3) A state agency may initiate an agreement to transfer state-developed computer software when reasons exist to share such software with another state or entity.

(4) The Chief Information Officer may measure compliance of a state agency and its employees with this rule by conducting periodic audits in accordance with Section 63D-1-301.5, Utah Code Annotated. In performing audits, the Chief Information Officer may utilize external auditors and an agency's internal auditor(s) when such resources are available and the use of such resources is appropriate.

(5) A State employee who does not comply with this rule may be subject to disciplinary action, including dismissal, by the appropriate agency supervisor in accordance with Department of Human Resource Management Rule R477-11-1 et seq., Utah Administrative Code.

**KEY: computer software, licensing, copyright, transfer**  
**2001** **63D-1-301.5**  
**63-46a-3**  
**34-39-1 et seq.**  
**63-2-101 et seq.**





Insurance, Administration  
**R590-210**  
 Privacy of Consumer Information  
 Exemption for Manufacturer Warranties  
 and Service Contracts

**NOTICE OF PROPOSED RULE**

(New)

DAR FILE NO.: 23985

FILED: 08/10/2001, 16:51

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To provide an exemption to warranty and service contract providers from Rule R590-206, which deals with privacy of consumer information.

SUMMARY OF THE RULE OR CHANGE: This rule provides an exemption to warranty and service contract providers from the department's privacy rule, R590-206. The Enforcement Section establishes the exemption for warranty and services contracts.

**(DAR Note:** A corresponding 120-day (Emergency) rule was published in the July 15, 2001, issue of the *Utah State Bulletin* (2001-14, page 70) and is effective as of July 1, 2001.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-2-202, and Subsection 31A-23-317(3)

FEDERAL REQUIREMENT FOR THIS RULE: 15 U.S.C. 6805

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The proposed rule will cost the department printing and mailing costs to notify the 1636 insurance industry licensees and individuals about this rule.

❖**LOCAL GOVERNMENTS:** This rule will not affect local government.

❖**OTHER PERSONS:** The persons affected by this rule will be consumer goods retail merchants and auto dealers who write warranty and service contracts.

The rule is applicable to all licensees of the department, approximately 1500 insurance companies and 40,000 agents. Persons or entities that provide warranty or service contracts on consumer goods are required to register with the department and provide certain information relating to their ability to perform under the warranty or service contract unless these contracts are exempted from the rule, the provider must be fully compliant with R590-206 on July 1, 2001.

Without the exemption the persons or entities providing the warranties or service contracts will experience immediate service costs to be in compliance with R590-206 or they would have to stop providing the product. The impact to the public would be immediate on inter-state commerce because

the increased costs would be passed on to consumers or their access to these products would be limited or reduced. The application of the rule to these contracts and warranties would change the market and reduce supply.

The warranty and service contract providers are not subject to Gramm-Leach-Bliley. However, because these providers are required to register with the department they are considered "licensees" of the department and without exemption would need to comply with R590-206. The department's interest in regulating these providers under the rule is outweighed by the potential and actual harm to the providers and the public.

COMPLIANCE COSTS FOR AFFECTED PERSONS: See "Other persons" language above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule exempts warranty and service contract writers from Rule R590-206. It will not have a negative impact on these writers. Rather, it benefits their segment of the market by exempting them from Rule R590-206. It will save those affected time and money and avoid unnecessary regulation.

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

Insurance  
 Administration  
 3110 State Office Building  
 Salt Lake City, UT 84114, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at [ldmain.jwhitby@state.ut.us](mailto:ldmain.jwhitby@state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2001

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-210. Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts.**

**R590-210-1. Authority.**

This rule is promulgated pursuant to Subsections 31A-2-202(1), 31A-2-201(2) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce Title 31A, to perform duties imposed by Title 31A and to make administrative rules to implement the provisions of Title 31A. Furthermore, Title V, Section 505 (15 United States Code (U.S.C.) 6805) empowers the Utah Insurance Commissioner to enforce Subtitle A of Title V of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 through 6820). The commissioner is also authorized under Subsection 31A-23-317(3) to adopt rules implementing the requirements of Title V.

Sections 501 to 505 of the federal act (15 U.S.C 6801 through 6807).

**R590-210-2. Purpose.**

The purpose of this rule is to exempt any person that is licensed or registered by the department that sells or provides the following from the requirements of the department's rule, R590-206:

- (1) manufacturer warranties;
- (2) manufacturer service contracts paid for with consideration that is in addition to the consideration paid for the product; and
- (3) service contracts paid for with consideration in addition to the consideration paid for the product and the service contract is for the repair or maintenance of goods, including motor vehicles.

**R590-210-3. Applicability and Scope.**

This rule applies only to persons licensed or registered by the department that sell or provide manufacturer warranties, manufacturer service contracts paid for with consideration that is in addition to the consideration paid for the product, and service contracts paid for with consideration in addition to the consideration paid for the product and the service contract is for the repair or maintenance of goods, including motor vehicles.

**R590-210-4. Enforcement.**

Persons licensed or registered by the department that sell or provide manufacturer warranties, manufacturer service contracts paid for with consideration that is in addition to the consideration paid for the product, and service contracts paid for with consideration in addition to the consideration paid for the product and the service contract is for the repair or maintenance of goods, including motor vehicles are hereby exempted from the requirements of the department's rule, R590-206.

**R590-210-5. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such validity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance law privacy**  
**2001**

**31A-2-201**  
**31A-2-202**  
**31A-23-317**  
**15 U.S.C 6801-6807**



Tax Commission, Property Tax  
**R884-24P-33**  
2001 Personal Property Valuation  
Guides and Schedules Pursuant to  
Utah Code Ann. Section 59-2-301

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE No.: 23994  
FILED: 08/15/2001, 16:41  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This is an annual update to the personal property guides and schedules for local assessment of business personal property and motor vehicles.

SUMMARY OF THE RULE OR CHANGE: Section 59-2-301 requires the county assessor to assess all property located within the county. Subsection 59-1-210(3) authorizes the State Tax Commission to promulgate rules that aid county officials in the performance of any duties relating to the assessment and equalization of property within the county.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-301

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 personal property value. Without knowing the acquisitions and deletions of personal property during 2001, any increase or decrease in 2002 tax revenue, even with no percent good schedule changes, could not be determined. The proposed personal property schedules in this rule are raised, lowered or remain the same for 2002 based on the type and age of the property assessed. Schedules for Class 1, Class 15, Class 23, and Class 24 are proposed with no changes for 2002 from 2001. A new Class 27 is proposed for Electrical Power Generating Equipment and Fixtures for 2002. The amount of saving or cost resulting from this addition is undetermined. Property included in this Class 27 has not previously been assessed by a county assessor. This class has been developed in anticipation of several new small power generation facilities that will not cross county or state lines and will therefore be locally assessed. There may be no percent good change from the previous rule depending on the assessment year. Schedules used to value business personal property increase as much as four percentage points between the proposed rule and the previous rule. Schedules used to value motor vehicles decrease as much as eleven percentage points between the proposed rule and the previous rule. Proposed schedules used to value registered recreational vehicles decrease up to six percentage points in an assessment year compared to the previous rule. In aggregate for all personal property schedules, it is anticipated that the change in the annual tax rate will have a larger impact on revenue than will the proposed schedule changes due to amendments to Sections R884-24P-33.

❖LOCAL GOVERNMENTS: The amount of saving or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased

personal property value. Without knowing the acquisitions and deletions of personal property during 2001, any increase or decrease in 2002 tax revenue, even with no percent good schedule changes, could not be determined. The proposed personal property schedules in this rule are raised, lowered or remain the same for 2002 based on the type and age of the property. Schedules for Class 1, Class 15, Class 23, and Class 24 are proposed with no changes for 2002 from 2001. A new Class 27 is proposed for Electrical Power Generating Equipment and Fixtures for 2002. Property included in this class has not previously been assessed by a county assessor. The amount of saving or cost resulting from this addition is undetermined. There may be no percent good change from the previous rule depending on the assessment year. Schedules used to value business personal property increase as much as four percentage points between the proposed rule and the previous rule. Schedules used to value motor vehicles decrease as much as eleven percentage points between the proposed rule and the previous rule. Proposed schedules used to value registered recreational vehicles decrease up to six percentage points in an assessment year compared to the previous rule. In aggregate for all personal property schedules, it is anticipated that the change in the annual tax rate will have a larger impact on revenue than will the proposed schedule changes due to amendments to Section R884-24P-33.

❖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 personal property value. Without knowing the acquisitions and deletions of personal property during 2001, any increase or decrease in 2002 tax liability, even with no percent good schedule changes, could not be determined. The proposed personal property schedules in this rule are raised, lowered or remain the same for 2002 based on the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2002 property mix compared to the 2001 historical totals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Local business owners and property tax practitioners will once again be required to be aware of new percent good figures and personal property taxes are assessed and billed. However, this is no different than previous years and therefore the compliance cost in completing the assessment process will not change. The change in taxes charged for these businesses depends entirely on the mix of property since some percent good schedules are increasing and others decreasing. For example, the owner of a commercial trailer may see a decrease in taxes since the 2002 proposed percent good schedule for this class drops by as much as eleven percentage points or increases by as much as two percentage points, compared to the previous rule, depending on the model year of the trailer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated above, the fiscal impact to businesses from changes in the proposed personal property schedules due to changes in Section R884-24P-33 will not be as significant as changes in the annual tax rate.

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 10/01/01.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/01

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R884. Tax Commission, Property Tax.**

**R884-24P. Property Tax.**

**R884-24P-33. [2001]2002 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.**

A. Definitions.

1. "Acquisition cost" means all costs required to put an item into service, including purchase price, freight and shipping costs; installation, engineering, erection or assembly costs; and excise and sales taxes.

a) Indirect costs such as debugging, licensing fees and permits, insurance or security are not included in the acquisition cost.

b) Acquisition cost may correspond to the cost new for new property, or cost used for used property.

2. "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.

a) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.

3. "Cost new" means the actual cost of the property when purchased new. Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new:

a) documented actual cost of the new or used vehicle; or

b) recognized publications that provide a method for approximating cost new for new or used vehicles.

4. "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.

a) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.

b) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as NADA.

B. Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

1. Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

2. A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

3. County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

C. Other taxable personal property that is not included in the listed classes includes:

1. Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.

2. Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.

3. Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.

D. Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.

E. All taxable personal property is classified by expected economic life as follows:

1. Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.

a) Examples of property in the class include:

- (1) barricades/warning signs;
- (2) library materials;
- (3) patterns, jigs and dies;
- (4) pots, pans, and utensils;
- (5) canned computer software;
- (6) hotel linen;
- (7) wood and pallets;
- (8) video tapes, compact discs, and DVDs; and
- (9) uniforms.

b) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

c) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:

- (1) retail price of the canned computer software;
- (2) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or

(3) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of all expected licensing fees paid pursuant to the agreement.

d) Video tapes, compact discs, and DVDs are valued at \$15.00 per tape or disc for the first year and \$3.00 per tape or disc thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	70%
[99]00	40%
[98]99 and prior	10%

2. Class 2 - Computer Integrated Machinery.

a) Machinery shall be classified as computer integrated machinery if all of the following conditions are met:

(1) The equipment is sold as a single unit. If the invoice ~~breaks~~ breaks out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.

(2) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.

(3) The machine can perform multiple functions and is controlled by a programmable central processing unit.

(4) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.

(5) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	[86%]87%
[99]00	[74%]72%
[98]99	[59%]60%
[97]98	51%
[96]97	[43%]44%
[95]96	35%
[94]95	26%
[93]94 and prior	17%

3. Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.

a) Examples of property in this class include:

- (1) office machines;
- (2) alarm systems;
- (3) shopping carts;
- (4) ATM machines;
- (5) small equipment rentals;
- (6) rent-to-own merchandise;
- (7) telephone equipment and systems;
- (8) music systems;
- (9) vending machines; ~~and~~
- (10) video game machines; ~~and~~
- (11) cash registers and point of sale equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	83%
[99]00	67%
[98]99	[56%]51%
[97]98	34%
[96]97 and prior	17%

4. Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

a) Examples of property in this class include:

- (1) furniture;
- (2) bars and sinks;
- (3) booths, tables and chairs;
- (4) beauty and barber shop fixtures;
- (5) cabinets and shelves;
- (6) displays, cases and racks;
- (7) office furniture;
- (8) theater seats;
- (9) water slides; and
- (10) signs, mechanical and electrical.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 5

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	[89%]90%
[99]00	[80%]81%
[98]99	[70%]72%
[97]98	[61%]62%
[96]97	52%
[95]96	[43%]42%
[94]95	33%
[93]94	[23%]22%
[92]93 and prior	[11%]12%

5. Class 6 - Heavy and Medium Duty Trucks.

a) Examples of property in this class include:

- (1) heavy duty trucks; and
- (2) medium duty trucks.

b) Taxable value is calculated by applying the percent good factor against the cost new.

c) Cost new of vehicles in this class is defined as follows:

- (1) the documented actual cost of the vehicle for new vehicles;
- (2) 75 percent of the manufacturer's suggested retail price; or
- (3) for vehicles purchased used, the taxing authority may determine cost new ~~[- shall be estimated]~~ by [the taxing authority]dividing the vehicle's actual cost by the percent good factor.

d) For state assessed vehicles, cost new shall include the value of attached equipment.

e) The [2001]2002 percent good applies to [2001]2002 models purchased in [2000]2001.

f) Trucks weighing two tons or more have a residual taxable value of \$1,750.

TABLE 6

[Year of] Model Year	Percent Good of Cost New
[04]02	90%
[00]01	68%
[99]00	63%
[98]99	58%
[97]98	[54%]53%
[96]97	[49%]48%
[95]96	44%
[94]95	39%
[93]94	[35%]34%
[92]93	[30%]29%
[91]92	[25%]24%
[90]91	[20%]19%
[89]90	[16%]14%
[88]89 and prior	[11%]10%

6. Class 7 - Medical and Dental Equipment. Class 7 property is subject to a high degree of technological development by the health industry.

a) Examples of property in this class include:

- (1) medical and dental equipment and instruments;
- (2) exam tables and chairs;
- (3) high-tech hospital equipment;
- (4) microscopes; and
- (5) optical equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	91%
[99]00	84%
[98]99	[75%]77%
[97]98	68%
[96]97	[60%]61%
[95]96	53%
[94]95	[46%]45%
[93]94	[38%]37%
[92]93	29%
[91]92	19%
[90]91 and prior	10%

7. Class 8 - Machinery and Equipment. Property in this class is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.

a) Examples of property in this class include:

- (1) manufacturing machinery;
- (2) amusement rides;
- (3) bakery equipment;
- (4) distillery equipment;
- (5) refrigeration equipment;
- (6) laundry and dry cleaning equipment;
- (7) machine shop equipment;
- (8) processing equipment;
- (9) auto service and repair equipment;
- (10) mining equipment;
- (11) ski lift machinery;
- (12) printing equipment;

- (13) bottling or cannery equipment; and
- (14) packaging equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	91%
[99]00	84%
[98]99	[75%]77%
[97]98	68%
[96]97	[60%]61%
[95]96	53%
[94]95	[46%]45%
[93]94	[38%]37%
[92]93	29%
[91]92	19%
[90]91 and prior	10%

8. Class 9 - Off-Highway Vehicles.

- a) Examples of property in this class include:
  - (1) dirt and trail motorcycles;
  - (2) all terrain vehicles;
  - (3) golf carts; and
  - (4) snowmobiles.
- b) Taxable value is calculated by applying the percent good factor against the cost new.
- c) The [2001]2002 percent good applies to [2001]2002 models purchased in [2000]2001.
- d) Off-Highway Vehicles have a residual taxable value of \$500.

TABLE 9

[Year of] Model Year	Percent Good of Cost New
[01]02	90%
[00]01	[64%]59%
[99]00	[60%]56%
[98]99	[57%]53%
[97]98	[53%]49%
[96]97	[49%]46%
[95]96	[46%]42%
[94]95	[42%]39%
[93]94	[38%]36%
[92]93	[35%]32%
[91]92	[31%]29%
[90]91	[27%]25%
[89]90	[24%]22%
[88]89 and prior	[20%]19%

9. Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.

- a) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	93%
[99]00	[87%]88%
[98]99	[80%]82%
[97]98	75%
[96]97	69%
[95]96	[64%]63%
[94]95	[59%]58%
[93]94	[53%]52%
[92]93	46%
[91]92	[38%]39%
[90]91	31%
[89]90	24%
[88]89	[17%]16%
[87]88 and prior	9%

10. Class 11 - Street Motorcycles.

- a) Examples of property in this class include:
  - (1) street motorcycles;
  - (2) scooters; and
  - (3) mopeds.
- b) Taxable value is calculated by applying the percent good factor against the cost new.
- c) The [2001]2002 percent good applies to [2001]2002 models purchased in [2000]2001.
- d) Street motorcycles have a residual taxable value of \$500.

TABLE 11

[Year of] Model Year	Percent Good of Cost New
[01]02	90%
[00]01	[69%]63%
[99]00	[67%]61%
[98]99	[64%]59%
[97]98	[62%]57%
[96]97	[59%]54%
[95]96	[57%]52%
[94]95	[55%]50%
[93]94	[52%]48%
[92]93	[50%]46%
[91]92	[47%]44%
[90]91	[45%]42%
[89]90	[43%]40%
[88]89	[40%]37%
[87]88	[38%]35%
[86]87	[35%]33%
[85]86	[33%]31%
[84]85 and prior	[31%]29%

11. Class 12 - Computer Hardware.

- a) Examples of property in this class include:
  - (1) data processing equipment;
  - (2) personal computers;
  - (3) main frame computers;
  - (4) computer equipment peripherals; and
  - (5) cad/cam systems.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 12

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	[84%]85%
[99]00	[57%]58%
[98]99	[36%]37%
[97]98	24%
[96]97	[14%]15%
[95]96 and prior	9%

12. Class 13 - Heavy Equipment.

a) Examples of property in this class include:

- (1) construction equipment;
- (2) excavation equipment;
- (3) loaders;
- (4) batch plants;
- (5) snow cats; and
- (6) [power]pavement sweepers.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

c) [200+]2002 model equipment purchased in [2000]2001 is valued at 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	[60%]64%
[99]00	[57%]61%
[98]99	[53%]57%
[97]98	[50%]54%
[96]97	[47%]50%
[95]96	[44%]47%
[94]95	[41%]43%
[93]94	[37%]40%
[92]93	[34%]36%
[91]92	[31%]33%
[90]91	[28%]30%
[89]90	[25%]26%
[88]89	[22%]23%
[87]88 and prior	[18%]19%

13. Class 14 - Motor Homes.

a) Taxable value is calculated by applying the percent good against the cost new.

b) The [200+]2002 percent good applies to [200+]2002 models purchased in [2000]2001.

TABLE 14

[Year of] Model Year	Percent Good of Cost New
[0+]02	90%
[00]01	[74%]67%
[99]00	[67%]64%
[98]99	[64%]61%
[97]98	[61%]58%
[96]97	[57%]55%
[95]96	[54%]52%
[94]95	[51%]49%
[93]94	[48%]46%
[92]93	[44%]43%
[91]92	[41%]40%
[90]91	[38%]37%
[89]90	34%

[00]89	31%
[07]88	[20%]27%
[06]87	24%
[05]86 and prior	21%

14. Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products.

a) Examples of property in this class include:

- (1) crystal growing equipment;
- (2) die assembly equipment;
- (3) wire bonding equipment;
- (4) encapsulation equipment;
- (5) semiconductor test equipment;
- (6) clean room equipment;
- (7) chemical and gas systems related to semiconductor manufacturing;
- (8) deionized water systems;
- (9) electrical systems; and
- (10) photo mask and wafer manufacturing dedicated to semiconductor production.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 15

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	74%
[99]00	54%
[98]99	38%
[97]98	24%
[96]97 and prior	10%

15. Class 16 - Long-Life Property. Class 16 property has a long physical life with little obsolescence.

a) Examples of property in this class include:

- (1) billboards;
- (2) sign towers;
- (3) radio towers;
- (4) ski lift and tram towers;
- (5) non-farm grain elevators; and
- (6) bulk storage tanks.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	[94%]95%
[99]00	91%
[98]99	[86%]87%
[97]98	82%
[96]97	78%
[95]96	74%
[94]95	[72%]70%
[93]94	[68%]67%
[92]93	63%
[91]92	58%
[90]91	53%
[89]90	48%
[88]89	[44%]43%
[87]88	[40%]39%

[86]87	34%
[85]86	27%
[84]85	21%
[83]84	14%
[82]83 and prior	7%

16. Class 17 - Boats.

a) Examples of property in this class include:

- (1) boats; and
- (2) boat motors.

b) Taxable value is calculated by applying the percent good factor against the cost new of the property.

c) The Tax Commission and assessors shall rely on the following sources to determine cost new for property in this class:

(1) the following publications or valuation methods:

(a) the manufacturer's suggested retail price listed in the ABOS Marine Blue Book;

(b) for property not listed in the ABOS Marine Blue Book but listed in the NADA Marine Appraisal Guide, the NADA average value for the property divided by the percent good factor; or

(c) for property not listed in the ABOS Marine Blue Book or the NADA Appraisal Guide:

i) the manufacturer's suggested retail price for comparable property; or

ii) the cost new established for that property by a documented valuation source; or

(2) the documented actual cost of new or used property in this class.

d) The [200+]2002 percent good applies to [200+]2002 models purchased in [2000]2001.

e) Boats have a residual taxable value of \$500.

TABLE 17

[Year of] Model Year	Percent Good of Cost New
[0+]02	90%
[00]01	[68%]69%
[99]00	[66%]67%
[98]99	[64%]65%
[97]98	[62%]63%
[96]97	60%
[95]96	[57%]58%
[94]95	[55%]56%
[93]94	[53%]54%
[92]93	51%
[9+]92	49%
[90]91	47%
[89]90	[44%]45%
[88]89	42%
[87]88	40%
[86]87	38%
[85]86	36%
[84]85	[34%]33%
[83]84	31%
[82]83	29%
[8+]82 and prior	27%

17. Class 18 - Travel Trailers/Truck Campers.

a) Examples of property in this class include:

- (1) travel trailers;
- (2) truck campers; and
- (3) tent trailers.

b) Taxable value is calculated by applying the percent good factor against the cost new.

c) The [200+]2002 percent good applies to [200+]2002 models purchased in [2000]2001.

d) Trailers and truck campers have a residual taxable value of \$500.

TABLE 18

[Year of] Model Year	Percent Good of Cost New
[0+]02	90%
[00]01	[68%]66%
[99]00	[65%]63%
[98]99	[62%]60%
[97]98	[59%]57%
[96]97	[56%]54%
[95]96	[53%]51%
[94]95	[50%]48%
[93]94	[47%]46%
[92]93	[44%]43%
[9+]92	[41%]40%
[90]91	[38%]37%
[89]90	[35%]34%
[88]89	[32%]31%
[87]88	[29%]28%
[86]87	[26%]25%
[85]86 and prior	[23%]22%

18. Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

a) Examples of property in this class include:

- (1) oil and gas exploration equipment;
- (2) distillation equipment;
- (3) wellhead assemblies;
- (4) holding and storage facilities;
- (5) drill rigs;
- (6) reinjection equipment;
- (7) metering devices;
- (8) cracking equipment;
- (9) well-site generators, transformers, and power lines;
- (10) equipment sheds;
- (11) pumps;
- (12) radio telemetry units; and
- (13) support and control equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	92%
[99]00	[86%]87%
[98]99	[79%]80%
[97]98	[74%]73%
[96]97	67%
[95]96	[62%]61%
[94]95	55%
[93]94	48%
[92]93	41%



[94]92	33%
[90]91	25%
[89]90	17%
[88]89 and prior	9%

19. Class 21 - Commercial and Utility Trailers.

a) Examples of property in this class include:

- (1) commercial trailers;
- (2) utility trailers;
- (3) cargo utility trailers;
- (4) boat trailers;
- (5) converter gears;
- (6) horse and stock trailers; and
- (7) all trailers not included in Class 18.

b) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, cost new shall include the value of attached equipment.

c) The [2001]2002 percent good applies to [2001]2002 models purchased in [2000]2001.

d) Commercial and utility trailers have a residual taxable value of \$500.

TABLE 21

[Year of] Model Year	Percent Good of Cost New
[04]02	95%
[00]01	[64%]53%
[99]00	[61%]51%
[98]99	[58%]49%
[97]98	[55%]46%
[96]97	[52%]44%
[95]96	[49%]42%
[94]95	[46%]39%
[93]94	[42%]37%
[92]93	[39%]35%
[91]92	[36%]33%
[90]91	[33%]30%
[89]90	[30%]28%
[88]89	[27%]26%
[87]88	[24%]23%
[86]87	21%
[85]86 and prior	[17%]19%

20. Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

a) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

b) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary for this class.

21. Class 23 - Aircraft Subject to the Aircraft Uniform Fee and Not Listed in the Aircraft Bluebook Price Digest.

a) Examples of property in this class include:

- (1) kit-built aircraft;
- (2) experimental aircraft;
- (3) gliders;
- (4) hot air balloons; and
- (5) any other aircraft requiring FAA registration.

b) Aircraft subject to the aircraft uniform fee, but not listed in the Aircraft Bluebook Price Digest, are valued by applying the percent good factor against the acquisition cost of the aircraft.

c) Aircraft requiring Federal Aviation Agency registration and kept in Utah must be registered with the Motor Vehicle Division of the Tax Commission.

TABLE 23

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	75%
[99]00	71%
[98]99	67%
[97]98	63%
[96]97	59%
[95]96	55%
[94]95	51%
[93]94	47%
[92]93	43%
[91]92	39%
[90]91	35%
[89]90 and prior	31%

22. Class 24 - Leasehold Improvements.

a) This class includes leasehold improvements to real property installed by a tenant. The Class 24 schedule is to be used only with leasehold improvements that are assessed to the lessee of the real property pursuant to Tax Commission rule R884-24P-32. Leasehold improvements include:

- (1) walls and partitions;
- (2) plumbing and roughed-in fixtures;
- (3) floor coverings other than carpet;
- (4) store fronts;
- (5) decoration;
- (6) wiring;
- (7) suspended or acoustical ceilings;
- (8) heating and cooling systems; and
- (9) iron or millwork trim.

b) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

c) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Installation	Percent of Installation Cost
[00]01	94%
[99]00	88%
[98]99	82%
[97]98	77%
[96]97	71%
[95]96	65%
[94]95	59%
[93]94	54%
[92]93	48%
[91]92	42%
[90]91	36%
[89]90 and prior	30%

23. Class 25 - Aircraft Parts Manufacturing Tools and Dies. Property in this class is generally subject to rapid physical, functional, and economic obsolescence due to rapid technological and economic shifts in the airline parts manufacturing industry. Heavy wear and tear is also a factor in valuing this class of property.

- a) Examples of property in this class include:
  - (1) aircraft parts manufacturing jigs and dies;
  - (2) aircraft parts manufacturing molds;
  - (3) aircraft parts manufacturing patterns;
  - (4) aircraft parts manufacturing taps and gauges;
  - (5) aircraft parts manufacturing test equipment; and
  - (6) aircraft parts manufacturing fixtures.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 25

Year of Acquisition	Percent Good of Acquisition Cost
[00]01	83%
[99]00	68%
[98]99	[51%] 52%
[97]98	35%
[96]97	[10%] 19%
[95]96 and prior	4%

24. Class 26 - Personal Watercraft,

- a) Examples of property in this class include:
  - (1) motorized personal watercraft; and
  - (2) jet skis.
- [a]b) Taxable value is calculated by applying the percent good factor against the cost new.
- [b]c) The [200+]2002 percent good applies to [200+]2002 models purchased in [2000]2001.
- [e]d) Personal watercraft have a residual taxable value of \$500.

TABLE 26

[Year of] Model Year	Percent Good of Cost New
[01]02	90%
[00]01	[64%] 63%
[99]00	[60%] 59%
[98]99	[57%] 55%
[97]98	[53%] 51%
[96]97	[49%] 48%
[95]96	[46%] 44%
[94]95	[42%] 40%
[93]94	[38%] 36%
[92]93	[35%] 32%
[91]92	[31%] 28%
[90]91	[27%] 24%
[89]90	[24%] 20%
[88]89 and prior	[20%] 17%

25. Class 27 - Electrical Power Generating Equipment and Fixtures

- a) Examples of property in this class include:
  - (1) electrical power generators; and
  - (2) control equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 27

Year of Acquisition	Percent Good of Acquisition Cost
01	97%
00	95%
99	92%
98	90%
97	87%
96	84%
95	82%
94	79%
93	77%
92	74%
91	71%
90	69%
89	66%
88	64%
87	61%
86	58%
85	56%
84	53%
83	51%
82	48%
81	45%
80	43%
79	40%
78	38%
77	35%
76	32%
75	30%
74	27%
73	25%
72	22%
71	19%
70	17%
69	14%
68	12%
67 and prior	9%

F. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, [200+]2002.

**KEY: taxation, personal property, property tax, appraisal**  
**May 14, 2001 59-2-301**



Transportation, Motor Carrier  
**R909-19**  
 Safety Regulations for Tow Truck  
 Operations - Tow Truck Requirements  
 for Equipment, Operation and  
 Certification

**NOTICE OF PROPOSED RULE**

(New)  
 DAR FILE No.: 23993  
 FILED: 08/15/2001, 16:01  
 RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule replaces Rule R909-4, "Safety Regulations for Tow Truck (Wrecker) Operations - Tow Truck Requirements, Equipment and Operation."

SUMMARY OF THE RULE OR CHANGE: The rule modifies motor vehicle, public safety, and transportation provisions relating to vehicles, vessels, and outboard motors that are removed by a tow truck motor carrier under the old rule R909-4. The new revised rule regulates the removal of unattended vehicles and requires reporting of towed vehicles. In addition, the rule requires certification of certain tow truck operation and authorizes certain fees and provides for civil and criminal penalties.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 41-6-101, 41-6-102, 41-6-104, 3-1-106, 53-8-105, 63-38-3.2, 72-9-601, 72-9-602, 72-9-603, 72-9-604, 72-9-301, 72-9-303 72-9-701, 72-9-702, and 72-9-703

FEDERAL REQUIREMENT FOR THIS RULE: 49 CFR Part 40, 170 - 178, 350 - 399

## ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: One Full Time Equivalent (FTE) at an annual salary of \$35,000. (Dedicated credit to be reimbursed by cost of service.)

❖LOCAL GOVERNMENTS: This rule does not apply to local government.

❖OTHER PERSONS: Industry: (Based on estimate of 1000 Tow Truck Motor Carriers with an average of three tow trucks and three drivers.) Carrier Certification Fee: \$100 + Tow Truck Inspection Fee: \$150 (3 drivers x \$50) = \$250. 1,000 Carriers x \$250 = \$25,000. Driver Certification Fee: \$135 x 3000 (drivers) = \$40,500. Total cost to industry = \$65,000 (bi-annually)

COMPLIANCE COSTS FOR AFFECTED PERSONS: Certification costs (bi-annually): \$100 per carrier. \$50 per tow truck, \$135 (average) per driver.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Costs associated to the carrier and vehicles will be utilized to fund division staff through dedicated (FTE) credit as authorized in H.B. 30. These costs will also fund the third party educational staff and resources.

**(DAR Note:** H.B. 30 can be found at 2001 Utah Laws 202 and was effective July 1, 2001).

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

Transportation  
Motor Carrier  
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:

Shirleen Hancock at the above address, by phone at (801) 965-4781, by FAX at (801) 965-4211, or by Internet E-mail at shancock@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 10/01/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2001

AUTHORIZED BY: Richard Clasby, Director

**R909. Transportation, Motor Carrier.****R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification.****R909-19-1. Authority.**

This rule is enacted under the authority of Sections 72-9-601, 72-9-601, 72-9-602, 72-9-603, 72-9-604, 53-1-106, 41-6-102, Utah Code.

**R909-19-2. Applicability.**

(1) All tow trucks motor carriers and employees must comply and observe all rules, regulations, traffic laws and guidelines as prescribed by State Law and 49 CFR Part 350 - 399, hereby incorporated by reference in accordance with Sections 41-6-101, 41-6-102, 41-6-104, 72-9-301, 72-9-303, 72-601, 72-9-602, 72-9-603, 72-9-604, 72-9-701, 72-9-702, 72-9-703, and 72-9-703, Utah Code.

(2) Until the certification program is established all Tow Truck Motor Carriers, equipment and driver's will be deemed certified until November 15, 2001. After November 15, 2001, all Tow Truck Motor Carriers, equipment and drivers will need to receive training and certification as outlined in the Utah Regulations for Towing Operation and Certification Manual.

**R909-19-3. Definitions.**

(1) "Abandoned Vehicle" means a vehicle that is left unattended on a highway for a period in excess of 48 hours; or on any public or private property for a period in excess of seven days without express or implied consent or the owner or person in lawful possession or control of the property.

(2) "Consent Tow" means tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102, after performing any tow truck service that is done at the vehicle, vessel, or outboard motor owner's knowledge.

(3) "Division" means the Motor Carrier Division

(4) "Department" means the Utah Department of Transportation.

(5) "Driveaway-Towaway Operation" means any operation in which a motor vehicle constitutes the commodity being transported.

(6) "Gross combination weight rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value

specified by the manufacturer, GVWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

(7) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

(8) "Non Consent Tow " means:

(a) tow truck service as ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority as defined in Section 72-1-102, or

(b) any tow truck service performed without the vehicle, vessel, or outboard motor owner's knowledge or permission, and may include tow truck services that are performed on private property.

(9) "Non-Consent Police Generated Tow" means tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102, after performing a tow truck service that is performed without the vehicle, vessel, or outboard motor owner's knowledge or permission.

(10) "Personal Property" means articles associated with a person, as property having more or less intimate relation to person, including clothing, tools, home/family/vocation items, etc. Items that are considered to be the original manufactured equipment, and/or attached property to the vehicle, including tires, rims, vehicle-stereos, speakers, or CD changers are not considered personal property and will remain in the vehicle.

(11) "Rollback/Auto Carrier " means a vehicle constructed, designed, altered, or equipped primarily for the purpose of removing damaged, disabled, abandoned, seized, or impounded vehicles from the highway or other place by means of a tilt bed or roll-back deck.

(12) "Tow Truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damages, disabled, abandoned, seized, or impounded vehicles from highway or other place by means of a crane, hoist, tow bar, tow line, dolly tilt bed, or other similar means of vehicle transfer without its own power or control.

(13) "Tow Truck Certification" means a program to authorize and approve tow truck motor carrier owners and operators, and is the process by which the Department, acting under Section 72-9-602, Utah Code, shall verify compliance with the State and Federal Motor Carriers Safety Regulations, including terms and conditions as outlined in the Utah Regulations for Towing Operation and Certification Manual. This process includes certification for tow truck motor carriers, tow truck owners, drivers, and related equipment. Certificates will be issued for the following categories:

(a) "Basic Certification" means training applicable to standard tow truck motor carrier operations where the towed vehicle weighs 10,000 lbs or less as outlined in the Utah Regulations for Towing Operation and Certification Manual.

(b) "Commercial Certification" means training applicable to tow truck motor carrier operations where the towed vehicle weighs 10,001 lbs or more as outlined in the Utah Regulations for Towing Operation and Certification Manual.

(c) "Hazardous Material Certification" means training applicable to tow truck motor carrier operations where the towed vehicle is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials

Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(d) "Hazardous Material Certification - Cargo Tank Special Endorsement" means special endorsement training applicable to towing operations limited to the recovery of cargo tanks. Cargo Tank Special Endorsements training and certification requirements are outlined specifically in the Utah Regulations for Towing Operation and Certification Manual.

(14) "Tow Truck Motor Carrier" means a for-hire tow truck motor carrier or a private tow truck motor carrier, and includes a tow truck motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of equipment and/or accessories.

(15) "Tow Truck Service" means the transportation upon the public streets and highways of the State of damaged, disabled, or abandoned vehicles together with personal effects and/or cargo. The terms wrecker service, tow car service, and garage tow truck service are synonymous and shall be considered as "tow truck service."

(a) "Class A Tow Truck" means a tow truck, rollback/auto carrier with a minimum manufacturer's GVWR of 10,000 lbs.

(b) "Class B - Light Duty Tow Truck" means a tow truck with a minimum manufacturer's GVWR equal to 10,001 lbs or less than 18,000 lbs.

(c) "Class C - Medium Duty Tow Truck" means a tow truck with a minimum manufacturer's GVWR equal to 18,001 lbs or less than 26,001 lbs.

(d) "Class D - Heavy Duty Tow Truck" means a tow truck with a minimum manufacturer's GVWR of 26,001 lbs or greater.

(16) "Tow Truck Motor-Carrier Steering Committee" means a committee established by the Administrator of the Motor Carrier Division and will include enforcement personnel, industry representatives and, Transportation Commissioner(s) or other persons as deemed necessary.

#### **R909-19-4. Duties - Enforcement - Compliance Audits, Inspections and Right of Entry.**

The Department shall administer and in cooperation with the Department of Public Safety, Utah Highway Patrol Division as specified under Section 53-8-105, Utah Code, shall administer and enforce state and federal laws related to the operation of tow truck motor carriers within the state. In addition, a tow truck motor carrier shall submit its lands, property, buildings, equipment for inspection and examination and shall submit its accounts, books, records, or other documents for inspection and copying to verify compliance as authorized by Section 72-9-301.

#### **R909-19-5. Insurance.**

All tow trucks will be required to carry at least \$750,000 of insurance minimum liability plus the MCS-90 endorsement for environmental restoration as required in 49 CFR Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers. Evidence of required insurance will be maintained at the principal place of business and made available to the Department and/or investigator upon request and prior to tow truck carrier certification

as outlined in the Utah Regulations for Towing Operation and Certification Manual.

**R909-19-6. Penalties and Fines.**

Any tow truck motor carrier that fails or neglects to comply with State or Federal Motor Carrier Safety Regulations or any part of this rule or conditions set forth in the Utah Regulations for Towing Operation and Certification Manual or order by the Department is subject to a civil penalty as authorized by Section 72-9-701, and 72-9-703 and may be acceptable as sufficient cause for the Department to revoke tow truck motor carrier, driver, and/or vehicle certification.

**R909-19-7. Cease and Desist Orders - Registration Sanctions.**

(1) The Department may issue a cease and desist order to any tow truck motor carrier that fails or neglects to comply with State and Federal Motor Carrier Safety Regulations or any part of this rule or conditions set forth in the Utah Regulations for Towing Operation and Certification Manual or order by the Department as authorized by Section 72-9-303.

(2) The Department shall notify the Motor Vehicle Division of the State Tax Commission upon having reasonable grounds to believe that a tow truck motor carrier is in violation of this rule as authorized by Section 72-9-303(2).

**R909-19-8. Towing Notice Requirements.**

(1) A tow truck motor carrier after performing a tow truck service, that was not ordered by a peace officer, or a person acting on behalf of a law enforcement agency or a highway authority, as defined in R909-19-3, without the vehicle, vessel, or outboard motor owner's knowledge shall immediately upon arriving at the place of storage or impound of the vehicle contact by radio or phone, the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency as per requirements set forth in 72-9-603(1).

Pursuant to the requirement to "immediately" ... "contact the law enforcement agency having jurisdiction" as required by Section 72-9-603, Utah Code, a tow-truck motor-carrier operator shall:

(a) Report the removal immediately upon arriving at the place of storage or impound of the vehicle, if removal was completed during posted office hours.

(b) Report the removal within 2 hours of the next business day if the removal occurred after normal posted office hours.

(c) For purposes of Section 72-9-603, the "contact" to the law enforcement agency shall be considered accomplished if made as per Section R909-19-9.

(d) If this reporting is not completed within the time frame, the Tow Truck Motor Carrier or Operator will not be allowed to collect any fees or begin charging storage fees as authorized under Section 72-9-603. Notification and reporting requirements will be completed in electronic form (website) as identified in the Utah Regulations for Towing Operation and Certification Manual.

(2) Any Tow Truck Motor Carrier or its agents who violates notification requirements as outlined or uses a restriction device or means of disabling the vehicle may be assessed civil penalties determined by the Department as authorized under Section 72-9-603.

**R909-19-9. Requirement for Tow Truck Motor Carriers to input required information for Government and Public Notification.**

All Tow Truck Motor Carriers must follow notification procedures as required by 72-9-603 and input required information in electronic form (website) as identified in the Utah Regulations for Towing Operation and Certification Manual.

**R909-19-10. Certification.**

(1) The Department shall inspect, investigate/audit, and certify tow truck motor carriers, tow trucks, and tow truck drivers at least every two years to ensure compliance as required by Sections 41-6-102.5, 41-6-102.7, Utah Code, and 49 CFR Parts 350 - 399, 170-180 where applicable.

(2) The Department will charge a biennial fee as authorized by Section 72-9-602(1) to cover costs associated with the inspection, investigation/compliance review, and certification.

**R909-19-11. Certification Fees.**

Each separate Tow Truck Motor Carrier is responsible for the cost of vehicle inspections, compliance audits and certification as authorized by this rule. Cost-estimates associated with vehicle inspections, investigation/compliance review and certification are outlined in the Utah Regulations for Towing Operation and Certification Manual.

**R909-19-12. Certification from a Qualified Training Facility.**

(1) The Department will accept training or equivalent certification from a qualified professional training facility that meets minimum requirements as outlined in the Utah Regulations for Towing Operation and Certification Manual. Training segments that meet minimum requirements can be applied toward a tow truck motor carrier certification, vehicle certification, or driver certification as outlined in the Utah Regulations for Towing Operation and Certification Manual.

(2) The Department will only accept training or equivalent certification from a qualified professional training facility as identified in the Utah Regulations for Towing Operation and Certification Manual within the first year of the implementation of the program. After such time, all Tow Truck Motor Carriers operating within the state must be certified as outlined by the Utah Regulations for Towing Operation and Certification Manual.

**R909-19-13. Maximum Towing Rates. Public Non-Consent Tows.**

(1) \$110 per hour for the use of Class A and B Tow Truck Service;

(a) An additional 15% per hour may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F and the tow truck operator is hazardous material certified as outlined in the Utah Regulations for Towing Operations and Certification Manual.

(2) \$200 per hour for the use of a Class C Tow Truck Service;

(a) An additional 15% per hour may be charged if the towed vehicle is used in the transport transportation of materials found to be hazardous for the purposes of the Hazardous Materials

Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F and the tow truck operator is hazardous material certified as outlined in the Utah Regulations for Towing Operations and Certification Manual.

(3) \$250 per hour for the use of a Class D Tow Truck Service

(a) An additional 15% per hour may be charged if the towed vehicle is used in the transport transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F and the tow truck operator is hazardous material certified as outlined in the Utah Regulations for Towing Operations and Certification Manual.

(4) \$400 per hour for the use of any tow truck service in the recovery of a hazardous material cargo tank vehicles of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F and the tow truck operator is hazardous material certified as outlined in the Utah Regulations for Towing Operations and Certification Manual.

(5) \$45 Maximum rate for non-consent impoundment of vehicles towed from private property/parking lots.

**R909-19-14. Maximum Storage Rates. Public Non-Consent Tows.**

(1) \$15 Maximum per day, per unit, for outside storage of cars, pickups, and smaller vehicles;

(2) \$20 Maximum per day, per unit may be charged for inside storage of cars; pickups and smaller vehicles only at the owner's request.

(3) \$35 Maximum per day, per unit for outside storage of semi tractors or trailers;

(4) \$70 Maximum per day, per unit may be charged for inside storage of semi tractors or trailers only at the owner's request.

(5) \$100 Maximum per day, per unit for outside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(6) \$150 Maximum per day, per unit may be charged for inside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F, only at the owner's request.

**R909-19-15. Towing and Storage Rates. Public Consent Tows.**

Towing rates for public consent tows are the responsibility of the consumer and the tow truck motor carrier as contracted for services rendered and are not regulated by the Department.

**R909-19-16. Rates and Storage Posting Requirements.**

Pursuant to Section 72-9-603(6), a tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current non-consent fees and rates for towing and storage of a vehicle.

**R909-19-17. Federal Motor Carrier Safety Requirements.**

All tow truck motor carriers that meet the definition of a commercial motor carrier shall comply with all State and Federal Motor Carrier Safety Regulations as outlined in the Utah Regulations for Towing Operations and Certification Manual.

**R909-19-18. Consumer Protection Information.**

Pursuant to Section 72-9-602, the Department shall make consumer protection information available to the public that may use a tow truck motor carrier. To obtain such information, the public can call the Motor Carrier Division at (801) 965-4261.

**R909-19-19. Establishment of Tow Truck Steering Committee and Work Group.**

(1) The Administrator for the Motor Carrier Division will establish a Tow Truck Steering Committee and Work Group to provide advisory information and input.

(2) The Work Group will meet on a quarterly basis or as needed to review policies and procedures.

**R909-19-20. Annual Review of Rates, Fees and Certification Process.**

(1) The Tow Truck Steering Committee will meet on the 1st Tuesday in August on an annual basis to review rates, fees, tow truck motor carrier procedures and the certification process as outline in the Utah Regulations for Towing Operations and Certification Manual.

(2) An annual report will be issued by the committee and will be made available at the department's main office, and on the internet.

**KEY: safety regulation, truck, towing, certification 2001**

- 41-6-101
- 41-6-102
- 41-6-104
- 53-1-106
- 53-8-105
- 63-38-3.2
- 72-9-601
- 72-9-602
- 72-9-603
- 72-9-604
- 72-9-301
- 72-9-303
- 72-9-701
- 72-9-702
- 72-9-703



## NOTICES OF CHANGES IN PROPOSED RULES

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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 October 1, 2001. At its option, the agency may hold public hearings.

From the end of the waiting period through December 30, 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 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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**The Changes in Proposed Rules Begin on the Following Page.**

Environmental Quality, Air Quality  
**R307-110-34**  
 Section X, Vehicle Inspection and  
 Maintenance Program, Part D, Utah  
 County

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 23758  
 FILED: 08/09/2001, 12:52  
 RECEIVED BY: NL

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** There is no change in text of rule. However, during the public comment period, Utah County submitted additional changes in the text of State Implementation Plan incorporated by reference under Section R307-110-34. No other comments were received.

**SUMMARY OF THE RULE OR CHANGE:** There is no change in the text of the rule. However, there are changes in the text of the State Implementation Plan that is incorporated by reference under Section R307-110-34. These changes were suggested by Utah County during the public comment period. The most important change is to add a new subpart 20 noting that Utah County operates a Remote Sensing Device to help quantify program effectiveness and provide additional program flexibility. Amend subpart 3 to specify that Utah County collects a fee of \$1 on each non-diesel vehicle, not just passenger vehicles. Amend subpart 5 to specify that 1968 and older vehicles, electric powered vehicles, farm equipment, construction equipment or other off-road vehicles also are exempt from inspection. In subpart 6, delete references to a visual inspection, and amend to reflect that vehicles are tested to the engine model year standards, not the chassis model year. In subpart 7, add a note that data is downloaded from each analyzer to the central data base once or twice each week, and correct the date on which the UTAH 2000 analyzer officially entered use from September 1, 1991, to March 1, 2000. In subpart 9, delete reference to information included in the Vehicle Inspection Report. Also in subpart 9, make changes to reflect that, to qualify for a waiver, vehicles must be repaired by a licensed auto repair business not a certified emission technician, and that the vehicle must meet a specific carbon monoxide level, not just show improvement. In subpart 12, delete reference to data collection on a diskette because data is sent directly. Amend subpart 13 to reflect that enforcement settlements for I/M stations are based on 50% of the expected revenue from I/M testing during the suspension time with a \$3000 maximum, that fee settlements for inspectors are \$100 for any portion of a 15-day period with a \$500 maximum, and that inspector suspension may not be reduced by more than 75 days through a negotiated settlement. Amend subpart 16 to specify that only annual testing is required, not training, and correct "or" to "of" in the following paragraph. In subpart 17, delete reference to a public awareness statement, waiver requirements, and vehicle warranties on the Vehicle

Inspection Report, because there is no longer room on the report to print these.

**(DAR Note:** This change in proposed rule has been filed to make additional changes to an amendment that was published in the June 1, 2001, issue of the *Utah State Bulletin*, on page 20. 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: Subsection 19-2-104(1)(a), and Sections 41-6-163.6, 41-6-163.7, 43-6-164.5, and 43-6-165  
 FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR Part 51, Subpart S

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County

**ANTICIPATED COST OR SAVINGS TO:**

❖**THE STATE BUDGET:** No change from original proposal. The changes better reflect the actual vehicle emissions inspection program that Utah County operates, and costs and benefits to consumers and businesses are determined by the program ordinance adopted by the Utah County Commission.  
 ❖**LOCAL GOVERNMENTS:** No change from original proposal. The changes better reflect the actual vehicle emissions inspection program that Utah County operates, and costs and benefits to consumers and businesses are determined by the program ordinance adopted by the Utah County Commission.  
 ❖**OTHER PERSONS:** No change from original proposal. The changes better reflect the actual vehicle emissions inspection program that Utah County operates, and costs and benefits to consumers and businesses are determined by the program ordinance adopted by the Utah County Commission.  
**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No change from original proposal. The changes better reflect the actual vehicle emissions inspection program that Utah County operates, and costs and benefits to consumers and businesses are determined by the program ordinance adopted by the Utah County Commission.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes in the text better reflect the actual program operated by Utah County, and make no change in the actual cost to consumers or businesses. Dianne R. Nielson

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

Environmental Quality  
 Air Quality  
 150 North 1950 West  
 PO Box 144820  
 Salt Lake City, UT 84114-4820, or  
 at the Division of Administrative Rules.



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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE  
BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO  
LATER THAN 5:00 P.M. ON 10/01/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2001

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.**  
**R307-110. General Requirements: State Implementation Plan.**  
**R307-110-34. Section X, Vehicle Inspection and Maintenance**  
**Program, Part D, Utah County.**

The Utah State Implementation Plan, Section X, Vehicle  
Inspection and Maintenance Program, Part D, Utah County, as most  
recently amended by the Utah Air Quality Board on August 1,  
2001, pursuant to Section 19-2-104, is hereby incorporated by  
reference and made a part of these rules.

**KEY: air pollution,small business assistance program\*,  
particulate matter\*, ozone**  
**2001** **19-2-104(3)(e)**  
**Notice of Continuation June 2, 1997**



Insurance, Administration  
**R590-211**  
Underinsured Motorist Insurer  
Notification Ruling

**NOTICE OF CHANGE IN PROPOSED RULE**  
DAR FILE NO.: 23813  
FILED: 08/10/2001, 17:25  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a  
result of comments received during the hearing and comment  
period, additional changes are being made to the rule.

SUMMARY OF THE RULE OR CHANGE: The rule provides the  
manner in which all motor vehicle liability insurers shall give  
notification once liability policy limits have been tendered.  
The change broadens the notification requirement to the  
claimant and the claimant's representative. Another change  
allows notification be made by facsimile and electronically as  
long as verification of delivery is made.

**(DAR Note:** This change in proposed rule has been filed to  
make additional changes to a new rule that was published in

the June 15, 2001, issue of the *Utah State Bulletin*, on page  
54. Underlining in the rule below indicates text that has been  
added since the publication of the proposed rule mentioned  
above; strike-out indicates text that has been deleted. You  
must view the change in proposed rule and the proposed rule  
together to understand all of the changes that will be  
enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS  
RULE: Sections 31A-2-201 and 31A-22-305

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This will have no impact on the  
department or the general fund. No additional work will be  
required of the department and no form or rate filings will be  
required of the insurer, which if required would result in a  
filing fee paid to the department.

❖LOCAL GOVERNMENTS: This rule will not affect local  
government. The rule is regulated by a state government  
agency to which all fees are paid by its licensees.

❖OTHER PERSONS: The changes require a claimant or a  
claimant's representative to notify the underinsured motorist  
carrier when liability limits have been tendered. This will be  
an insignificant expense to the claimant or its representative  
for a single notification in whatever form they desire as long  
as delivery of the notice can be verified.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes  
require a claimant or a claimant's representative to notify the  
underinsured motorist carrier when liability limits have been  
tendered. This will be an insignificant expense to the  
claimant or its representative for a single notification in  
whatever form they desire as long as delivery of the notice  
can be verified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT  
THE RULE MAY HAVE ON BUSINESSES: There would be no  
measurable fiscal impact on the insurance industry and none  
on local businesses.

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

Insurance  
Administration  
3110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at (801) 538-  
3803, by FAX at (801) 538-3829, or by Internet E-mail at  
idmain.jwhitby@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE  
BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO  
LATER THAN 5:00 P.M. ON 10/01/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 10/01/2001

AUTHORIZED BY: Jilene Whitby, Information Specialist



**R590. Insurance, Administration.**

**R590-211. Underinsured Motorist Insurer Notification Ruling.**

.....

**R590-211-2. Purpose.**

The purpose of this rule is to provide the manner in which ~~all motor vehicle~~ a liability insurer[s] or a claimant, or a claimant's representative, shall give notification once liability policy limits have been tendered.

.....

**R590-211-4. Rule.**

At the time that the motor vehicle liability ~~carrier~~insurer tenders its liability policy limits, ~~that insurer, the claimant, or the claimant's representative,~~it shall within five business days, notify the underinsured carrier of all persons to whom policy limits have been tendered. Notification shall include particulars for proper identification not limited to the following:

- (a) name and address of the insured;
- (b) policy number;
- (c) date of loss;
- (d) date of the payment; and
- (e) amount of the payment.

Notification shall be sent or delivered to the underinsured carrier by certified mail, return receipt requested, or by facsimile, or by other electronic means which provides verification of delivery to addressee~~[other acceptable means of communication including electronic transmission]~~.

.....

**KEY: insurance**

2001

31A-2-201

31A-22-305



**End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (••••) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the PROPOSED RULE. EMERGENCY or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

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### Alcoholic Beverage Control, Administration

## R81-1

### Scope of Definitions, and General Provisions

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 23981  
FILED: 08/09/2001, 14:20  
RECEIVED BY: NL

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R81-1-8: We are removing this section in its entirety because its substantive provisions are now in Section R81-1-17. Its removal is needed to avoid duplication. Section R81-1-17: We are amending this section to comply with a preliminary injunction issued by the United States District Court, District of Utah, Central Division on August 8, 2001. That injunction prohibits enforcement of the certain statutes and rules regulating alcoholic beverage advertising on the grounds they violate the First Amendment of the United States Constitution. The preliminary injunction enjoined Subsections 32A-12-401(2) and 32A-12-401(4).

SUMMARY OF THE RULE OR CHANGE: Section R81-1-8: Remove in its entirety. Section R81-1-17: Modifies restrictions on alcoholic beverage advertising.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-4-106, 32A-4-206, 32A-7-106, 32A-12-401, 32A-12-603, and 32A-12-606

#### ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--The state of Utah does not engage in the advertising of alcoholic beverages, nor will they begin advertising as a result of this rule.

❖LOCAL GOVERNMENTS: None--Local government is not involved in the sale of alcoholic beverages.

❖OTHER PERSONS: None--Though the amended rule gives licensees more latitude in the advertising of alcoholic beverages, they are not required to do so.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There is no legal requirement that licensees change their practices regarding the advertising of alcoholic beverages from was previously permitted. The amended rule only allows them to do so under certain limited restrictions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amended rule gives licensees more latitude in advertising the availability of the alcoholic beverages they sell. This may or may not increase their revenues.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare; and place the agency in violation of federal or state law.

Section R81-1-8: Removed for redundancy. Section R81-1-17: Pursuant to actions taken on July 2, 1996, *Utah Licensed Beverage Association et al. v. Michael Leavitt et al.*,

Civil No. 96-CV581 S, filed a suit in the United States District Court, District of Utah, Central Division, claiming that Utah's statutes and rules regulating alcoholic beverage advertising were unconstitutional. On August 8, 2001, the District Court issued a preliminary injunction enjoining the State of Utah from enforcing certain provisions in the Alcoholic Beverage Act regulating alcoholic beverage advertising.

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

Alcoholic Beverage Control  
Administration  
1625 South 900 West  
PO Box 30408  
Salt Lake City, UT 84130-0408, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay or Earl Dorius at the above address, by phone at (801) 977-6800, by FAX at (801) 977-6889, or by Internet E-mail at abcmain.smackay@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 08/09/2001

AUTHORIZED BY: Kenneth F. Wynn, Director

## **R81. Alcoholic Beverage Control, Administration.**

### **R81-1. Scope of Definitions, and General Provisions.**

#### **[R81-1-8. Advertising.**

—(1) Preamble. The alcoholic beverage industry has often proclaimed its sense of responsibility for judicious handling of its products. Accordingly, the commission urges the industry to avoid any description of a situation that leads the reader or viewer to believe that the enjoyment of that situation is dependent upon the consumption of alcoholic beverages.

—(2) General Provisions:

—(a) Utah statutes and rules of the commission govern the regulation of advertising of alcoholic beverages sold within the state, except where the regulation of interstate electronic media advertising is preempted by federal law. The Federal Alcohol Administration Act, 27 U.S.C. 205(e) and (f), and federal regulations, Subchapter A, Parts 4, 5, 6, and 7, of the Bureau of Alcohol, Tobacco and Firearms, United States Department of the Treasury, as set forth in 27 CFR 4.5, 6, and 7, (1993 Edition) are adopted and incorporated by reference to regulate the labeling and advertising of alcoholic beverages sold within this state, except where the provisions of the federal statute and regulations may be contrary to or inconsistent with the provisions of Utah statutes, or rules of the commission.

—(b) No advertisement or promotional scheme involving alcoholic beverages which is primarily or especially appealing to minors is permitted. No advertisement or promotional scheme involving alcoholic beverages shall be placed with or appear in any school, college or university newspaper.

—(c) No advertisement or promotional scheme involving alcoholic beverages that encourages over-consumption or

intoxication such as "all you can drink for \$...", or "happy hour" is allowed:

—(d) No statements, pictures or illustrations advertising alcoholic beverages are allowed which include:

—(i) persons with children and alcoholic beverages;

—(ii) childhood figures or characters such as Santa Claus, or the Easter Bunny;

—(iii) any reference to price, except:

—(A) on displays in taverns and private clubs, if not visible to persons off-premises;

—(B) on point-of-sale displays, other than light devices, in retail establishments that sell beer for off-premise consumption, if not visible to persons off-premises;

—(C) on menus and menu boards in retail establishments that sell beer for on-premise consumption; and

—(D) on displays at the site of a temporary special event for which a single event liquor permit has been obtained from the commission or a temporary special event beer permit has been obtained from a local authority, to inform attendees of the location where alcoholic beverages are being dispensed.

—(iv) drinking scenes; or

—(v) overt promotion of the consumption of alcoholic products.

—Permission of the commission shall not be necessary for any advertisement otherwise complying with this rule.]

#### **R81-1-17. Advertising.**

(1) Purpose.

(a) [Pursuant to actions taken on May 13, 1996, wherein the United States Supreme Court issued its ruling in 44 Liquormart, Inc. v. Rhode Island, 64 U.S.L.W. 4313 (1996), holding that a statute banning off-premises advertisement of liquor prices was a violation of the First Amendment right to freedom of commercial speech, and whereas on July 2, 1996, Utah Licensed Beverage Association v. Michael Leavitt et al, Civil No. 96-CV-581 S, was filed in the United States District Court, District of Utah, Central Division, naming the governor, attorney general, and the commission as defendants, and whereas plaintiffs seek to declare many of Utah's statutes and rules regulating alcoholic beverage advertising unconstitutional, this rule is promulgated to interpret currently applicable laws in a manner to preserve their constitutionality, and to identify such laws that the state will not enforce.] On May 13, 1996, the United States Supreme Court ruling in 44 Liquormart, Inc. v. Rhode Island, 517 U.S. 484 (1996), held that a Rhode Island statute banning off-premises advertisement of liquor prices was a violation of the First Amendment right to freedom of commercial speech. The Supreme Court also vacated and remanded the case of Anheuser-Busch, Inc. v. Schmoke, 63 F3d 1305 (4th Cir. 1995), cert. granted, judgment vacated, 116 S. Ct. 1821 (1996) (Anheuser-Busch I) to the Fourth Circuit Court of Appeals for further consideration in light of its ruling in 44 Liquormart, Inc. The Fourth Circuit Court had previously upheld restrictions against alcohol advertising on billboards in Anheuser-Busch I.

In response to the Supreme Court's ruling in 44 Liquormart, and after having reviewed the Fourth Circuit Court's decision in Anheuser-Busch I, the Utah Alcohol Beverage Control Commission immediately commenced the rulemaking process to promulgate a rule which would interpret applicable Utah statutes and rules relating to alcohol advertising. That rule became effective on an

emergency basis on September 20, 1996, and was made permanent on January 1, 1997, as R81-1-17.

Meanwhile, on July 2, 1996, Utah Licensed Beverage Association et al. v. Michael Leavitt et al., Civil No. 96-CV-581 S (hereafter ULBA), was filed in the United States District Court, District of Utah, Central Division, naming the governor, attorney general, and the commission as defendants. The plaintiffs sought to declare many of Utah's statutes and rules regulating alcoholic beverage advertising unconstitutional. On August 22, 1996, the plaintiffs moved for a preliminary injunction to prohibit enforcement of the statutes and rules during the pendency of the case. On September 24, 1996, plaintiffs filed a motion for summary judgment to have the statutes and rules declared unconstitutional. On September 27, 1996, the state filed a motion to dismiss plaintiffs' claims as to beer advertising on the basis that there was no case or controversy with respect to any of the laws concerning the advertising of beer as opposed to liquor products. The motion was based upon the enactment of rule R81-1-17 which suspended the operation of certain statutes and rules as they applied to beer advertising, and authorized beer advertising under new guidelines.

In November of 1996, the Fourth Circuit Court of Appeals reaffirmed its prior ruling in Anheuser-Busch I, and again upheld certain governmental restrictions on alcoholic beverage outdoor advertising. See *Anheuser-Busch, Inc. v. Schmoke* 101 F3d 325 (4th Cir. 1996), cert. denied 117 S. Ct. 1569 (1997) (*Anheuser-Busch II*). The United States Supreme Court subsequently denied certiorari in that case.

On February 28, 2000, the federal district court in ULBA granted the state's motion to dismiss, and denied the plaintiffs' motions for a preliminary injunction and for summary judgment. The plaintiffs appealed the denial of the preliminary injunction while the remainder of the case remained pending in the district court.

On June 28, 2001, the United States Supreme Court issued its decision in *Lorillard Tobacco Co. v. Reilly*, 121 S. Ct. 2404 (June 28, 2001), holding that certain outdoor and point-of-sale tobacco advertising restrictions promulgated by the attorney general of Massachusetts violated the First Amendment right to freedom of commercial speech. The *Lorillard* case further explained the Supreme Court's current standard and clarified the Court's position with respect to commercial speech issues.

On July 24, 2001, the Tenth Circuit Court of Appeals in ULBA, F3d (Case No. 00-4058), relying in part on the 44 *Liquormart, Inc. and the Lorillard Tobacco Co.* cases, overturned the district court's denial of a preliminary injunction and directed the district judge to issue a preliminary injunction enjoining the State of Utah from enforcing the provisions of Section 32A-12-401(2) and (4).

Based on these developments, the commission is immediately amending R81-1-17 to apply the law as announced by the Supreme Court in *Lorillard* and in the Tenth Circuit Court's July 24, 2001 decision to Utah statutes and rules affecting the advertising of alcoholic beverages. This rule is promulgated to interpret said statutes and rules in a manner to preserve their constitutionality, and to identify such statutes and rules that the state will not enforce. This rule will be in effect for 120 days. During the 120 day period the commission will conduct public hearings on the rule, and solicit and consider public comments in an effort to establish a final rule governing the advertising of alcoholic beverages.

(b) No provision of this rule shall be construed as a concession that any current [law] statute or rule is unconstitutional. All statutes shall remain in full force and effect unless expressly suspended by this rule. To the extent any statute or rule is inconsistent with this rule, this rule shall govern.

(2) Definitions. For purposes of this rule, "advertisement" or "advertising" includes any written or verbal statement, illustration, or depiction which is calculated to induce alcoholic beverage sales, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or any written, printed, graphic, or other matter accompanying the container, representations made on cases, billboard, sign, or other public display, public transit card, other periodical literature, publication or in a radio or television broadcast, or in any other media; except that such term shall not include:

(a) labels on products; or

(b) any editorial or other reading material (i.e., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any alcoholic beverage industry member or retailer, and which is not written by or at the direction of the industry member or retailer.

(3) Authority.

(a) This rule is enacted under the authority of Sections 63-46a-3, 32A-1-107, and 32A-12-401 (2)(f) and (5).

(b) This rule is also enacted under the authority of Section 63-46a-7(1)(a) and (c) because the Alcoholic Beverage Control Commission finds that compliance with the regular rulemaking process of Section 63-46a-4 may cause imminent peril to the public health, safety or welfare, or place the state in violation of federal or state law for the reasons stated in paragraph (1).

~~(3)~~(4) Application.

(a) This rule shall govern the regulation of advertising of alcoholic beverages sold within the state, except where the regulation of interstate electronic media advertising is preempted by federal law. This rule incorporates by reference the Federal Alcohol Administration Act, 27 U.S.C. 205(f), and Subchapter A, Parts 4, 5, 6 and 7 of the regulations of the Bureau of Alcohol, Tobacco and Firearms, United States Department of the Treasury in 27 CFR 4, 5, 6 and 7 (1993 Edition). These provisions shall regulate the labeling and advertising of alcoholic beverages sold within this state, except where federal statutes and regulations are found to be contrary to or inconsistent with the provisions of the statutes and rules of this state.

(b) 27 CFR Section 7.50 provides that federal laws apply only to the extent that the laws of a state impose similar requirements with respect to advertisements of malt beverages manufactured and sold or otherwise disposed of in the state. This rule, therefore, adopts and incorporates by reference federal laws, previously referenced in subparagraph (a), relating to the advertising of malt beverage products.

~~(4)~~(5) Current statutes and rules restricting the advertising, display, or display of price lists of liquor products, as defined in 32A-1-105~~(24)~~(23),~~[-or liquor services,]~~ by~~[-retailers of such products including]~~ the department, state stores, or type 1, 2 or 3 package agencies~~[-]~~ as defined in R81-3-1,~~[-restaurants, airport lounges, private clubs, special use permittees, and single event permittees, or by manufacturers, suppliers, importers, wholesalers,~~

or any of their affiliates, subsidiaries, officers, directors, agents, employees, or representatives of such products;] are applicable and enforceable [~~except as otherwise provided in this rule~~].

~~[(5)](6)~~ By this rule, the statutory provisions of Sections ~~32A-4-106(5)(d), 32A-4-106(21)(a) and (b), 32A-4-206(5)(c), 32A-7-106(2)(m), 32A-12-401(2)(a) through (e), (3) and (4),~~ [~~and rule provisions of the Utah Administrative Code listed in R81-1-8, R81-4A-12 and R81-7-2;~~] to the extent they restrict the advertising of liquor, as defined in 32A-1-105(23), and beer, as defined in 32A-1-105(4), by manufacturers, wholesalers, [~~or~~] permittees, licensed retailers of such products, and type 4 and 5 package agencies as defined in R81-3-1, are suspended. Instead, all advertising of liquor and beer by these entities shall comply with the advertising requirements listed in Section (10) of this rule.

~~[(6)](7)~~ Current statutes and rules restricting private club advertising calculated to increase club membership are applicable and enforceable.

~~[(7)(a)](8)~~ All trade practice restrictions provided by Section 32A-12-603 regulating things of value that [~~liquor, wine and heavy beer~~] liquor and beer industry members, as [~~that term is~~] defined in 32A-12-601, may provide to [~~liquor, wine and heavy beer~~] liquor and beer retailers are applicable and enforceable [~~with the following amendments:~~]

~~—(b) All trade practice restrictions provided by Section 32A-12-603 regulating things of value that beer industry members may provide to beer retailers are applicable and enforceable, with the following amendments:~~

(i) any on-premise beer retailer may be provided, receive and use things of value from beer industry members to the same extent authorized for any tavern licensee;

(ii) a restaurant liquor licensee may be provided, receive and use things of value from beer industry members to the same extent authorized for any beer licensee or permittee; and

(iii) product displays, inside signs, and retailer advertising specialties relating to liquor and beer products may be displayed to the extent authorized by this rule and federal law (see 27 CFR 6.84), to include being visible on and off the [~~beer~~] retailer's premise.

~~[(8)](9)~~ [~~All provisions of~~] Sections 32A-12-606(1), (2), and (3) relating to unlawful acts involving consumers are applicable and enforceable. Section 32A-12-606(4) which establishes guidelines for alcoholic beverage industry members or retailers to sponsor or underwrite athletic, theatrical, scholastic, artistic, or scientific events is applicable and enforceable with the following amendments:

(a) the guidelines for any alcoholic beverage advertising associated with the event are those listed in Section (10) of this rule;

(b) industry members or retailers are not precluded from sponsoring a theatrical, artistic, or scientific event that involves the display of drinking scenes; and

(c) industry members or retailers may not sponsor an event that takes place on the premises of a school, college, university, or other educational institution.

~~—(9) Rule R81-1-8 (e) and (f), and R81-7-2 are repealed.]~~

(10) Advertising Requirements. Any advertising or advertisement authorized by this rule:

(a) May not violate any federal laws referenced in Subparagraph (4);

(b) May not contain any statement that is false or misleading;

(c) May not contain any statement, design, device, or representation which is obscene or indecent;

(d) May not refer to, portray or imply illegal conduct or illegal activity, except in the context of public service advertisements or announcements to educate and inform people of the dangers, hazards and risks associated with irresponsible drinking or drinking by persons under the age of 21 years;

(e) May not encourage over-consumption or intoxication, or overtly promote increased consumption of alcoholic products;

(f) May not advertise any promotional scheme such as "happy hour" or "all you can drink for \$...".

(g) May not encourage or condone drunk driving;

(h) May not depict the act of drinking;

(i) May not promote or encourage the sale to or use of alcohol by persons under the age of 21 years (minors);

(j) May not be directed or appeal primarily to minors by:

(i) using any symbol, language, music, gesture, cartoon character, or childhood figure such as Santa Claus that primarily appeals to minors;

(ii) employing any entertainment figure or group that appeals primarily to minors;

(iii) placing advertising in magazines, newspapers, television programs, radio programs, or other media where most of the audience is reasonably expected to be minors;

(iv) placing advertising in any school, college or university magazine, newspaper, program, television program, radio program, or other media, or sponsoring any school, college or university activity;

(v) using models or actors in the advertising that reasonably appear to be minors;

(vi) advertising at an event where most of the audience is reasonably expected to be minors; or

(vii) using alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or game equipment, or other materials intended for use primarily by minors.

(k) May not contain claims or representations that individuals cannot obtain social, professional, educational, athletic, or financial success or status without alcoholic beverage consumption, or claim or represent that individuals cannot solve social, personal, or physical problems without such consumption;

(l) May not offer alcoholic beverages to the general public without charge;

(m) May not require the purchase, sale, or consumption of an alcoholic beverage in order to participate in any promotion, program, or other activity; and

(n) May provide information regarding product availability and price, and factual information regarding product qualities, but may not imply by use of appealing characters or life-enhancing images that consumption of the product will benefit the consumer's health, physical prowess, athletic ability, social welfare, or capacity to enjoy life's activities.

(11) Violations. Any violation of this rule may result in the imposition of any administrative penalties authorized by 32A-1-119(5), (6) and (7), and any criminal penalties authorized by the Utah Alcoholic Beverage Control Act.

**KEY: alcoholic beverages**

**August 9, 2001**

**Notice of Continuation January 10, 1997**

- 32A-1-107
- 32A-1-119(5)(c)
- 32A-3-103(1)(a)
- 32A-4-103(1)(a)
- 32A-4-203(1)(a)
- 32A-5-103(3)(c)
- 32A-6-103(2)(a)
- 32A-7-103(2)(a)
- 32A-8-103(1)(a)
- 32A-9-103(1)(a)
- 32A-10-203(1)(a)
- 32A-11-103(1)(a)



Alcoholic Beverage Control,  
Administration  
**R81-3-9**  
Advertising

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 23983  
FILED: 08/09/2001, 15:32  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: We are amending this section to comply with a preliminary injunction issued by the United States District Court, District of Utah, Central Division on August 8, 2001. That injunction prohibits enforcement of the certain statutes and rules regulating alcoholic beverage advertising on the grounds they violate the First Amendment of the United States Constitution. The preliminary injunction enjoined Subsections 32A-12-401(2) and 32A-12-401(4).

SUMMARY OF THE RULE OR CHANGE: Modifies section regulating advertising in package agencies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-3-106 and 32A-12-401

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None--Package agencies are operated by private persons under contract with the Department of Alcoholic Beverage Control. The agent assumes the operational costs for running the agency.
- ❖LOCAL GOVERNMENTS: None--Local government does not license package agencies.
- ❖OTHER PERSONS: None--The contracted agent assumes the costs of running the business. They are under no mandate to advertise the availability of alcoholic beverages.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There is no legal requirement that package agents change their practices regarding the advertising of alcoholic beverages from what was previously permitted.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amended section gives more latitude in advertising the availability of the alcoholic beverages to Type 4 and 5 agencies. It does not significantly change the rule for the others.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

Pursuant to actions taken on July 2, 1996, Utah Licensed Beverage Association et al. v. Michael Leavitt et al., Civil No. 96-CV581 S, filed a suit in the United States District Court, District of Utah, Central Division, claiming that Utah's statutes and rules regulating alcoholic beverage advertising were unconstitutional. On August 8, 2001, the District Court issued a preliminary injunction enjoining the State of Utah from enforcing certain provisions in the Alcoholic Beverage Act regulating alcoholic beverage advertising.

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

Alcoholic Beverage Control  
Administration  
1625 South 900 West  
PO Box 30408  
Salt Lake City, UT 84130-0408, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Sharon Mackay or Earl Dorius at the above address, by phone at (801) 977-6800, by FAX at (801) 977-6889, or by Internet E-mail at abcmain.smackay@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 08/09/2001

AUTHORIZED BY: Kenneth F. Wynn, Director

**R81. Alcoholic Beverage Control, Administration.**

**R81-3. Package Agencies.**

**R81-3-9. ~~Advertising~~Promotion and Listing of Products.**

~~[The advertising or promotion of liquor products within package agencies is prohibited.]~~ An operator or employee of a type 1, 2 or 3 package agency, as defined in R81-3-1, may not promote a particular brand or type of liquor product while on duty at the package agency. An operator or employee may inform ~~the~~a customer as to the characteristics of a particular brand or type of liquor, provided the information is linked to a comparison with other brands or types.

~~[For informational purposes, type]~~Type 4 package agencies, as defined in R81-3-1, may provide a list of the code number, brand, size, and price of each item it carries for sale to the tenants or

occupants of the specific leased, rented, or licensed rooms within the facility.

**KEY: alcoholic beverages**

**August 9, 2001**

**32A-1-107**

**Notice of Continuation January 10, 1997**

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## Alcoholic Beverage Control, Administration

### R81-4A-12

#### Menus; Price Lists

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 23982  
FILED: 08/09/2001, 14:57  
RECEIVED BY: NL

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: We are amending this section to comply with a preliminary injunction issued by the United States District Court, District of Utah, Central Division on August 8, 2001. That injunction prohibits enforcement of the certain statutes and rules regulating alcoholic beverage advertising on the grounds they violate the First Amendment of the United States Constitution. The preliminary injunction enjoined Subsections 32A-12-401(2) and 32A-12-401(4).

SUMMARY OF THE RULE OR CHANGE: Modifies section regulating what restaurant liquor licensees may print on menus and price lists.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-4-106, 32A-4-206, and 32A-12-401

ANTICIPATED COST OR SAVINGS TO:

◆THE STATE BUDGET: None--The state is not involved in the printing costs of menus or price lists in restaurants.

◆LOCAL GOVERNMENTS: None--Local government does not restrict menus and price lists in restaurants.

◆OTHER PERSONS: None--Though the rule offers licensees more latitude in how they manage their menus and price lists, they are under no mandate to change from what they are currently doing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There is no legal requirement that licensees change their practices regarding the advertising of alcoholic beverages from what was previously permitted. The amended section only allows them to do so under certain limited restrictions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amended section gives licensees more latitude in advertising the availability of the alcoholic beverages they sell. This may or may not increase their revenues.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

Pursuant to actions taken on July 2, 1996, Utah Licensed Beverage Association et al. v. Michael Leavitt et al., Civil No. 96-CV581 S, filed a suit in the United States District Court, District of Utah, Central Division, claiming that Utah's statutes and rules regulating alcoholic beverage advertising were unconstitutional. On August 8, 2001, the District Court issued a preliminary injunction enjoining the State of Utah from enforcing certain provisions in the Alcoholic Beverage Act regulating alcoholic beverage advertising.

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

Alcoholic Beverage Control  
Administration  
1625 South 900 West  
PO Box 30408  
Salt Lake City, UT 84130-0408, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay or Earl Dorius at the above address, by phone at (801) 977-6800, by FAX at (801) 977-6889, or by Internet E-mail at abcmain.smackay@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 08/09/2001

AUTHORIZED BY: Kenneth F. Wynn, Director

#### **R81. Alcoholic Beverage Control, Administration.**

##### **R81-4A. Restaurants.**

##### **R81-4A-12. Menus; Price Lists.**

~~[Licensees must have available separate food and alcoholic beverage menus. Alcoholic beverage menus may be provided to the patron only if the patron requests an alcoholic beverage menu or otherwise inquires about the availability of alcoholic beverages.~~

~~—(1) Contents of Food Menu. No liquor, wine, or heavy beer may be listed or otherwise referred to on any pages of the food menu. However the food menu may include reference to any light beer, service charges, chilling fees, or other charges or fees made in connection with the sale, service, or consumption of liquor, packaged wine or heavy beer.~~

~~—(2)(1) Contents of Alcoholic Beverage Menu.~~

(a) Each licensee shall have readily available for its patrons a printed alcoholic beverage price list, or menu containing current prices of all mixed drinks, wine, beer, and heavy beer. This list shall include any charges for the service of packaged wines or heavy beer.

(b) Any printed menu, master beverage price list or other printed list is sufficient as long as the prices are current and it meets the requirements of this rule.

(c) Customers shall be notified of the price charged for any packaged wine or heavy beer and any service charges for the supply of glasses, chilling, or wine service.



(d) A licensee or his employee may not misrepresent the price of any alcoholic beverage that is sold or offered for sale on the licensed premises.

**KEY: alcoholic beverages**

**August 9, 2001**

**32A-1-107**

**Notice of Continuation January 10, 1997**



**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

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## Agriculture and Food, Plant Industry

### R68-7

#### Utah Pesticide Control Act

##### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 23973  
FILED: 08/07/2001, 15:17  
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 4-14-6 authorizes the Department of Agriculture and Food to make and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is established to govern the distribution and use of pesticides within the State of Utah.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Clark Burgess at the above address, by phone at (801) 538-7188, by FAX at (801) 538-7126, or Internet E-mail at [agmain.cburgess@state.ut.us](mailto:agmain.cburgess@state.ut.us).

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 08/07/2001



## Career Service Review Board, Administration

### R137-1

#### Grievance Procedure Rules

##### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 23979  
FILED: 08/08/2001, 15:57  
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 67-19a-203 grants the Career Service Review Board rulemaking authority to carry out the statutory provisions of the State's grievance process.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Commentators asked if witnesses should be limited in number, many inquiries concerning changes and amendments by State attorneys, inquiries on meaning of "working days," issues and questions regarding the discovery process in hearings by two private attorneys and by State agencies' staff, and a multitude of single-issue questions were raised. All inquiries, issues, and questions were satisfactorily explained or responded to.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH

COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The grievance procedures' rule should be continued to carry out the legislative intent of the State Employee's Grievance and Appeal Procedures at Title 67, Chapter 19a et seq. The grievance process is performing well and State employees and agency management expect it to continue, and depend upon it to resolve employee relations disputes.

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

Career Service Review Board  
Administration  
1120 State Office Building  
PO Box 141561  
Salt Lake City, UT 84114-1561, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Robert N. White at the above address, by phone at (801) 538-3047, by FAX at (801) 538-3139, or Internet E-mail at pedhrm.rwhite@state.ut.us.

AUTHORIZED BY: Robert N. White, Director

EFFECTIVE: 08/08/2001

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## Environmental Quality, Air Quality R307-210 Stationary Sources

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 23987  
FILED: 10:52, 08/15/2001  
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 19-2-104(1)(a) states that the Air Quality Board may make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."

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 have been received in the past five years. Rule R307-210 became a separate rule on September 6, 1996 (DAR No. 17873); it was amended, effective April 13, 1998 (DAR No. 21011) and again effective on July 15, 1999 (DAR No. 22044). No comments were received on any of these actions.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Under the Clean Air Act (42 U.S.C. 7411(c)), "Each State may develop and submit to the Administrator of Environmental Protection Agency (EPA) a procedure for implementing and enforcing standards of performance for new sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards." Utah was delegated authority to permit new sources many years ago and intends to maintain that authority rather than allowing the federal government the authority to permit and enforce these standards within Utah. To maintain that authority, Utah must adopt and implement the provisions of 40 CFR Part 60, the regulation implementing 42 U.S.C. 7411.

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

Environmental Quality  
Air Quality  
150 North 1950 West  
PO Box 144820  
Salt Lake City, UT 84114-4820, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-0099, or Internet E-mail at jmiller@deq.state.ut.us.

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 10:52

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## Natural Resources, Parks and Recreation R651-206 Carrying Passengers for Hire

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 23974  
FILED: 08/07/2001, 15:24  
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: The Board is given authority under Subsection 73-18-4(4), to promulgate rules such as regulating vessel operators who carry passengers for hire and set a fee not to exceed \$10 for

licensing operators. It continues that the rule is to ensure that operators of vessels are properly licensed and instructed in safety and procedures for carrying passengers.

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: For public safety and health, this rule for issuing permits for vessel operators and river guides needs to remain in place. The vessel operators know they have to obtain certain permits, be 18 years old, and have first aid and CPR certification and other requirements. This rule explains penalties such as suspension or revocation of their permit for reasons explained in the rule. The boating coordinator for Parks and Recreation has reviewed this rule and recommends that it continue.

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

Natural Resources  
Parks and Recreation  
116  
1594 West North Temple  
PO Box 146001  
Salt Lake City, UT 84114-6001, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 08/07/2001



Natural Resources, Parks and Recreation

**R651-215**

Personal Flotation Devices

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 23975  
FILED: 08/07/2001, 15:24  
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 73-18-8 lists the safety equipment required to be on board boating vessels operating on Utah waters. One item required is a personal flotation device (PFD) for each person on board the vessel.

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: Continuation of this rule will help promote water safety in the state of Utah by requiring certain personal flotation devices for people who use Utah's waters for recreational activities. In order for State Parks to enforce the PFD laws and water safety rules and regulations, this rule lists exact specifications and requirements for boaters on Utah waters and follows Section 73-18-8 that lists all PFDs and requirements. Section 73-18b-1 lists the Utah State Park and Recreation Commission as the agency that is authorized and empowered to make, adopt, promulgate, amend and repeal all rules and regulations necessary or convenient to promote safety in swimming, scuba diving, and related activities on any waters where public boating is permitted.

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

Natural Resources  
Parks and Recreation  
116  
1594 West North Temple  
PO Box 146001  
Salt Lake City, UT 84114-6001, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 08/07/2001



Natural Resources, Parks and Recreation

**R651-222**

Muffling Requirements

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 23976  
FILED: 08/07/2001, 15:24  
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 73-18-11 states that the board shall adopt rules for the regulating of muffling devices on all vessels.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule was set up to mandate sound levels of watercraft on Utah waters and created the muffling requirements for such water craft.

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

Natural Resources  
Parks and Recreation  
116  
1594 West North Temple  
PO Box 146001  
Salt Lake City, UT 84114-6001, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 08/07/2001

regulation and safety for waterskiing, aquaplane riding, and the use of other devices that are towed behind a vessel.

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: In order to continue to promote safety and define regulations and safety of waterskiing and aquaplaning and other water devices used on Utah waters by the recreating public, this rule should be continued in force.

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

Natural Resources  
Parks and Recreation  
116  
1594 West North Temple  
PO Box 146001  
Salt Lake City, UT 84114-6001, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 08/07/2001

**Natural Resources, Parks and Recreation  
R651-224  
Towed Devices**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 23977  
FILED: 08/07/2001, 15:24  
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 73-18-15 states that the Parks board shall adopt rules for the

**Natural Resources, Parks and Recreation  
R651-611  
Fee Schedule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 23978  
FILED: 08/07/2001, 15:24  
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 63-11-17 provides a complete listing of the powers and duties of the Board and Division of Parks and Recreation. Among those powers under Subsection 63-11-17(8)(a), it states that the Division may make charges for special services and use of

Parks and Recreation facilities, conduct and operate services necessary for convenience and comfort of the public, and the Board shall adopt appropriate rules governing collection of charges.

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: In order to develop, maintain, and operate state parks in Utah, reasonable fees for the public to use the state parks and facilities need to be continued.

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

Natural Resources  
Parks and Recreation  
116  
1594 West North Temple  
PO Box 146001  
Salt Lake City, UT 84114-6001, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 08/07/2001



**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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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.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Administrative Services

#### Facilities Construction and Management

No. 23870 (AMD): R23-1. Procurement of Construction.  
Published: July 15, 2001  
Effective: August 15, 2001

### Corrections

#### Administration

No. 23571 (AMD): R251-110. Sex Offender Notification.  
Published: April 15, 2001  
Effective: August 9, 2001

### Environmental Quality

#### Drinking Water

No. 23655 (AMD): R309-201 (Changed to R309-500). Facility Design and Operation: Plan Review, Operation and Maintenance Requirements.  
Published: May 1, 2001  
Effective: August 15, 2001

No. 23656 (AMD): R309-202 (Changed to R309-505). Facility Design and Operation: Minimum Treatment Requirements.  
Published: May 1, 2001  
Effective: August 15, 2001

No. 23657 (AMD): R309-203 (Changed to R309-510). Facility Design and Operation: Minimum Sizing Requirements.  
Published: May 1, 2001  
Effective: August 15, 2001

No. 23658 (AMD): R309-206 (Changed to R309-525). Facility Design and Operation: Conventional Surface Water Treatment.  
Published: May 1, 2001  
Effective: August 15, 2001

No. 23659 (AMD): R309-207 (Changed to R309-530). Facility Design and Operation: Alternative Surface Water Treatment Methods.  
Published: May 1, 2001  
Effective: August 15, 2001

No. 23660 (AMD): R309-209 (Changed to R309-540). Facility Design and Operation: Pump Stations.  
Published: May 1, 2001  
Effective: August 15, 2001

No. 23661 (AMD): R309-211 (Changed to R309-550). Facility Design and Operation: Transmission and Distribution Pipelines.  
Published: May 1, 2001  
Effective: August 15, 2001

### Water Quality

No. 23599 (AMD): R317-1-6. Disposal of Domestic Wastewater Treatment Works Sludge.  
Published: April 15, 2001  
Effective: August 13, 2001

### Health

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

No. 23834 (AMD): R398-1. Newborn Screening.  
Published: July 1, 2001  
Effective: August 7, 2001

#### Community and Family Health Services, Health Education Services

No. 23731 (AMD): R402-5. Birth Defects Reporting.  
Published: June 1, 2001  
Effective: August 9, 2001

#### Health Care Financing, Coverage and Reimbursement Policy

No. 23823 (AMD): R414-61. Home and Community Based Waivers.  
Published: July 1, 2001  
Effective: August 9, 2001

#### Health Systems Improvement, Licensing

No. 23784 (AMD): R432-1-3. Definitions.  
Published: June 15, 2001  
Effective: August 7, 2001

## NOTICES OF RULE EFFECTIVE DATES

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No. 23564 (AMD): R432-500. Freestanding Ambulatory Surgical Center Rules.  
Published: April 15, 2001  
Effective: August 13, 2001

### Human Services

#### Administration

No. 23868 (AMD): R495-876. Provider Code of Conduct.  
Published: July 15, 2001  
Effective: August 15, 2001

No. 23863 (NEW): R495-880. Adoption Assistance.  
Published: July 15, 2001  
Effective: August 15, 2001

#### Administration, Administrative Services, Licensing

No. 23626 (AMD): R501-12. Foster Care Rules.  
Published: May 1, 2001  
Effective: August 9, 2001

#### Recovery Services

No. 23821 (AMD): R527-936. Third Party Liability, Medicaid.  
Published: July 1, 2001  
Effective: August 3, 2001

### Insurance

#### Administration

No. 23765 (AMD): R590-155. Disclosure of Life and Disability Guaranty Association Limitations.  
Published: June 1, 2001  
Effective: August 20, 2001

**End of the Notices of Rule Effective Dates Section**

### Natural Resources

#### Parks and Recreation

No. 23848 (AMD): R651-620. Protection of Resources Park System Property.  
Published: July 1, 2001  
Effective: August 6, 2001

### Transportation

#### Motor Carrier

No. 23857 (AMD): R909-75. Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes.  
Published: July 15, 2001  
Effective: August 15, 2001

### Workforce Services

#### Workforce Information and Payment Services

No. 23824 (AMD): R994-403-102a. Filing a New Claim.  
Published: July 1, 2001  
Effective: August 9, 2001



# 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 August 15, 2001, the effective dates of which are no later than September 1, 2001. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Debt Collection</u>					
R21-3	Debt Collection Through Administrative Offset	23682	NSC	05/01/2001	Not Printed
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	23870	AMD	08/15/2001	2001-14/5
R23-6	Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations	23697	NSC	05/01/2001	Not Printed
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	23699	AMD	07/01/2001	2001-10/5
R25-14	Payment of Attorneys Fees in Death Penalty Cases	23366	AMD	01/22/2001	2000-24/5
<u>Fleet Operations</u>					
R27-2	Fleet Operations Adjudicative Proceedings	23522	5YR	02/08/2001	2001-5/39
R27-7	Safety and Loss Prevention of State Vehicles	23345	NEW	01/31/2001	2000-24/6

## RULES INDEX

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Fleet Operations, Surplus Property</u>					
R28-2	Surplus Firearms	23523	5YR	02/08/2001	2001-5/39
<u>Information Technology Services</u>					
R29-1	Division of Information Technology Services Adjudicative Proceedings	23944	5YR	07/26/2001	2001-16/48
<b>AGRICULTURE AND FOOD</b>					
<u>Administration</u>					
R51-1	Public Petitions for Declaratory Rulings	23584	5YR	03/30/2001	2001-8/83
R51-2-11	Appearance and Representation	23928	NSC	08/01/2001	Not Printed
R51-3	Government Records Access and Management Act	23958	5YR	07/31/2001	2001-16/48
R51-4	ADA Complaint Procedure	23959	5YR	07/31/2001	2001-16/49
<u>Animal Industry</u>					
R58-2	Diseases, Inspections and Quarantines	23557	NSC	04/01/2001	Not Printed
R58-10	Meat and Poultry Inspection	23306	AMD	01/03/2001	2000-23/9
R58-11	Slaughter of Livestock	23585	5YR	03/30/2001	2001-8/83
R58-12	Record Keeping and Carcass Identification at Meat Exempt (Custom Cut) Establishments	23586	5YR	03/30/2001	2001-8/84
R58-13	Custom Exempt Slaughter	23587	5YR	03/30/2001	2001-8/84
R58-15	Collection of Annual Fees for the Wildlife Damage Prevention Act	23588	5YR	03/30/2001	2001-8/85
R58-16	Swine Garbage Feeding	23589	5YR	03/30/2001	2001-8/85
R58-17	Aquaculture and Aquatic Animal Health	23534	AMD	04/17/2001	2001-6/34
<u>Chemistry Laboratory</u>					
R63-1	Fee Schedule	23404	5YR	01/10/2001	2001-3/94
<u>Marketing and Conservation</u>					
R65-1	Utah Apple Marketing Order	23543	5YR	03/06/2001	2001-7/45
R65-3	Utah Turkey Marketing Order	23544	5YR	03/06/2001	2001-7/45
R65-4	Utah Egg Marketing Order	23545	5YR	03/06/2001	2001-7/46
<u>Plant Industry</u>					
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
R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	23960	5YR	07/31/2001	2001-16/49
R68-6	Utah Nursery Act	23436	5YR	01/16/2001	2001-3/95
R68-7	Utah Pesticide Control Act	23973	5YR	08/07/2001	2001-17/46
R68-8	Utah Seed Law	23961	5YR	07/31/2001	2001-16/50

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
<u>Regulatory Services</u>					
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	23541	5YR	03/06/2001	2001-7/46
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	23542	AMD	05/02/2001	2001-7/6
R70-101-14	Rules and Regulations for Filling Material	23653	NSC	06/01/2001	Not Printed
R70-420	Chickens	23428	REP	03/06/2001	2001-3/5
R70-430	Turkeys	23429	REP	03/06/2001	2001-3/6
R70-610	Uniform Retail Wheat Standards of Identity	23430	5YR	01/16/2001	2001-3/96
R70-610	Uniform Retail Wheat Standards and Identity	23431	NSC	02/01/2001	Not Printed
R70-620	Enrichment of Flour and Cereal Products	23432	5YR	01/16/2001	2001-3/97
R70-620	Enrichment of Flour and Cereal Products	23433	AMD	03/06/2001	2001-3/7
R70-910	Voluntary Registration of Servicemen and Service Agencies for Commercial Weighing and Measuring Devices	23728	5YR	05/03/2001	2001-11/116
R70-950	Uniform National Type Evaluation	23729	5YR	05/03/2001	2001-11/116
<b><u>ALCOHOLIC BEVERAGE CONTROL</u></b>					
<u>Administration</u>					
R81-1	Scope of Definitions, and General Provisions	23981	EMR	08/09/2001	2001-17/49
R81-3-9	Advertising	23983	EMR	08/09/2001	2001-17/43
R81-4A-12	Menus; Price Lists	23982	EMR	08/09/2001	2001-17/44
R81-4B	Airport Lounges	23591	5YR	04/02/2001	2001-8/85
R81-4B	Airport Lounges	23603	NSC	05/01/2001	Not Printed
R81-10	On Premise Beer Retailer	23592	5YR	04/02/2001	2001-8/86
R81-10	On-Premise Beer Retailer	23604	NSC	05/01/2001	Not Printed
<b><u>CAPITOL PRESERVATION BOARD (STATE)</u></b>					
<u>Administration</u>					
R131-4	Procurement of Construction	23578	NEW	05/16/2001	2001-8/7
<b><u>CAREER SERVICE REVIEW BOARD</u></b>					
<u>Administration</u>					
R137-1	Grievance Procedure Rules	23979	5YR	08/08/2001	2001-17/46
<b><u>COMMERCE</u></b>					
<u>Administration</u>					
R151-46b	Department of Commerce Administrative Procedures Act Rules	23537	5YR	02/28/2001	2001-6/49
R151-46b	Department of Commerce Administrative Procedures Act Rules	23945	5YR	07/27/2001	2001-16/50

## RULES INDEX

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Consumer Protection</u>					
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	23457	5YR	01/29/2001	2001-4/61
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	23789	AMD	07/30/2001	2001-12/7
R152-7 (Changed to R152-23)	Utah Health Spa Services	23791	AMD	07/30/2001	2001-12/12
R152-15	Business Opportunity Disclosure Act Rules	23792	AMD	07/30/2001	2001-12/14
R152-16	Motor Fuel Marketing Act Rules	23793	REP	07/30/2001	2001-12/15
R152-22	Charitable Solicitations Act	23794	AMD	07/30/2001	2001-12/17
R152-26	Telephone Fraud Prevention Act	23795	AMD	07/30/2001	2001-12/19
<u>Corporations and Commercial Code</u>					
R154-2	Utah Uniform Commercial Code, Revised Article 9 Rules	23672	NEW	07/26/2001	2001-9/3
R154-2	Utah Uniform Commercial Code, Revised Article 9 Rules	23858	NSC	08/01/2001	Not Printed
R154-10	Utah Digital Signature Act Rules	23595	AMD	05/18/2001	2001-8/15
<u>Occupational and Professional Licensing</u>					
R156-1-308a	Renewal Dates	23798	AMD	07/17/2001	2001-12/22
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
R156-3a	Architect Licensing Act Rules	23550	AMD	05/03/2001	2001-7/9
R156-3a	Architect Licensing Act Rules	23730	NSC	06/01/2001	Not Printed
R156-3a	Architect Licensing Act Rules	23837	5YR	06/11/2001	2001-13/85
R156-5a	Podiatric Physician Licensing Act Rules	23797	AMD	07/17/2001	2001-12/24
R156-9a	Uniform Athlete Agents Act Rules	23796	NEW	07/17/2001	2001-12/25
R156-11a	Cosmetologist/Barber Licensing Act Rules	23260	AMD	see CPR	2000-22/5
R156-11a	Cosmetologist/Barber Licensing Act Rules	23260	CPR	03/06/2001	2001-3/79
R156-16a	Optometry Practice Act Rules	23566	AMD	05/17/2001	2001-8/16
R156-17a	Pharmacy Practice Act Rules	23695	5YR	04/26/2001	2001-10/89
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	23517	AMD	see CPR	2001-5/4
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	23517	CPR	05/17/2001	2001-8/81
R156-26a	Certified Public Accountant Licensing Act Rules	23296	AMD	01/04/2001	2000-23/11
R156-28	Veterinary Practice Act Rules	23309	AMD	see CPR	2000-23/15
R156-28	Veterinary Practice Act Rules	23309	CPR	03/08/2001	2001-3/80
R156-37-502	Unprofessional Conduct	23401	NSC	02/01/2001	Not Printed
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	23799	AMD	07/17/2001	2001-12/26
R156-44a	Nurse Midwife Practice Act Rules	23734	AMD	07/05/2001	2001-11/3
R156-46a-308	Quality Assurance Program	23735	AMD	07/05/2001	2001-11/4
R156-46b	Division Utah Administrative Procedures Act Rules	23839	5YR	06/11/2001	2001-13/85

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-47b	Massage Therapy Practice Act Rules	23535	5YR	02/26/2001	2001-6/49
R156-50	Private Probation Provider Licensing Act Rules	23696	5YR	04/26/2001	2001-10/90
R156-54-302b	Examination Requirements - Radiology Practical Technician	23518	AMD	04/03/2001	2001-5/7
R156-54-302b	Examination Requirements - Radiology Practical Technician	23602	NSC	05/01/2001	Not Printed
R156-55b	Electricians Licensing Rules	23374	AMD	04/30/2001	2001-1/4
R156-55c-102	Definitions	23375	AMD	04/30/2001	2001-1/5
R156-55d-603	Operating Standards - Alarm Installer	23524	AMD	04/03/2001	2001-5/8
R156-56	Utah Uniform Building Standard Act Rules	23577	AMD	07/01/2001	2001-8/18
R156-56-704	Statewide Amendments to the IBC	23788	NSC	06/26/2001	Not Printed
R156-59-102	Definitions	23883	NSC	07/30/2001	Not Printed
R156-60b	Marriage and Family Therapist Licensing Act Rules	23620	AMD	06/01/2001	2001-9/13
R156-60c	Professional Counselor Licensing Act Rules	23679	AMD	06/19/2001	2001-10/11
R156-60d	Substance Abuse Counselor Act Rules	23838	5YR	06/11/2001	2001-13/86
R156-61	Psychologist Licensing Act Rules	23632	AMD	06/01/2001	2001-9/16
R156-66 (Changed to R151-33)	Utah Professional Boxing Regulation Act Rules	23859	EMR	07/01/2001	2001-14/54
R156-67	Utah Medical Practice Act Rules	23925	5YR	07/19/2001	2001-16/51
R156-68-305	Quality Review Program	23736	AMD	07/05/2001	2001-11/5
R156-69	Dentist and Dental Hygienist Practice Act Rules	23141	AMD	see CPR	2000-19/10
R156-69	Dentist and Dental Hygienist Practice Act Rules	23141	CPR	02/15/2001	2001-2/17
R156-69	Dentist and Dental Hygienist Practice Act Rules	23878	5YR	07/05/2001	2001-15/47
R156-69-305	Continuous Quality Improvement Program	23737	AMD	07/05/2001	2001-11/6
R156-71	Naturopathic Physician Practice Act Rules	23738	AMD	07/05/2001	2001-11/7
R156-73	Chiropractic Physician Practice Act Rules	23390	AMD	02/15/2001	2001-2/2
R156-73	Chiropractic Physician Practice Act Rules	23743	AMD	07/05/2001	2001-11/8
R156-73	Chiropractic Physician Practice Act Rules	23879	5YR	07/05/2001	2001-15/48
<b>Real Estate</b>					
R162-102	Application Procedures	23321	AMD	02/07/2001	2000-23/17
R162-209	Administrative Proceedings	23526	NEW	04/13/2001	2001-5/9
<b>COMMUNITY AND ECONOMIC DEVELOPMENT</b>					
<u>Community Development</u>					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	23321	AMD	01/23/2001	2000-21/3
R199-9	Policy Concerning Enforceability and Taxability of Bonds Purchased	23575	NSC	04/01/2001	Not Printed
R199-10	Procedures in Case of Inability to Formulate Contract for Alleviation of Impact	23576	NSC	04/01/2001	Not Printed
<u>Community Development, Community Services</u>					
R202-201	Energy Assistance: General Provisions	23686	NSC	05/01/2001	Not Printed
R202-202	Energy Assistance Programs Standards	23687	NSC	05/01/2001	Not Printed

## RULES INDEX

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R202-203	Energy Assistance Income Standards, Income Eligibility, and Payment Determination	23688	NSC	05/01/2001	Not Printed
R202-204	Energy Assistance: Asset Standards	23689	NSC	05/01/2001	Not Printed
R202-205	Energy Assistance: Program Benefits	23690	NSC	05/01/2001	Not Printed
R202-206	Energy Assistance: Eligibility Determination	23691	NSC	05/01/2001	Not Printed
R202-207	Energy Assistance: Records and Benefit Management	23692	NSC	05/01/2001	Not Printed
R202-208	Energy Assistance: Special State Programs	23693	NSC	05/01/2001	Not Printed
<u>Community Development, Energy Services</u>					
R203-1	Utah Clean Fuels Grant and Loan Program	23377	AMD	see CPR	2001-1/6
R203-1	Utah Clean Fuels Grant and Loan Program	23377	CPR	06/15/2001	2001-4/52
<u>Community Development, History</u>					
R212-4	Archaeological and Paleontological Permits	23606	NSC	05/01/2001	Not Printed
R212-11	Historic Preservation Tax Credit	23607	NSC	05/01/2001	Not Printed
<u>Community Development, Library</u>					
R223-2	Public Library Online Access for Eligibility to Receive Public Funds	23352	NEW	02/15/2001	2000-24/11
R223-2	Public Library Online Access for Eligibility to Receive Public Funds	23519	NSC	02/23/2001	Not Printed
<u>Indian Affairs</u>					
R230-1	Native American Grave Protection and Repatriation	23476	5YR	02/01/2001	2001-4/61
<b>CORRECTIONS</b>					
<u>Administration</u>					
R251-101	Corrections Advisory Council Bylaws	23966	5YR	08/01/2001	2001-16/51
R251-102	Release of Communicable Disease Information	23313	AMD	01/04/2001	2000-23/18
R251-102	Release of Communicable Disease Information	23511	5YR	02/05/2001	2001-5/40
R251-104	Declaratory Orders	23967	5YR	08/01/2001	2001-16/52
R251-109	Sex Offender Treatment Providers	23568	5YR	03/27/2001	2001-8/86
R251-110	Sex Offender Notification	23570	5YR	03/27/2001	2001-8/87
R251-110	Sex Offender Notification	23571	AMD	08/09/2001	2001-8/43
R251-301	Employment, Education or Vocational Training for Community Correctional Center Residents	23512	5YR	02/05/2001	2001-5/40
R251-301	Employment, Educational or Vocational Training for Community Center residents	23400	AMD	03/13/2001	2001-3/8
R251-702	Inmate Communication: Telephones	23968	5YR	08/01/2001	2001-16/52
R251-708	Perimeter Patrol	23901	5YR	07/12/2001	2001-15/48
R251-709	Transportation of Inmates	23570	5YR	03/27/2001	2001-8/87
R251-709	Transportation of Inmates	23540	AMD	05/15/2001	2001-7/12
R251-711	Admission and Intake	23902	5YR	07/12/2001	2001-15/49
R251-712	Release	23903	5YR	07/12/2001	2001-15/49

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>CRIME VICTIM REPARATIONS</b>					
<u>Administration</u>					
R270-1	Award and Reparations Standards	23527	AMD	04/03/2001	2001-5/11
<b>EDUCATION</b>					
<u>Administration</u>					
R277-415	Strategic Planning Programs	23747	5YR	05/14/2001	2001-11/117
R277-451	The State School Building Program	23850	AMD	08/01/2001	2001-13/4
R277-456	Funding Regional Service Centers	23851	REP	08/01/2001	2001-13/6
R277-469	Textbook Commission Operating Procedures	23426	AMD	03/06/2001	2001-3/9
R277-470	Distribution of Funds for Charter Schools	23852	AMD	08/01/2001	2001-13/6
R277-478	Block Grant Funding	23853	NEW	08/01/2001	2001-13/9
R277-479	Expenditure of Appropriation for District Services	23854	NEW	08/01/2001	2001-13/11
R277-513	Dual Certification	23748	5YR	05/14/2001	2001-11/117
R277-514	Board Procedures: Sanctions for Educator Misconduct	23546	NSC	04/01/2001	Not Printed
R277-517	Athletic Coaching Endorsements	23749	5YR	05/14/2001	2001-11/118
R277-526	Career Ladders in Education	23855	AMD	08/01/2001	2001-13/13
R277-709	Education Programs Serving Youth in Custody	23670	AMD	06/05/2001	2001-9/19
R277-717	Math, Engineering, Science Achievement (MESA)	23856	NEW	08/01/2001	2001-13/16
R277-911	Secondary Applied Technology Education	23671	AMD	06/05/2001	2001-9/21
R277-914	Applied Technology Education (ATE) Leadership	23920	EXD	07/16/2001	2001-16/61
<b>ENVIRONMENTAL QUALITY</b>					
<u>Air Quality</u>					
R307-101-2	Definitions	23759	AMD	07/12/2001	2001-11/10
R307-103-1	Scope of Rule	23442	NSC	02/01/2001	Not Printed
R307-103-2	Initial Proceedings	23407	AMD	04/12/2001	2001-3/13
R307-110-31	Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability	23756	AMD	08/02/2001	2001-11/18
R307-110-33	Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County	23757	AMD	08/02/2001	2001-11/19
R307-204	Emissions Standards: Smoke Management	23139	NEW	see CPR	2000-19/14
R307-204	Emissions Standards: Smoke Management	23139	CPR	03/06/2001	2001-3/81
R307-210	Stationary Sources	23987	5YR	08/15/2001	2001-17/47
R307-405-1	Definitions	23760	AMD	07/12/2001	2001-11/21
R307-501	Emergency Rule: Power Generators	23781	EMR	05/15/2001	2001-11/114
<u>Drinking Water</u>					
R309-101	General Administration of Drinking Water Program	23662	5YR	04/16/2001	2001-9/140
R309-102	Responsibilities of Public Water System Owners and Operators	23663	5YR	04/16/2001	2001-9/140

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R309-103	Water Quality Maximum Contaminant Levels (MCLs)	23664	5YR	04/16/2001	2001-9/141
R309-104	Monitoring, Reporting and Public Notification	23665	5YR	04/16/2001	2001-9/141
R309-150	Water System Rating Criteria	23252	AMD	01/04/2001	2000-22/33
R309-201 (Changed to R309-500)	Facility Design and Operation: Plan Review, Operation and Maintenance Requirements	23655	AMD	08/15/2001	2001-9/22
R309-202 (Changed to R309-505)	Facility Design and Operation: Minimum Treatment Requirements	23656	AMD	08/15/2001	2001-9/26
R309-203 (Changed to R309-510)	Facility Design and Operation: Minimum Sizing Requirements	23657	AMD	08/15/2001	2001-9/29
R309-206 (Changed to R309-525)	Facility Design and Operation: Conventional Surface Water Treatment	23658	AMD	08/15/2001	2001-9/32
R309-207 (Changed to R309-530)	Facility Design and Operation: Alternative Surface Water Treatment Methods	23659	AMD	08/15/2001	2001-9/43
R309-208 (Changed to R309-535)	Facility Design and Operation: Miscellaneous Treatment Methods	23394	AMD	05/01/2001	2001-2/3
R309-209 (Changed to R309-540)	Facility Design and Operation: Pump Stations	23660	AMD	08/15/2001	2001-9/46
R309-211 (Changed to R309-550)	Facility Design and Operation: Transmission and Distribution Pipelines	23661	AMD	08/15/2001	2001-9/50
<u>Radiation Control</u>					
R313-12	General Provisions	23667	AMD	06/07/2001	2001-9/54
R313-12	General Provisions	23932	5YR	07/23/2001	2001-16/53
R313-14	Violations and Escalated Enforcement	23668	AMD	06/07/2001	2001-9/55
R313-14	Violations and Escalated Enforcement	23933	5YR	07/23/2001	2001-16/53
R313-16	General Requirements Applicable to the installation, Registration, Inspection and Use of Radiation Machines	23934	5YR	07/23/2001	2001-16/54
R313-17	Administration Procedures	23935	5YR	07/23/2001	2001-16/54
R313-18	Notices, Instructions and Reports to Workers by Licensees or Registrants--Inspections	23936	5YR	07/23/2001	2001-16/55
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	23312	AMD	01/26/2001	2000-23/19
R313-26	Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities	23669	NEW	06/08/2001	2001-9/59
R313-36	Special Requirements for Industrial Radiographic Operations	23552	AMD	05/11/2001	2001-7/13
<u>Solid and Hazardous Waste</u>					
R315-1	Utah Hazardous Waste Definitions and References	23409	AMD	04/20/2001	2001-3/14



CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R315-2	General Requirements - Identification and Listing of Hazardous Waste	23410	AMD	04/20/2001	2001-3/16
R315-2-2	Definitions of Solid Waste	23521	AMD	06/15/2001	2001-5/15
R315-3	Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	23411	AMD	see CPR	2001-3/22
R315-3	Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	23411	CPR	06/15/2001	2001-9/130
R315-3	Application and permit Procedures for hazardous Waste Treatment, Storage, and Disposal Facilities	23947	NSC	08/01/2001	Not Printed
R315-3-1	Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	23764	AMD	07/20/2001	2001-11/29
R315-5-3	Pre-Transport Requirements	23412	AMD	04/20/2001	2001-3/30
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	23413	AMD	see CPR	2001-3/31
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	23413	CPR	06/15/2001	2001-9/131
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	23414	AMD	see CPR	2001-3/36
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	23414	CPR	06/15/2001	2001-9/133
R315-13-1	Land Disposal Restrictions	23415	AMD	04/20/2001	2001-3/40
R315-14-7	Hazardous Waste Burned in Boilers and Industrial Furnaces	23416	AMD	04/20/2001	2001-3/41
R315-16	Standards for Universal Waste Management	23417	AMD	04/20/2001	2001-3/42
R315-16-5	Standards for Universal Waste Management	23951	NSC	08/01/2001	Not Printed
R315-50	Appendices	23418	AMD	04/20/2001	2001-3/50
R315-101-7	Public Participation	23419	AMD	see CPR	2001-3/51
R315-101-7	Public Participation	23419	CPR	07/20/2001	2001-11/113
R315-301-2	Definitions	23638	AMD	07/01/2001	2001-9/60
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	23639	AMD	07/01/2001	2001-9/64
R315-303-3	Standards for Design	23640	AMD	07/01/2001	2001-9/68
R315-304-5	Industrial Landfill Requirements	23641	AMD	07/01/2001	2001-9/71
R315-304-5	Industrial Landfill Requirements	23871	NSC	07/30/2001	Not Printed
R315-305	Class IV Landfill Requirements	23642	AMD	07/01/2001	2001-9/72
R315-305	Requirements for Operation	23872	NSC	07/30/2001	Not Printed
R315-306	Energy Recovery and Incinerator Standards	23643	AMD	07/01/2001	2001-9/74
R315-307-1	Applicability	23644	AMD	07/01/2001	2001-9/76
R315-308-2	Ground Water Monitoring Requirements	23645	AMD	07/01/2001	2001-9/77
R315-309-2	General Requirements	23646	AMD	07/01/2001	2001-9/80
R315-310	Permit Requirements for Solid Waste Facilities	23647	AMD	07/01/2001	2001-9/81
R315-310	Procedures for Permits	23874	NSC	07/30/2001	Not Printed

## RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R315-312	Recycling and Composting Facility Standards	23648	AMD	07/01/2001	2001-9/85
R315-312-4	Requirements for Use on Land of Sewage Sludge, Woodwaste, and other Organic Sludge	23875	NSC	07/30/2001	Not Printed
R315-313	Transfer Stations and Drop Box Facilities	23649	AMD	07/01/2001	2001-9/86
R315-314-3	Requirements for a waste Tire Storage Facility	23650	AMD	07/01/2001	2001-9/87
R315-314-3	Requirements for a Waste Tire Storage Facility	23882	NSC	07/30/2001	Not Printed
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
R315-316	Infectious Waste Requirements	23651	AMD	07/01/2001	2001-9/89
R315-320	Waste Tire Transporter and Recycler Requirements	23652	AMD	07/01/2001	2001-9/91
R315-320-7	Reimbursement for the Removal of an Abandoned Tire Pile or a Tire Pile at a Landfill Owned by a Governmental Entity	23876	NSC	07/30/2001	Not Printed
<u>Water Quality</u>					
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
R317-1-6	Disposal of Domestic Wastewater Treatment Works Sludge	23599	AMD	08/13/2001	2001-8/44
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
<b>FAIR CORPORATION (UTAH STATE)</b>					
<u>Administration</u>					
R325-1	Utah State Fair Competitive Exhibitor Rules	23890	5YR	07/12/2001	2001-15/50
R325-2	Utah State Fair Commercial Exhibitor Rules	23891	5YR	07/12/2001	2001-15/50
R325-3	Utah State Fair Patron Rules	23892	5YR	07/12/2001	2001-15/51
R325-4	Interim Patron Rules (Other Than Utah State Fair)	23893	5YR	07/12/2001	2001-15/51
R325-5	Interim Renters Rule (Other Than Utah State Fair)	23894	5YR	07/12/2001	2001-15/52
<b>GOVERNOR</b>					
<u>Planning and Budget</u>					
R361-1	Rule for Implementation of the Resource Development Coordinating Committee Act, 1981	23408	5YR	01/11/2001	2001-3/97
<b>HEALTH</b>					
<u>Children's Health Insurance Program</u>					
R382-10	Eligibility	23458	AMD	04/04/2001	2001-4/6

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Epidemiology and Laboratory Services, HIV/AIDS, Tuberculosis Control/Refugee Health</u>					
R388-804	Special Measures for the Control of Tuberculosis	23303	AMD	02/02/2001	2000-23/29
<u>Community and Family Health Services, Immunization</u>					
R396-100	Immunization Rule for Students	23762	R&R	07/19/2001	2001-11/52
<u>Community and Family Health Services, Children with Special Health Care Needs</u>					
R398-1	Newborn Screening	23834	AMD	08/07/2001	2001-13/61
<u>Community and Family Health Services, Health Education Services</u>					
R402-5	Birth Defects Reporting	23731	AMD	08/09/2001	2001-11/58
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-61	Home and Community Based Waivers	23823	AMD	08/09/2001	2001-13/63
R414-63	Medicaid Policy for Pharmacy Reimbursement	23347	NEW	01/17/2001	2000-24/23
R414-63	Medicaid Policy for Pharmacy Reimbursement	23551	AMD	05/07/2001	2001-7/17
R414-303	Coverage Groups	23396	EMR	01/03/2001	2001-3/87
R414-303	Coverage Groups	23420	AMD	03/13/2001	2001-3/52
R414-303	Coverage Groups	23752	AMD	07/06/2001	2001-11/59
R414-304	Income and Budgeting	23397	EMR	01/03/2001	2001-3/89
R414-304	Income and Budgeting	23421	AMD	03/13/2001	2001-3/56
R414-304	Income and Budgeting	23753	AMD	07/06/2001	2001-11/62
R414-305	Resources	23398	EMR	01/03/2001	2001-3/91
R414-305	Resources	23422	AMD	03/13/2001	2001-3/60
R414-305	Resources	23754	AMD	07/06/2001	2001-11/72
R414-306	Program Benefits	23459	AMD	04/04/2001	2001-4/11
R414-306	Program Benefits	23943	EMR	08/01/2001	2001-16/46
R414-309	Utah Medical Assistance Program (UMAP)	23349	AMD	01/17/2001	2000-24/24
R414-309	Utah Medical Assistance Program (UMAP)	23700	EMR	05/01/2001	2001-10/82
R414-309	Utah Medical Assistance Program (UMAP)	23702	AMD	06/25/2001	2001-10/15
R414-310	Demonstration Programs	23452	REP	04/02/2001	2001-4/13
R414-501	Preadmission and Continued Stay Review	23802	AMD	07/18/2001	2001-12/40
R414-502	Nursing Facility Levels of Care	23803	AMD	07/18/2001	2001-12/43
R414-503	Preadmission Screening and Annual Resident Review	23804	AMD	07/18/2001	2001-12/46
<u>Health Care Financing, Medical Assistance Program</u>					
R420-1	Utah Medical Assistance Program	23351	AMD	01/23/2001	2000-24/28
R420-1	Utah Medical Assistance Program	23701	EMR	05/01/2001	2001-10/85
R420-1	Utah Medical Assistance Program	23703	AMD	06/25/2001	2001-10/19
<u>Health Systems Improvement, Emergency Medical Services</u>					
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

RULES INDEX

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
<u>Health Systems Improvement, Child Care Licensing</u>					
R430-6	Background Screening	23450	R&R	04/17/2001	2001-4/15
R430-100	Child Care Center	23451	AMD	04/17/2001	2001-4/20
R430-100	Child Care Center	23811	AMD	07/31/2001	2001-12/48
<u>Health Systems Improvement, Health Facility Licensure (Changed to Health Systems Improvement, Licensing--04/01/2001)</u>					
R432-1	General Health Care Facility Rules	23477	NSC	04/01/2001	Not Printed
R432-1-3	Definitions	23784	AMD	08/07/2001	2001-12/51
R432-2	General Licensing Provisions	23478	NSC	04/01/2001	Not Printed
R432-3	General Health Care Facility Rules Inspection and Enforcement	23479	NSC	04/01/2001	Not Printed
R432-4	General Construction	23480	NSC	04/01/2001	Not Printed
R432-5	Nursing Facility Construction	23481	NSC	04/01/2001	Not Printed
R432-6	Assisted Living Facility General Construction	23482	NSC	04/01/2001	Not Printed
R432-7	Specialty Hospital - Psychiatric Hospital Construction	23483	NSC	04/01/2001	Not Printed
R432-8	Specialty Hospital - Chemical Dependency/Substance Abuse Construction	23484	NSC	04/01/2001	Not Printed
R432-9	Specialty Hospital - Rehabilitation Construction Rule	23485	NSC	04/01/2001	Not Printed
R432-10	Specialty Hospital - Chronic Disease Construction Rule	23486	NSC	04/01/2001	Not Printed
R432-11	Orthopedic Hospital Construction	23487	NSC	04/01/2001	Not Printed
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	23488	NSC	04/01/2001	Not Printed
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	23489	NSC	04/01/2001	Not Printed
R432-14	Birthing Center Construction Rule	23490	NSC	04/01/2001	Not Printed
R432-16	Hospice Inpatient Facility Construction	23491	NSC	04/01/2001	Not Printed
R432-30	Adjudication Procedure	23492	NSC	04/01/2001	Not Printed
R432-35	Background Screening	23493	NSC	04/01/2001	Not Printed
R432-100	General Hospital Standards	23494	NSC	04/01/2001	Not Printed
R432-101	Specialty Hospital - Psychiatric	23495	NSC	04/01/2001	Not Printed
R432-102	Specialty Hospital - Chemical Dependency/Substance Abuse	23496	NSC	04/01/2001	Not Printed
R432-103	Specialty Hospital - Rehabilitation	23497	NSC	04/01/2001	Not Printed
R432-104	Specialty Hospital - Chronic Disease	23498	NSC	04/01/2001	Not Printed
R432-105	Specialty Hospital - Orthopedic	23499	NSC	04/01/2001	Not Printed
R432-106	Specialty Hospital - Critical Access	23561	NSC	04/01/2001	Not Printed
R432-106	Specialty Hospital-Critical Access	23292	NEW	01/23/2001	2000-23/31
R432-150	Nursing Care Facility	23500	NSC	04/01/2001	Not Printed
R432-151	Mental Disease Facility	23501	NSC	04/01/2001	Not Printed
R432-152	Mental Retardation Facility	23502	NSC	04/01/2001	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R432-200	Small Health Care Facility (Four to Sixteen Beds)	23503	NSC	04/01/2001	Not Printed
R432-201	Mental Retardation Facility: Supplement "A" to the Small Health Care Facility Rule	23504	NSC	04/01/2001	Not Printed
R432-270	Assisted Living Facilities	23380	AMD	03/30/2001	2001-1/10
R432-270	Assisted Living Facilities	23505	NSC	04/01/2001	Not Printed
R432-300	Small Health Care Facility - Type N	23506	NSC	04/01/2001	Not Printed
R432-500	Freestanding Ambulatory Surgical Center Rules	23567	NSC	04/01/2001	Not Printed
R432-500	Freestanding Ambulatory Surgical Center Rules	23564	AMD	08/13/2001	2001-8/63
R432-550	Birthing Centers (Five or Less Birth Rooms)	23507	NSC	04/01/2001	Not Printed
R432-600	Abortion Clinic Rule	23508	NSC	04/01/2001	Not Printed
R432-650	End Stage Renal Disease Facility Rules	23562	NSC	04/01/2001	Not Printed
R432-700	Home Health Agency Rule	23509	NSC	04/01/2001	Not Printed
R432-750	Hospice Rule	23510	NSC	04/01/2001	Not Printed
R432-950	Mammography Quality Assurance	23563	NSC	04/01/2001	Not Printed
<u>Health Systems Improvement, Primary Care and Rural Health</u>					
R434-30	Primary Care Grants Program for Medically Underserved Populations	23888	5YR	07/11/2001	2001-15/52
<u>Center for Health Data, Vital Records and Statistics</u>					
R436-11	Local Registrars	23681	NSC	05/01/2001	Not Printed
<b>HUMAN RESOURCE MANAGEMENT</b>					
<u>Administration</u>					
R477-1	Definitions	23770	AMD	07/03/2001	2001-11/76
R477-2	Administration	23771	AMD	07/03/2001	2001-11/82
R477-4	Classification	23772	AMD	07/03/2001	2001-11/85
R477-5	Filling Positions	23773	AMD	07/03/2001	2001-11/86
R477-7	Compensation	23774	AMD	07/03/2001	2001-11/87
R477-8	Working Conditions	23775	AMD	07/03/2001	2001-11/90
R477-10	Employee Development	23776	AMD	07/03/2001	2001-11/98
R477-11	Discipline	23777	AMD	07/03/2001	2001-11/99
R477-14	Substance Abuse and Drug-Free Workplace	23778	AMD	07/03/2001	2001-11/101
R477-15	Unlawful Harassment Policy and Procedure	23779	AMD	07/03/2001	2001-11/103
<b>HUMAN SERVICES</b>					
<u>Administration</u>					
R495-862	Communicable Disease Control Act	23605	5YR	04/04/2001	2001-9/142
R495-876	Provider Code of Conduct	23867	5YR	07/02/2001	2001-14/73
R495-876	Provider Code of Conduct	23868	AMD	08/15/2001	2001-14/38
R495-880	Adoption Assistance	23863	NEW	08/15/2001	2001-14/43
<u>Administration, Administrative Services, Licensing</u>					
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

## RULES INDEX

---

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R501-8	VII. Section C: Categorical Standards	23322	AMD	01/16/2001	2000-23/33
R501-8	Outdoor Youth Programs	23406	NSC	02/01/2001	Not Printed
R501-12	Foster Care Rules	23626	AMD	08/09/2001	2001-9/94
R501-14	Criminal Background Screening	23783	5YR	05/18/2001	2001-12/73
R501-17	Adult Foster Care Standards	23323	AMD	01/16/2001	2000-23/39
R501-22	Residential Support Programs	23923	NSC	08/01/2001	Not Printed
<u>Aging and Adult Services</u>					
R510-1	Authority and Purpose	23453	5YR	01/23/2001	2001-4/62
R510-1	Authority and Purpose	23538	AMD	04/17/2001	2001-6/45
R510-1	Authority and Purpose	23822	5YR	06/04/2001	2001-13/86
<u>Child and Family Services</u>					
R512-43	Adoption Assistance	23866	EMR	06/29/2001	2001-14/65
<u>Mental Health, State Hospital</u>					
R525-8	Forensic Mental Health Facility	23666	NEW	06/04/2001	2001-9/98
<u>Recovery Services</u>					
R527-200	Administrative Procedures	23733	5YR	05/07/2001	2001-11/118
R527-302	Income Withholding Fees	23955	NSC	08/01/2001	Not Printed
R527-475	State Tax Refund Intercept	23956	NSC	08/01/2001	Not Printed
R527-800	Enforcement Procedures	23929	5YR	07/23/2001	2001-16/55
R527-928	Lost Checks	23389	AMD	02/15/2001	2001-2/7
R527-936	Third Party Liability, Medicaid	23887	5YR	07/10/2001	2001-15/53
R527-936	Third Party Liability, Medicaid	23821	AMD	08/03/2001	2001-13/70
<u>Substance Abuse</u>					
R544-2	Division Rules	23706	5YR	04/30/2001	2001-10/90
R544-4	Utah Standards for Approval of Alcohol and Drug Educational Programs for Court-Referred DUI Offenders	23732	AMD	07/03/2001	2001-11/105
R544-5	Alcohol Training and Education Seminar Rules of Administration	23719	AMD	06/26/2001	2001-10/21
<b>INSURANCE</b>					
<u>Administration</u>					
R590-136	Title Insurance Agents' Annual Reports	23904	5YR	07/13/2001	2001-15/53
R590-144	Commercial Aviation Insurance Exemption From Rate and Form Filing	23582	5YR	03/30/2001	2001-8/88
R590-144	Commercial Aviation Insurance Exemption From Rate and Form Filing	23583	NSC	05/01/2001	Not Printed
R590-146	Medicare Supplement Insurance Minimum Standards	23598	AMD	05/23/2001	2001-8/65
R590-155	Disclosure of Life and Disability Guaranty Association Limitations	23765	AMD	08/20/2001	2001-11/106
R590-177	Life Insurance Illustrations Rule	23713	5YR	04/30/2001	2001-10/91

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R590-200	Diabetes Treatment and Management	22923	NEW	see CPR (First)	2000-13/51
R590-200	Diabetes Treatment and Management	22923	CPR (First)	see CPR (Second)	2000-19/159
R590-200	Diabetes Treatment and Management	22923	CPR (Second)	see CPR (Third)	2000-23/60
R590-200	Diabetes Treatment and Management	22923	CPR (Third)	04/30/2001	2001-3/84
R590-204	Adoption Indemnity Benefits	23378	NEW	02/09/2001	2001-1/23
R590-205	Privacy of Consumer Information Compliance Deadline	23247	NEW	01/11/2001	2000-22/35
R590-206	Privacy of Consumer Financial and Health Information Rule	23720	NEW	07/01/2001	2001-10/23
R590-208	Uniform Application for Certificates of Authority	23560	NEW	06/12/2001	2001-7/20
R590-210	Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts	23864	EMR	07/01/2001	2001-14/70
<b>JUDICIAL CONDUCT COMMISSION</b>					
<u>Administration</u>					
R595-1	Rules of Procedure	23908	NSC	07/30/2001	Not Printed
<b>LABOR COMMISSION</b>					
<u>Antidiscrimination and Labor, Antidiscrimination</u>					
R606-1-3	Procedures--Request for Agency Action and Investigation File	23515	AMD	04/03/2001	2001-5/17
<u>Antidiscrimination and Labor, Labor</u>					
R610-1-3	Coverage	23861	NSC	07/05/2001	Not Printed
<u>Industrial Accidents</u>					
R612-1-3	Official Forms	23462	NSC	02/15/2001	Not Printed
R612-1-10	Permanent Total Disability	23223	AMD	see CPR	2000-21/18
R612-1-10	Permanent Total Disability	23223	CPR	03/20/2001	2001-1/36
R612-2-3	Filings	23463	NSC	02/15/2001	Not Printed
R612-2-5	Regulation of Medical Practitioner Fees	23464	NSC	02/15/2001	Not Printed
R612-2-5	Regulation of Medical Practitioner Fees	23548	EMR	03/08/2001	2001-7/43
R612-2-5	Regulation of Medical Practitioner Fees	23549	AMD	05/03/2001	2001-7/21
R612-2-5	Regulation of Medical Practitioner Fees	23746	AMD	07/05/2001	2001-11/108
R612-2-6	Fees in Cases Requiring Unusual Treatment	23465	NSC	02/15/2001	Not Printed
R612-2-11	Surgical Assistants' Fees	23466	NSC	02/15/2001	Not Printed
R612-2-16	Charges for Special or Unusual Supplies, Materials, or Drugs	23467	AMD	03/20/2001	2001-4/32
R612-2-17	Fees for Unscheduled Procedures	23468	NSC	02/15/2001	Not Printed
R612-2-22	Medical Records	23469	AMD	03/20/2001	2001-4/33
R612-2-23	Adjusting Relative Value Schedule (RVS) Codes	23470	NSC	02/15/2001	Not Printed
R612-2-24	Review of Medical Payments	23471	AMD	03/20/2001	2001-4/34
R612-2-26	Utilization Review Standards	23472	NSC	02/15/2001	Not Printed
R612-4	Premium Rates	23520	5YR	02/08/2001	2001-5/41

## RULES INDEX

---

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Occupational Safety and Health</u>					
R614-1-4	Incorporation of Federal Standards	23372	AMD	02/01/2001	2001-1/4
R614-1-4	Incorporation of Federal Standards	23516	NSC	02/22/2001	Not Printed
<u>Safety</u>					
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	23310	AMD	01/03/2001	2000-23/42
R616-3-3	Safety Codes for Elevators	23473	AMD	03/20/2001	2001-4/36
<b>MONEY MANAGEMENT COUNCIL</b>					
<u>Administration</u>					
R628-10	Rating Requirements to Be a Permitted Out-of-State Depository	23624	5YR	04/11/2001	2001-9/143
<b>NATURAL RESOURCES</b>					
<u>Oil, Gas and Mining: Coal</u>					
R645-100-200	Definitions	23385	AMD	04/02/2001	2001-1/25
R645-106	Exemption for Coal Extraction Incidental to the Extraction of Other Minerals	23926	5YR	07/19/2001	2001-16/56
R645-301-500	Engineering	23386	AMD	04/02/2001	2001-1/26
R645-301-700	Hydrology	23387	AMD	see CPR	2001-1/29
R645-301-700	Hydrology	23387	CPR	05/03/2001	2001-7/26
<u>Oil, Gas and Mining: Oil and Gas</u>					
R649-4	Determination of Well Categories Under the Natural Gas Policy Act of 1978	23304	NEW	01/03/2001	2000-23/43
R649-10	Administrative Procedures	23927	5YR	07/19/2001	2001-16/56
<u>Parks and Recreation</u>					
R651-101	Adjudicative Proceedings	23441	5YR	01/18/2001	2001-4/62
R651-205	Zoned Waters	23439	AMD	03/20/2001	2001-4/37
R651-206	Carrying Passengers for Hire	23974	5YR	08/07/2001	2001-17/47
R651-215	Personal Flotation Devices	23975	5YR	08/07/2001	2001-17/48
R651-219	Additional Safety Equipment	23440	AMD	03/20/2000	2001-4/38
R651-222	Muffling Requirements	23976	5YR	08/07/2001	2001-17/48
R651-223	Vessel Accident Reporting	23456	5YR	01/26/2001	2001-4/63
R651-224	Towed Devices	23977	5YR	08/07/2001	2001-17/49
R651-401	Off-Highway Vehicle Assigned Numbers and Registration Stickers	23707	AMD	06/15/2001	2001-10/37
R651-403	Dealer Registration	23708	AMD	06/15/2001	2001-10/38
R651-404	Temporary Registration	23709	AMD	06/15/2001	2001-10/39
R651-601	Definitions as Used in These Rules	23423	AMD	03/06/2001	2001-3/62
R651-601	Definitions as Used in These Rules	23710	AMD	06/15/2001	2001-10/40
R651-603	Animals	23711	AMD	06/15/2001	2001-10/41
R651-608-2	Events Prohibited without Permit	23424	AMD	03/06/2001	2001-3/63
R651-611	Fee Schedule	23978	5YR	08/07/2001	2001-17/49



CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R651-620	Protection of Resources Park System Property	23712	AMD	06/15/2001	2001-10/42
R651-620	Protection of resources Park System Property	23848	AMD	08/06/2001	2001-13/72
R651-635	Commercial Use of Division Managed Lands	23654	NEW	06/11/2001	2001-9/99
<u>Forestry, Fire and State Lands</u>					
R652-2	Sovereign Land Management Objectives	23937	5YR	07/23/2001	2001-16/57
R652-8	Adjudicative Proceedings	23938	5YR	07/23/2001	2001-16/57
R652-9	Consistence Review	23939	5YR	07/23/2001	2001-16/58
R652-41	Rights of Entry	23940	5YR	07/23/2001	2001-16/58
R652-70-2400	Recreational Use of Navigable Rivers	23621	AMD	06/11/2001	2001-9/100
R652-80	Land Exchanges	23941	5YR	07/23/2001	2001-16/59
R652-121	Wildland Fire Suppression Fund	23425	AMD	03/12/2001	2001-3/64
<u>Water Rights</u>					
R655-10	Dam Safety Classifications, Approval Procedures and Independent Reviews	23895	5YR	07/12/2001	2001-15/54
R655-11	Requirements for the Design, Construction and Abandonment of Dams	23896	5YR	07/12/2001	2001-15/54
R655-12	Requirements for Operational Dams	23897	5YR	07/12/2001	2001-15/55
<u>Wildlife Resources</u>					
R657-3	Collection, Importation, Transportation, and Possession of Zoological Animals	23673	5YR	04/16/2001	2001-9/143
R657-5	Taking Big Game	23356	AMD	01/16/2001	2000-24/40
R657-5	Taking Big Game	23528	AMD	04/03/2001	2001-5/19
R657-5	Taking Big Game	23806	AMD	07/18/2001	2001-12/63
R657-13	Taking Fish and Crayfish	23189	AMD	01/02/2001	2000-21/23
R657-14	Commercial Harvesting of Protected Aquatic Wildlife	23601	AMD	05/17/2001	2001-8/71
R657-17	Lifetime Hunting and Fishing License	23358	AMD	01/16/2001	2000-24/51
R657-23	Process for Providing Proof of Completion of Hunter Education	23810	5YR	05/30/2001	2001-12/74
R657-23	Process for Providing Proof of Completion of Hunter Education	23807	AMD	07/18/2001	2001-12/66
R657-27	License Agent Procedures	23455	AMD	03/26/2001	2001-4/39
R657-33	Taking Bear	23393	AMD	02/15/2001	2001-2/8
R657-37	Cooperative Wildlife Management Units for Big Game	23808	AMD	07/18/2001	2001-12/67
R657-38	Dedicated Hunter Program	23360	AMD	01/16/2001	2000-24/53
R657-39	Regional Advisory Councils	23529	5YR	02/15/2001	2001-5/41
R657-39	Regional Advisory Councils	23530	AMD	04/03/2001	2001-5/20
R657-40	Wildlife Rehabilitation	23531	5YR	02/15/2001	2001-5/42
R657-40	Wildlife Rehabilitation	23532	AMD	04/03/2001	2001-5/22
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

## RULES INDEX

---

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R657-42-6	Reallocation of Permits	23533	AMD	04/03/2001	2001-5/27
R657-42-8	Accepted Payment of Fees	23809	AMD	07/18/2001	2001-12/70
R657-43	Landowner Permits	23675	AMD	06/04/2001	2001-9/119
R657-44	Big Game Depredation	23676	AMD	06/04/2001	2001-9/122
R657-48	Implementation of the Wildlife Species of Concern and Habitat Designation Advisory Committee	23677	NEW	06/13/2001	2001-9/124
<b>PIONEER SESQUICENTENNIAL CELEBRATION COORDINATING COUNCIL (UTAH)</b>					
<u>Administration</u>					
R674-1	Functional Baseline: Administration	23739	EXD	05/07/2001	2001-11/121
R674-2	Disbursement of Discretionary Grants and Noncommercial Licensing	23742	EXD	05/09/2001	2001-11/121
R674-3	Administration of the UPSCCC Licensing Program	23740	EXD	05/07/2001	2001-11/121
<b>PROFESSIONAL PRACTICES ADVISORY COMMISSION</b>					
<u>Administration</u>					
R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	23427	AMD	03/06/2001	2001-3/67
R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	23547	NSC	04/01/2001	Not Printed
<b>PUBLIC SAFETY</b>					
<u>Driver License</u>					
R708-3	Driver License Point System Administration	23514	NSC	02/22/2001	Not Printed
R708-3	Driver License Point System Administration	23402	AMD	03/06/2001	2001-3/75
R708-18	Regulatory and Administrative Fees	23957	5YR	07/30/2001	2001-16/59
R708-33	Electric Assisted Bicycle Headgear	23833	5YR	06/07/2001	2001-13/87
R708-34	Medical Waivers for Intrastate Commercial Driver Licenses	23597	AMD	05/16/2001	2001-8/74
R708-38	Anatomical Gift	23741	NEW	07/03/2001	2001-11/110
<u>Fire Marshal</u>					
R710-3	Assisted Living Facilities	23579	AMD	05/16/2001	2001-8/75
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	23339	AMD	01/16/2001	2000-24/61
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	23580	AMD	05/16/2001	2001-8/77
R710-6	Liquefied Petroleum Gas Rules	23367	AMD	01/16/2001	2000-24/63
R710-6	Liquefied Petroleum Gas Rules	23880	5YR	07/05/2001	2001-15/55
R710-9	Rules Pursuant to the Utah Fire Prevention Law	23340	AMD	01/16/2001	2000-24/64
<u>Law Enforcement and Technical Services, Criminal Identification (Changed to Criminal Investigations and Technical Services, Criminal Identification--02/01/2001)</u>					
R722-2 (Changed to R722-900)	Review and Challenge of Criminal Record	23444	NSC	02/01/2001	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Law Enforcement and Technical Services, Regulatory Licensing (Changed to Criminal Investigations and Technical Services, Criminal Identification--02/01/2001)</u>					
R724-4 (Changed to R722-300)	Concealed Firearm Permit Rule	23445	NSC	02/01/2001	Not Printed
R724-6 (Changed to 722-340)	Emergency Vehicles	23446	NSC	02/01/2001	Not Printed
R724-7 (Changed to R722-320)	Undercover Identification	23447	NSC	02/01/2001	Not Printed
R724-9 (Changed to R722-330)	Licensing of Private Investigations	23448	NSC	02/01/2001	Not Printed
R724-10 (Changed to R722-310)	Regulation of Bail Bond Recovery and Enforcement Agents	23449	NSC	02/01/2001	Not Printed
<u>Peace Officer Standards and Training</u>					
R728-205	Council Resolution of Public Safety Retirement Eligibility	23627	NSC	05/01/2001	Not Printed
R728-404	Basic Training Basic Academy Rules	23628	NSC	05/01/2001	Not Printed
R728-409	Refusal, Suspension or Revocation of Peace Officer Certification	23629	NSC	05/01/2001	Not Printed
R728-500	Utah Peace Officer Standards and Training In-Service Training Certification Procedures	23630	NSC	05/01/2001	Not Printed
<b>PUBLIC SERVICE COMMISSION</b>					
<u>Administration</u>					
R746-200	Residential Utility Service Rules for Electric, Gas, Water and Sewer Utilities	23353	AMD	02/15/2001	2000-24/66
R746-240	Telecommunication Service Rules	23354	AMD	02/15/2001	2000-24/67
R746-340	Service Quality for Telecommunications Corporations	23328	AMD	see CPR	2000-23/49
R746-340	Service Quality for Telecommunications Corporations	23328	CPR	03/27/2001	2001-4/56
R746-341	Lifeline Rule	23376	AMD	03/01/2001	2001-1/30
R746-347	Extended Area Service (EAS)	23844	REP	08/01/2001	2001-13/73
R746-352	Price Cap Regulation	23232	NEW	see CPR (First)	2000-21/26
R746-352	Price Cap Regulation	23232	CPR (First)	see CPR (Second)	2001-5/32
R746-352	Price Cap Regulation	23232	CPR (Second)	06/15/2001	2001-7/38
R746-360	Universal Public Telecommunications Service Support Fund	23271	AMD	02/15/2001	2000-22/45
R746-409	Pipeline Safety	23705	AMD	06/28/2001	2001-10/42

RULES INDEX

---

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>REGENTS (Board of)</b>					
<u>Administration</u>					
R765-649	Utah Higher Education Assistance Authority (UHEAA) Privacy Policy	23596	NEW	05/16/2001	2001-8/78
R765-649	Utah Higher Education Assistance Authority (UHEAA) Privacy Policy	23782	AMD	07/17/2001	2001-12/71
<b>SCHOOL AND INSTITUTIONAL TRUST LANDS</b>					
<u>Administration</u>					
R850-50-400	Permit Approval Process	23558	AMD	05/02/2001	2001-7/22
<b>TAX COMMISSION</b>					
<u>Administration</u>					
R861-1A-9	Tax Commission as Board of Equalization Pursuant to Utah Code Ann. Sections 59-2-212, 59-2-1004, and 59-2-1006	23846	AMD	08/02/2001	2001-13/75
R861-1A-17	Definition of Return Pursuant to Utah Code Ann. Sections 59-1-210 and 59-1-403	23717	AMD	07/04/2001	2001-10/44
R861-1A-36	Signatures Defined Pursuant to Utah Code Ann. Sections 41-1a-209, 59-10-512, and 59-12-107	23403	AMD	04/11/2001	2001-3/76
<u>Auditing</u>					
R865-6F-1	Corporation Franchise Privilege - Right to do Business - Nature of Liability and How Terminated Pursuant to Utah Code Ann. Sections 16-10a-1501 through 16-10a-1522	23555	NSC	04/01/2001	Not Printed
R865-6F-15	Installment Basis of Reporting Income in Year of Termination Pursuant to Utah Code Ann. Section 59-7-119	23556	NSC	04/01/2001	Not Printed
R865-19S-85	Sales and Use Tax Exemptions for New or Expanding Operations and Normal Operating Replacements Pursuant to Utah Code Ann. Section 59-12-104	23716	AMD	07/04/2001	2001-10/46
R865-21U	Use Tax	23572	5YR	03/27/2001	2001-8/88
R865-21U-6	Liability of Purchasers and Receipt for Payment to Retailers Pursuant to Utah Code Ann. Section 59-12-107	23553	NSC	04/01/2001	Not Printed
<u>Collections</u>					
R867-2B	Delinquent Tax Collection	23574	5YR	03/27/2001	2001-8/89
<u>Motor Vehicle</u>					
R873-22M-35	Reissuance of Personalized License Plates Pursuant to Utah Code Ann. Sections 41-1a-413 and 41-1a-1211	23718	AMD	07/04/2001	2001-10/48

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Property Tax</u>					
R884-24P-49	Calculating the Utah Apportioned Value of a Rail Car Fleet Pursuant to Utah Code Ann. Section 59-2-201	23475	AMD	04/11/2001	2001-4/42
R884-24P-62	Valuation of State Assessed Utility and Transportation Properties Pursuant to Utah Code Ann. Section 59-2-201	23395	AMD	05/14/2001	2001-2/11
R884-24P-65	Proportional Assessment of Transitory Personal Property Pursuant to Utah Code Ann. Section 59-2-402	23316	AMD	02/20/2001	2000-23/54
R884-24P-66	Appeal to County Board of Equalization Pursuant to Utah Code Ann. Section 59-2-1004	23847	AMD	08/02/2001	2001-13/77
<b>TRANSPORTATION</b>					
<u>Administration</u>					
R907-3-1	Additional Requirements: Policy	23633	NSC	05/01/2001	Not Printed
R907-40	External Relations	23634	NSC	05/01/2001	Not Printed
R907-63-1	Authority and Purpose	23623	NSC	05/01/2001	Not Printed
<u>Motor Carrier</u>					
R909-1	Safety Regulations for Motor Carriers	23460	AMD	03/20/2001	2001-4/44
R909-1	Safety Regulations for Motor Carriers	23573	NSC	04/01/2001	Not Printed
R909-1	Safety Regulations for Motor Carriers	23590	NSC	05/01/2001	Not Printed
R909-4	Safety Regulations for Tow Truck (Wrecker) Operations-Tow Truck Requirements, Equipment and Operations	23565	NSC	04/01/2001	Not Printed
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	23461	AMD	03/20/2001	2001-4/45
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	23857	AMD	08/15/2001	2001-14/43
<u>Motor Carrier, Ports of Entry</u>					
R912-8	Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah	23698	5YR	04/27/2001	2001-10/91
R912-16	Special Mobile Equipment	23625	NSC	05/01/2001	Not Printed
<u>Operations, Construction</u>					
R916-2	Prequalification of Contractors	23608	NSC	05/01/2001	Not Printed
R916-3	DESIGN-BUILD Contracts	23609	NSC	05/01/2001	Not Printed
R916-3	DESIGN-BUILD Contracts	23750	5YR	05/14/2001	2001-11/119
<u>Operations, Maintenance</u>					
R918-3	Snow Removal	23379	AMD	02/15/2001	2001-1/32

## RULES INDEX

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Operations, Traffic and Safety</u>					
R920-2	Traffic Control Systems for Railroad-Highway Grade Crossing	23635	NSC	05/01/2001	Not Printed
R920-3	Manual of Uniform Traffic Control Devices, Part IV	23636	NSC	05/01/2001	Not Printed
R920-6	Snow Tire and Chain Requirements	23610	NSC	05/01/2001	Not Printed
R920-7	Public Safety Program Signing	23611	NSC	05/01/2001	Not Printed
<u>Program Development</u>					
R926-2	Evaluation of Proposed Additions to the State Highway System	23612	NSC	05/01/2001	Not Printed
R926-3	Class B and Class C Road Funds	23613	NSC	05/01/2001	Not Printed
R926-5	State Park Access Highways Improvement Program	23614	NSC	05/01/2001	Not Printed
R926-6	Transportation Corridor Preservation Revolving Loan Fund	23311	AMD	01/03/2001	2000-23/55
<u>Preconstruction</u>					
R930-1	Installation of New Mailboxes and Correction of Nonconforming Mailboxes	23615	NSC	05/01/2001	Not Printed
R930-2	Public Hearings	23616	NSC	05/01/2001	Not Printed
R930-3	Highway Noise Abatement	23617	NSC	05/01/2001	Not Printed
R930-5	Establishment and Regulation of At-Grade Railroad Crossings	23618	NSC	05/01/2001	Not Printed
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
R930-6	Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way	23443	NSC	02/12/2001	Not Printed
<u>Preconstruction, Right-of-Way Acquisition</u>					
R933-1	Right-of-Way Acquisition	23637	NSC	05/01/2001	Not Printed
R933-2	Control of Outdoor Advertising Signs	23942	NSC	08/01/2001	Not Printed
R933-2-15	Special Permits for Olympic Pageants	23622	AMD	07/09/2001	2001-9/128
R933-3	Relocation of Modification of Existing Authorized Access Openings or Granting New Access Openings on Limited Access Highways	23619	NSC	05/01/2001	Not Printed
R933-4	Bus Shelters	23536	AMD	04/18/2001	2001-6/45
<b>WORKFORCE SERVICES</b>					
<u>Employment Development</u>					
R986-200	Family Employment Program	23721	AMD	07/01/2001	2001-10/49
R986-600	Workforce Investment Act	23722	NEW	07/01/2001	2001-10/50
R986-601	Authority and Definitions and Programs Authorized under JTPA	23723	REP	07/01/2001	2001-10/57
R986-602	General Administrative Provisions	23724	REP	07/01/2001	2001-10/67
R986-603	Participant Data System Procedures	23725	REP	07/01/2001	2001-10/75

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R986-700	Child Care Assistance	23726	AMD	07/01/2001	2001-10/77
R986-700-705	Eligible Providers and Provider Settings	23969	NSC	08/01/2001	Not Printed
R986-900-902	Options and Waivers	23474	AMD	03/20/2001	2001-4/47
R986-900-902	Options and Waivers	23727	AMD	07/01/2001	2001-10/79
<u>Workforce Information and Payment Services</u>					
R994-302	Payment by Employer	23744	5YR	05/11/2001	2001-11/119
R994-308	Bond or Security Requirement	23745	5YR	05/11/2001	2001-11/120
R994-403-102a	Filing a New Claim	23824	AMD	08/09/2001	2001-13/78
R994-406-304	Appeal Time Limitation for Decisions Which are Mailed	23525	AMD	04/05/2001	2001-5/28

**RULES INDEX - BY KEYWORD (SUBJECT)**

**ABBREVIATIONS**

AMD = Amendment  
 CPR = Change in proposed rule  
 EMR = Emergency rule (120 day)  
 NEW = New rule  
 5YR = Five-Year Review  
 EXD = Expired

NSC = Nonsubstantive rule change  
 REP = Repeal  
 R&R = Repeal and reenact  
 \* = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>ACCIDENTS</u></b>					
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
<b><u>ACCOUNTANTS</u></b>					
Commerce, Occupational and Professional Licensing	23296	R156-26a	AMD	01/04/2001	2000-23/11
<b><u>ACCOUNTS RECEIVABLE</u></b>					
Administrative Services, Debt Collection	23682	R21-3	NSC	05/01/2001	Not Printed
<b><u>ADJUDICATIVE PROCEEDINGS</u></b>					
Natural Resources, Forestry, Fire and State Lands	23938	R652-8	5YR	07/23/2001	2001-16/57
<b><u>ADMINISTRATIVE LAW</u></b>					
Human Services, Recovery Services	23733	R527-200	5YR	05/07/2001	2001-11/118
<b><u>ADMINISTRATIVE OFFSET</u></b>					
Administrative Services, Debt Collection	23682	R21-3	NSC	05/01/2001	Not Printed

**RULES INDEX**

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<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>ADMINISTRATIVE PROCEDURES</u></b>					
Administrative Services, Fleet Operations	23522	R27-2	5YR	02/08/2001	2001-5/39
Agriculture and Food, Administration	23584	R51-1	5YR	03/30/2001	2001-8/83
Agriculture and Food, Animal Industry	23588	R58-15	5YR	03/30/2001	2001-8/85
Commerce, Administration	23537	R151-46b	5YR	02/28/2001	2001-6/49
	23945	R151-46b	5YR	07/27/2001	2001-16/50
Commerce, Occupational and Professional Licensing	23839	R156-46b	5YR	06/11/2001	2001-13/85
Community and Economic Development, Community Development, History	23606	R212-4	NSC	05/01/2001	Not Printed
Environmental Quality, Air Quality	23442	R307-103-1	NSC	02/01/2001	Not Printed
	23407	R307-103-2	AMD	04/12/2001	2001-3/13
Environmental Quality, Drinking Water	23662	R309-101	5YR	04/16/2001	2001-9/140
	23664	R309-103	5YR	04/16/2001	2001-9/141
	23665	R309-104	5YR	04/16/2001	2001-9/141
	23252	R309-150	AMD	01/04/2001	2000-22/33
Environmental Quality, Radiation Control	23935	R313-17	5YR	07/23/2001	2001-16/54
Human Resource Management, Administration	23772	R477-4	AMD	07/03/2001	2001-11/85
	23779	R477-15	AMD	07/03/2001	2001-11/103
Labor Commission, Industrial Accidents	23462	R612-1-3	NSC	02/15/2001	Not Printed
	23223	R612-1-10	AMD	see CPR	2000-21/18
	23223	R612-1-10	CPR	03/20/2001	2001-1/36
Natural Resources, Parks and Recreation	23441	R651-101	5YR	01/18/2001	2001-4/62
Natural Resources; Forestry, Fire and State Lands	23938	R652-8	5YR	07/23/2001	2001-16/57
	23939	R652-9	5YR	07/23/2001	2001-16/58
	23940	R652-41	5YR	07/23/2001	2001-16/58
	23621	R652-70-2400	AMD	06/11/2001	2001-9/100
	23941	R652-80	5YR	07/23/2001	2001-16/59
	23425	R652-121	AMD	03/12/2001	2001-3/64
Pioneer Sesquicentennial Celebration Coordinating Council (Utah), Administration	23742	R674-2	EXD	05/09/2001	2001-11/121
	23740	R674-3	EXD	05/07/2001	2001-11/121
School and Institutional Trust Lands, Administration	23558	R850-50-400	AMD	05/02/2001	2001-7/22
Transportation, Administration	23633	R907-3-1	NSC	05/01/2001	Not Printed
<b><u>ADMINISTRATIVE RESPONSIBILITY</u></b>					
Human Resource Management, Administration	23771	R477-2	AMD	07/03/2001	2001-11/82
Pioneer Sesquicentennial Celebration Coordinating Council (Utah), Administration	23739	R674-1	EXD	05/07/2001	2001-11/ 121



<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>ADOPTION</u></b>					
Human Services, Administration	23863	R495-880	NEW	08/15/2001	2001-14/4
Human Services, Child and Family Services	23866	R512-43	EMR	06/29/2001	2001-14/65
<b><u>AIRCRAFT</u></b>					
Tax Commission, Motor Vehicle	23718	R873-22M-35	AMD	07/04/2001	2001-10/48
<b><u>AIR POLLUTION</u></b>					
Environmental Quality, Air Quality	23759	R307-101-2	AMD	07/12/2001	2001-11/10
	23442	R307-103-1	NSC	02/01/2001	Not Printed
	23407	R307-103-2	AMD	04/12/2001	2001-3/13
	23756	R307-110-31	AMD	08/02/2001	2001-11/18
	23757	R307-110-33	AMD	08/02/2001	2001-11/19
	23987	R307-210	5YR	08/15/2001	2001-17/47
	23760	R307-405-1	AMD	07/12/2001	2001-11/21
	23781	R307-501	EMR	05/15/2001	2001-11/114
<b><u>AIR QUALITY</u></b>					
Environmental Quality, Air Quality	23139	R307-204	NEW	see CPR	2000-19/14
	23139	R307-204	CPR	03/06/2001	2001-3/81
<b><u>AIR TRAVEL</u></b>					
Administrative Services, Finance	23699	R25-7	AMD	07/01/2001	2001-10/5
<b><u>ALARM COMPANY</u></b>					
Commerce, Occupational and Professional Licensing	23524	R156-55d-603	AMD	04/03/2001	2001-5/8
<b><u>ALCOHOLIC BEVERAGES</u></b>					
Alcoholic Beverage Control, Administration	23981	R81-1	EMR	08/09/2001	2001-17/39
	23983	R81-3-9	EMR	08/09/2001	2001-17/43
	23982	R81-4A-12	EMR	08/09/2001	2001-17/44
	23591	R81-4B	5YR	04/02/2001	2001-8/85
	23606	R81-4B	NSC	05/01/2001	Not Printed
	23592	R81-10	5YR	04/02/2001	2001-8/86
	23604	R81-10	NSC	05/01/2001	Not Printed
<b><u>ANATOMICAL GIFT</u></b>					
Public Safety, Driver License	23741	R708-38	NEW	07/03/2001	2001-11/110
<b><u>ANIMAL PROTECTION</u></b>					
Natural Resources, Wildlife Resources	23673	R657-3	5YR	04/16/2001	2001-9/143
<b><u>APPELLATE PROCEDURES</u></b>					
Administrative Services, Fleet Operations	23522	R27-2	5YR	02/08/2001	2001-5/39
Administrative Services, Information Technology Services	23944	R29-1	5YR	07/26/2001	2001-16/48
Agriculture and Food, Administration	23928	R51-2-11	NSC	08/01/2001	Not Printed
Corrections, Administration	23967	R251-104	5YR	08/01/2001	2001-16/52
Workforce Services, Workforce Information and Payment Services	23525	R994-406-304	AMD	04/05/2001	2001-5/28

**RULES INDEX**

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<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>APPLIED TECHNOLOGY EDUCATION</u></b>					
Education, Administration	23671	R277-911	AMD	06/05/2001	2001-9/21
	23920	R277-914	EXD	07/16/2001	2001-16/61
<b><u>APPRAISAL</u></b>					
Tax Commission, Property Tax	23475	R884-24P-49	AMD	04/11/2001	2001-4/42
	23395	R884-24P-62	AMD	05/14/2001	2001-2/11
	23316	R884-24P-65	AMD	02/20/2001	2000-23/54
	23847	R884-24P-66	AMD	08/02/2001	2001-13/77
<b><u>AQUACULTURE</u></b>					
Agriculture and Food, Animal Industry	23534	R58-17	AMD	04/17/2001	2001-6/34
<b><u>ARC (Accident Review Committee)</u></b>					
Administrative Services, Fleet Operations	23345	R27-7	NEW	01/31/2001	2000-24/6
<b><u>ARCHAEOLOGY</u></b>					
Community and Economic Development, Community Development, History	23606	R212-4	NSC	05/01/2001	Not Printed
<b><u>ARCHITECTS</u></b>					
Commerce, Occupational and Professional Licensing	23550	R156-3a	AMD	05/03/2001	2001-7/9
	23730	R156-3a	NSC	06/01/2001	Not Printed
	23837	R156-3a	5YR	06/11/2001	2001-13/85
<b><u>ASSISTED LIVING FACILITIES</u></b>					
Public Safety, Fire Marshal	23579	R710-3	AMD	05/16/2001	2001-8/75
<b><u>ATHLETE AGENT</u></b>					
Commerce, Occupational and Professional Licensing	23796	R156-9a	NEW	07/17/2001	2001-12/25
<b><u>ATHLETICS</u></b>					
Education, Administration	23749	R277-517	5YR	05/14/2001	2001-11/118
<b><u>ATTORNEYS</u></b>					
Administrative Services, Finance	23366	R25-14	AMD	01/22/2001	2000-24/5
<b><u>BAIL BOND ENFORCEMENT AGENT</u></b>					
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23449	R724-10 (Changed to R722-310)	NSC	02/01/2001	Not Printed
<b><u>BAIL BOND RECOVERY AGENT</u></b>					
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23449	R724-10 (Changed to R722-310)	NSC	02/01/2001	Not Printed
<b><u>BAIT DEALERS</u></b>					
Natural Resources, Wildlife Resources	23601	R657-14	AMD	05/17/2001	2001-8/71
<b><u>BANKING</u></b>					
Commerce, Corporations and Commercial Code	23672	R154-2	NEW	07/26/2001	2001-9/3

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>BANKING LAW</u></b>					
Money Management Council, Administration	23624	R628-10	5YR	04/11/2001	2001-9/143
	23858	R154-2	NSC	08/01/2001	Not Printed
<b><u>BANKS AND BANKING</u></b>					
Human Services, Recovery Services	23389	R527-928	AMD	02/15/2001	2001-2/7
<b><u>BARBERS</u></b>					
Commerce, Occupational and Professional Licensing	23260	R156-11a	AMD	see CPR	2000-22/5
	23260	R156-11a	CPR	03/06/2001	2001-3/79
<b><u>BASIC ACADEMY RULES</u></b>					
Public Safety, Peace Officer Standards and Training	23628	R728-404	NSC	05/01/2001	Not Printed
<b><u>BEAR</u></b>					
Natural Resources, Wildlife Resources	23393	R657-33	AMD	02/15/2001	2001-2/8
<b><u>BEEKEEPING</u></b>					
Agriculture and Food, Plant Industry	23434	R68-1	5YR	01/16/2001	2001-3/94
<b><u>BENEFITS</u></b>					
Community and Economic Development, Community Development, Community Services	23690	R202-205	NSC	05/01/2001	Not Printed
	23692	R202-207	NSC	05/01/2001	Not Printed
<b><u>BIDS</u></b>					
Transportation, Operations, Construction	23608	R916-2	NSC	05/01/2001	Not Printed
<b><u>BIG GAME</u></b>					
Natural Resources, Wildlife Resources	23676	R657-44	AMD	06/04/2001	2001-9/122
<b><u>BIG GAME SEASONS</u></b>					
Natural Resources, Wildlife Resources	23356	R657-5	AMD	01/16/2001	2000-24/40
	23528	R657-5	AMD	04/03/2001	2001-5/19
	23806	R657-5	AMD	07/18/2001	2001-12/63
	23675	R657-43	AMD	06/04/2001	2001-9/119
<b><u>BIRTH DEFECTS</u></b>					
Health, Community and Family Health Services, Health Education Services	23731	R402-5	AMD	08/09/2001	2001-11/58
<b><u>BIRTH DEFECT REPORTING</u></b>					
Health, Community and Family Health Services, Health Education Services	23731	R402-5	AMD	08/09/2001	2001-11/58
<b><u>BLOCK GRANT FUNDING</u></b>					
Education, Administration	23853	R277-478	NEW	08/01/2001	2001-13/9
<b><u>BOATING</u></b>					
Natural Resources, Parks and Recreation	23441	R651-101	5YR	01/18/2001	2001-4/62
	23439	R651-205	AMD	03/20/2001	2001-4/37
	23974	R651-206	5YR	08/07/2001	2001-17/47
	23975	R651-215	5YR	08/07/2001	2001-17/48
	23440	R651-219	AMD	03/20/2001	2001-4/38

**RULES INDEX**

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<b>KEYWORD AGENCY</b>	<b>FILE NUMBER</b>	<b>CODE REFERENCE</b>	<b>ACTION</b>	<b>EFFECTIVE DATE</b>	<b>BULLETIN ISSUE/PAGE</b>
	23976	R651-222	5YR	08/07/2001	2001-17/48
	23977	R651-224	5YR	08/07/2001	2001-17/49
<b><u>BOILERS</u></b>					
Labor Commission, Safety	23310	R616-2-3	AMD	01/03/2001	2000-23/42
<b><u>BONDING REQUIREMENTS</u></b>					
Workforce Services, Workforce Information and Payment Services	23745	R994-308	5YR	05/11/2001	2001-11/120
<b><u>BOXING</u></b>					
Commerce, Occupational and Professional Licensing (Changed to Commerce, Administration)	23859	R156-66 (Changed to R151-33)	EMR	07/01/2001	2001-14/54
<b><u>BRIDGES</u></b>					
Transportation, Administration	23623	R907-63-1	NSC	05/01/2001	Not Printed
<b><u>BUDGETING</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	23397	R414-304	EMR	01/03/2001	2001-3/89
	23753	R414-304	AMD	07/06/2001	2001-11/62
<b><u>BUILDING CODES</u></b>					
Commerce, Occupational and Professional Licensing	23577	R156-56	AMD	07/01/2001	2001-8/18
	23788	R156-56-704	NSC	06/26/2001	Not Printed
<b><u>BUILDING INSPECTION</u></b>					
Commerce, Occupational and Professional Licensing	23577	R156-56	AMD	07/01/2001	2001-8/18
	23788	R156-56-704	NSC	06/26/2001	Not Printed
<b><u>BURGLAR ALARMS</u></b>					
Commerce, Occupational and Professional Licensing	23524	R156-55d-603	AMD	04/03/2001	2001-5/8
<b><u>BUS BENCHES</u></b>					
Transportation, Preconstruction, Right- of-Way Acquisition	23536	R933-4	AMD	04/18/2001	2001-6/45
<b><u>BUSES</u></b>					
Transportation, Preconstruction, Right- of-Way Acquisition	23536	R933-4	AMD	04/18/2001	2001-6/45
<b><u>BUS SHELTERS</u></b>					
Transportation, Preconstruction, Right- of-Way Acquisition	23536	R933-4	AMD	04/18/2001	2001-6/45
<b><u>CAPITAL PUNISHMENT</u></b>					
Administrative Services, Finance	23366	R25-14	AMD	01/22/2001	2000-24/5
<b><u>CERTIFICATION</u></b>					
Labor Commission, Safety	23310	R616-2-3	AMD	01/03/2001	2000-23/42
	23473	R616-3-3	AMD	03/20/2001	2001-4/36
Public Safety, Peace Officer Standards and Training	23629	R728-409	NSC	05/01/2001	Not Printed
<b><u>CERTIFICATION OF INSTRUCTORS</u></b>					
Human Services, Substance Abuse	23732	R544-4	AMD	07/03/2001	2001-11/105

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>CERTIFIED NURSE MIDWIFE</u></b>					
Commerce, Occupational and Professional Licensing	23734	R156-44a	AMD	07/05/2001	2001-11/3
<b><u>CHARITIES</u></b>					
Tax Commission, Auditing	23716	R865-19S-85	AMD	07/04/2001	2001-10/46
<b><u>CHARITY</u></b>					
Commerce, Consumer Protection	23794	R152-22	AMD	07/30/2001	2001-12/17
<b><u>CHARTER SCHOOLS</u></b>					
Education, Administration	23852	R277-470	AMD	08/01/2001	2001-13/6
<b><u>CHEMICAL TESTING</u></b>					
Agriculture and Food, Chemical Laboratory	23404	R63-1	5YR	01/10/2001	2001-3/94
<b><u>CHILD CARE</u></b>					
Workforce Services, Employment Development	23726	R986-700	AMD	07/01/2001	2001-10/77
	23969	R986-700-705	NSC	08/01/2001	Not printed
<b><u>CHILD CARE FACILITIES</u></b>					
Health, Health Systems Improvement, Child Care Licensing	23450	R430-6	R&R	04/17/2001	2001-4/15
	23451	R430-100	AMD	04/17/2001	2001-4/20
	23811	R430-100	AMD	07/31/2001	2001-12/48
<b><u>CHILD PLACING</u></b>					
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
<b><u>CHILDREN'S HEALTH BENEFITS</u></b>					
Health, Children's Health Insurance Program	23458	R382-10	AMD	04/04/2001	2001-4/6
<b><u>CHILD SUPPORT</u></b>					
Human Services, Recovery Services	23733	R527-200	5YR	05/07/2001	2001-11/118
	23956	R527-475	NSC	08/01/2001	Not Printed
<b><u>CHILD WELFARE</u></b>					
Human Services, Administration	23863	R495-880	NEW	08/15/2001	2001-14/43
Human Services, Child and Family Services	23866	R512-43	EMR	06/29/2001	2001-14/65
Human Services, Recovery Services	23955	R527-302	NSC	08/01/2001	Not Printed
<b><u>CHIROPRACTIC PHYSICIANS</u></b>					
Commerce, Occupational and Professional Licensing	23390	R156-73	AMD	02/15/2001	2001-2/2
	23743	R156-73	AMD	07/05/2001	2001-11/8
	23879	R156-73	5YR	07/05/2001	2001-15/48
<b><u>CHIROPRACTORS</u></b>					
Commerce, Occupational and Professional Licensing	23390	R156-73	AMD	02/15/2001	2001-2/2
	23743	R156-73	AMD	07/05/2001	2001-11/8
	23879	R156-73	5YR	07/05/2001	2001-15/48

**RULES INDEX**

---

<b>KEYWORD AGENCY</b>	<b>FILE NUMBER</b>	<b>CODE REFERENCE</b>	<b>ACTION</b>	<b>EFFECTIVE DATE</b>	<b>BULLETIN ISSUE/PAGE</b>
<b><u>CIVIL PROCEDURE</u></b>					
Human Services, Recovery Services	23929	R527-800	5YR	07/23/2001	2001-16/55
<b><u>CLASS I AREA</u></b>					
Environmental Quality, Air Quality	23760	R307-405-1	AMD	07/12/2001	2001-11/21
<b><u>CLEAN</u></b>					
Community and Economic Development, Community Development, Energy Services	23377	R203-1	AMD	see CPR	2001-1/6
	23377	R203-1	CPR	06/15/2001	2001-4/52
<b><u>CLEARINGHOUSE</u></b>					
Governor, Planning and Budget	23408	R361-1	5YR	01/11/2001	2001-3/97
<b><u>CLIENT RIGHTS</u></b>					
Community and Economic Development, Community Development, Community Services	23686	R202-201	NSC	05/01/2001	Not Printed
<b><u>COAL MINES</u></b>					
Natural Resources; Oil, Gas and Mining; Coal	23385	R645-100-200	AMD	04/02/2001	2001-1/25
	23386	R645-301-500	AMD	04/02/2001	2001-1/26
	23387	R645-301-700	AMD	see CPR	2001-1/29
	23387	R645-301-700	CPR	05/03/2001	2001-7/26
<b><u>COAL MINING</u></b>					
Natural Resources, Oil, Gas and Mining; Coal	23926	R645-106	5YR	07/19/2001	2001-16/56
<b><u>COMMERCE</u></b>					
Commerce, Corporations and Commercial Code	23595	R154-10	AMD	05/18/2001	2001-8/15
<b><u>COMMERCIALIZATION OF AQUATIC LIFE</u></b>					
Natural Resources, Wildlife Resources	23601	R657-14	AMD	05/17/2001	2001-8/71
<b><u>COMMUNICABLE DISEASES</u></b>					
Corrections, Administration	23313	R251-102	AMD	01/04/2001	2000-23/18
	23511	R251-102	5YR	02/05/2001	2001-5/40
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	23303	R388-804	AMD	02/02/2001	2000-23/29
Human Services, Administration	23605	R495-862	5YR	04/04/2001	2001-9/142
<b><u>COMPENSATORY TIME</u></b>					
Human Resource Management, Administration	23775	R477-8	AMD	07/03/2001	2001-11/90
<b><u>CONCEALED FIREARM PERMIT</u></b>					
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23445	R724-4 (Changed to R722-300)	NSC	02/01/2001	Not Printed
<b><u>CONDEMNATION</u></b>					
Transportation, Preconstruction, Right- of-Way Acquisition	23637	R933-1	NSC	05/01/2001	Not Printed

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>CONDUCT</u></b>					
Professional Practice Advisory Commission, Administration	23427	R686-100	AMD	03/06/2001	2001-3/67
	23547	R686-100	NSC	04/01/2001	Not Printed
<b><u>CONFIDENTIALITY OF INFORMATION</u></b>					
Community and Economic Development, Community Development, Community Services	23686	R202-201	NSC	05/01/2001	Not Printed
Human Resource Management, Administration	23771	R477-2	AMD	07/03/2001	2001-11/82
<b><u>CONNECTIONS</u></b>					
Environmental Quality, Drinking Water	23661	R309-211 (Changed to R309-550)	AMD	08/15/2001	2001-9/50
<b><u>CONSTRUCTION</u></b>					
Transportation, Operations, Construction	23750	R916-3	5YR	05/14/2001	2001-11/119
	23609	R916-3	NSC	05/01/2001	Not Printed
<b><u>CONSTRUCTION COSTS</u></b>					
Administrative Services, Facilities Construction and Management	23697	R23-6	NSC	05/01/2001	Not Printed
<b><u>CONSUMER</u></b>					
Commerce, Consumer Protection	23795	R152-26	AMD	07/30/2001	2001-12/19
<b><u>CONSUMER PROTECTION</u></b>					
Commerce, Consumer Protection	23457	R152-1	5YR	01/29/2001	2001-4/61
	23789	R152-1	AMD	07/30/2001	2001-12/7
	23791	R152-7 (Changed to R152-23)	AMD	07/30/2001	2001-12/12
	23792	R152-15	AMD	07/30/2001	2001-12/14
	23793	R152-16	REP	07/30/2001	2001-12/15
	23794	R152-22	AMD	07/30/2001	2001-12/17
<b><u>CONTESTS</u></b>					
Commerce, Occupational and Professional Licensing (Changed to Commerce, Administration)	23859	R156-66 (Changed to R151-33)	EMR	07/01/2001	2001-14/54
<b><u>CONTRACTORS</u></b>					
Commerce, Occupational and Professional Licensing	23799	R156-38	AMD	07/17/2001	2001-12/26
	23374	R156-55b	AMD	04/30/2001	2001-1/4
	23577	R156-56	AMD	07/01/2001	2001-8/18
	23788	R156-56-704	NSC	06/26/2001	Not Printed
<b><u>CONTRACTS</u></b>					
Administrative Services, Facilities Construction and Management	23870	R23-1	AMD	08/15/2001	2001-14/5
Capitol Preservation Board (State), Administration	23578	R131-4	NEW	05/16/2001	2001-8/7
Transportation, Operations, Construction	23608	R916-2	NSC	05/01/2001	Not Printed
	23609	R916-3	NSC	05/01/2001	Not Printed
	23750	R916-3	5YR	05/14/2001	2001-11/119

**RULES INDEX**

---

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>CONTROLLED SUBSTANCES</u></b>					
Commerce, Occupational and Professional Licensing	23401	R156-37-502	NSC	02/01/2001	Not Printed
Tax Commission, Collections	23574	R867-2B	5YR	03/27/2001	2001-8/89
<b><u>COOPERATIVE WILDLIFE MANAGEMENT UNIT</u></b>					
Natural Resources, Wildlife Resources	23808	R657-37	AMD	07/18/2001	2001-12/67
<b><u>CORRECTIONS</u></b>					
Corrections, Administration	23966	R251-101	5YR	08/01/2001	2001-16/51
	23967	R251-104	5YR	08/01/2001	2001-16/52
	23512	R251-301	5YR	02/05/2001	2001-5/40
	23400	R251-301	AMD	03/13/2001	2001-3/8
	23968	R251-702	5YR	08/01/2001	2001-16/52
	23901	R251-708	5YR	07/12/2001	2001-15/48
	23570	R251-709	5YR	03/27/2001	2001-8/87
	23540	R251-709	AMD	05/15/2001	2001-7/12
	23902	R251-711	5YR	07/12/2001	2001-15/49
	23903	R251-712	5YR	07/12/2001	2001-15/49
<b><u>COSMETOLOGISTS</u></b>					
Commerce, Occupational and Professional Licensing	23260	R156-11a	AMD	see CPR	2000-22/5
	23260	R156-11a	CPR	03/06/2001	2001-3/79
<b><u>COUNSELORS</u></b>					
Commerce, Occupational and Professional Licensing	23679	R156-60c	AMD	06/19/2001	2001-10/11
<b><u>COVERAGE GROUPS</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	23396	R414-303	EMR	01/03/2001	2001-3/87
	23420	R414-303	AMD	03/13/2001	2001-3/52
	23752	R414-303	AMD	07/06/2001	2001-11/59
<b><u>CRIMINAL INVESTIGATION</u></b>					
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23447	R724-7 (Changed to R722-320)	NSC	02/01/2001	Not Printed
<b><u>CRIMINAL RECORDS</u></b>					
Public Safety, Law Enforcement and Technical Services, Criminal Identification (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23444	R722-2 (Changed to R722-900)	NSC	02/01/2001	Not Printed
<b><u>DAMAGES</u></b>					
Transportation, Administration	23623	R907-63-1	NSC	05/01/2001	Not Printed
<b><u>DAMS</u></b>					
Natural Resources, Water Rights	23895	R655-10	5YR	07/12/2001	2001-15/54
	23896	R655-11	5YR	07/12/2001	2001-15/54
	23897	R655-12	5YR	07/12/2001	2001-15/55



<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>DAM SAFETY</u></b>					
Natural Resources, Water Rights	23895	R655-10	5YR	07/12/2001	2001-15/54
	23897	R655-12	5YR	07/12/2001	2001-15/55
<b><u>DEBT</u></b>					
Human Services, Recovery Services	23887	R527-936	5YR	07/10/2001	2001-15/53
	23821	R527-936	AMD	08/03/2001	2001-13/70
<b><u>DEFINITIONS</u></b>					
Environmental Quality, Air Quality	23759	R307-101-2	AMD	07/12/2001	2001-11/10
Environmental Quality, Radiation Control	23667	R313-12	AMD	06/08/2001	2001-9/54
	23932	R313-12	5YR	07/23/2001	2001-16/53
Human Resource Management, Administration	23770	R477-1	AMD	07/03/2001	2001-11/76
<b><u>DEMONSTRATING</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	23452	R414-310	REP	04/04/2001	2001-4/13
<b><u>DENTAL HYGIENISTS</u></b>					
Commerce, Occupational and Professional Licensing	23141	R156-69	AMD	see CPR	2000-19/10
	23141	R156-69	CPR	02/15/2001	2001-2/17
	23878	R156-69	5YR	07/05/2001	2001-15/47
	23737	R156-69-305	AMD	07/05/2001	2001-11/6
<b><u>DENTISTS</u></b>					
Commerce, Occupational and Professional Licensing	23141	R156-69	AMD	see CPR	2000-19/10
	23141	R156-69	CPR	02/15/2001	2001-2/17
	23878	R156-69	5YR	07/05/2001	2001-15/47
	23737	R156-69-305	AMD	07/05/2001	2001-11/6
<b><u>DEPOSITORY</u></b>					
Money Management Council, Administration	23624	R628-10	5YR	04/11/2001	2001-9/143
<b><u>DEPREDAATION</u></b>					
Natural Resources, Wildlife Resources	23676	R657-44	AMD	06/04/2001	2001-9/122
<b><u>DESIGN/BUILD</u></b>					
Transportation, Operations, Construction	23750	R916-3	5YR	05/14/2001	2001-11/119
	23609	R916-3	NSC	05/01/2001	Not Printed
<b><u>DEVELOPMENTALLY DISABLED</u></b>					
Agriculture and Food, Administration	23959	R51-4	5YR	07/31/2001	2001-16/49
Tax Commission, Administration	23846	R861-1A-9	AMD	08/02/2001	2001-13/75
	23717	R861-1A-17	AMD	07/04/2001	2001-10/44
	23403	R861-1A-36	AMD	04/11/2001	2001-3/76
<b><u>DIGITAL SIGNATURE</u></b>					
Commerce, Corporations and Commercial Code	23595	R154-10	AMD	05/18/2001	2001-8/15
<b><u>DIRECT FILTRATION</u></b>					
Environmental Quality, Drinking Water	23659	R309-207 (Changed to R309-530)	AMD	08/15/2001	2001-9/43

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>DISABILITY INSURANCE</u></b>					
Human Resource Management, Administration	23775	R477-8	AMD	07/03/2001	2001-11/90
<b><u>DISCHARGE PERMITS</u></b>					
Environmental Quality, Water Quality	23161	R317-8	AMD	see CPR	2000-19/40
	23161	R317-8	CPR	01/23/2001	2000-24/78
<b><u>DISCIPLINARY ACTION</u></b>					
Education, Administration	23546	R277-514	NSC	04/01/2001	Not Printed
<b><u>DISCIPLINE OF EMPLOYEES</u></b>					
Human Resource Management, Administration	23777	R477-11	AMD	07/03/2001	2001-11/99
	23778	R477-14	AMD	07/03/2001	2001-11/101
<b><u>DISCLOSURE REQUIREMENTS</u></b>					
Tax Commission, Administration	23846	R861-1A-9	AMD	08/02/2001	2001-13/75
	23717	R861-1A-17	AMD	07/04/2001	2001-10/44
	23403	R861-1A-36	AMD	04/11/2001	2001-3/76
<b><u>DISCRIMINATION</u></b>					
Agriculture and Food, Administration	23959	R51-4	5YR	07/31/2001	2001-16/49
Labor Commission. Antidiscrimination and Labor, Antidiscrimination	23515	R606-1-3	AMD	04/03/2001	2001-5/17
<b><u>DISMISSAL OF EMPLOYEES</u></b>					
Human Resource Management	23777	R477-11	AMD	07/03/2001	2001-11/99
<b><u>DIVERSION PROGRAMS</u></b>					
Commerce, Occupational and Professional Licensing	23798	R156-1-308a	AMD	07/17/2001	2001-12/22
	23295	R156-1-308d	AMD	01/04/2001	2000-23/9
<b><u>DRINKING WATER</u></b>					
Environmental Quality, Drinking Water	23662	R309-101	5YR	04/16/2001	2001-9/140
	23663	R309-102	5YR	04/16/2001	2001-9/140
	23664	R309-103	5YR	04/16/2001	2001-9/141
	23665	R309-104	5YR	04/16/2001	2001-9/141
	23252	R309-150	AMD	01/04/2001	2000-22/33
	23655	R309-201 (Changed to R309-500)	AMD	08/15/2001	2001-9/22
	23656	R309-202 (Changed to R309-505)	AMD	08/15/2001	2001-9/26
	23657	R309-203 (Changed to R309-510)	AMD	08/15/2001	2001-9/29
	23658	R309-206 (Changed to R309-525)	AMD	08/15/2001	2001-9/32
	23659	R309-207 (Changed to R309-530)	AMD	08/15/2001	2001-9/43
	23394	R309-208 (Changed to R309-535)	AMD	05/01/2001	2001-2/3
	23660	R309-209 (Changed to R309-540)	AMD	08/15/2001	2001-9/46
	23661	R309-211 (Changed ro R309-550)	AMD	08/15/2001	2001-9/50

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>DRIVER EDUCATION</u></b>					
Public safety, Driver License	23957	R708-18	5YR	07/30/2001	2001-16/59
<b><u>DRUG ABUSE</u></b>					
Human Resource Management, Administration	23778	R477-14	AMD	07/03/2001	2001-11/101
<b><u>DRUG/ALCOHOL EDUCATION</u></b>					
Human Resource Management, Administration	23778	R477-14	AMD	07/03/2001	2001-11/101
<b><u>DRUG STAMPS</u></b>					
Tax Commission, Collections	23574	R867-2B	5YR	03/27/2001	2001-8/89
<b><u>DUI PROGRAMS</u></b>					
Human Services, Substance Abuse	23732	R544-4	AMD	07/03/2001	2001-11/105
<b><u>EARTHQUAKES</u></b>					
Natural Resources, Water Rights	23896	R655-11	5YR	07/12/2001	2001-15/54
<b><u>ECONOMIC DEVELOPMENT</u></b>					
Workforce Services, Employment Development	23723	R986-601	REP	07/01/2001	2001-10/57
<b><u>EDUCATION</u></b>					
Education, Administration	23852	R277-470	AMD	08/01/2001	2001-13/6
	23855	R277-526	AMD	08/01/2001	2001-13/13
	23670	R277-709	AMD	06/05/2001	2001-9/19
<b><u>EDUCATIONAL EXPENDITURES</u></b>					
Education, Administration	23851	R277-456	REP	08/01/2001	2001-13/6
	23853	R277-478	NEW	08/01/2001	2001-13/9
	23854	R277-479	NEW	08/01/2001	2001-13/11
<b><u>EDUCATIONAL FACILITIES</u></b>					
Education, Administration	23850	R277-451	AMD	08/01/2001	2001-13/4
<b><u>EDUCATIONAL PLANNING</u></b>					
Education, Administration	23747	R277-415	5YR	05/14/2001	2001-11/117
<b><u>EDUCATION FINANCE</u></b>					
Education, Administration	23850	R277-451	AMD	08/01/2001	2001-13/4
<b><u>EDUCATION TUITION</u></b>					
Human Resource Management, Administration	23776	R477-10	AMD	07/03/2001	2001-11/98
<b><u>EFFLUENT STANDARDS</u></b>					
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
	23599	R317-1-6	AMD	08/13/2001	2001-8/44
<b><u>ELECTRIC ASSISTED BICYCLE HEADGEAR</u></b>					
Public Safety, Driver License Division	23833	R708-33	5YR	06/07/2001	2001-13/87
<b><u>ELECTRICIANS</u></b>					
Commerce, Occupational and Professional Licensing	23374	R156-55b	AMD	04/30/2001	2001-1/4
<b><u>ELECTRONIC COMMERCE</u></b>					
Commerce, Corporations and Commercial Code	23595	R154-10	AMD	05/18/2001	2001-8/15

**RULES INDEX**

---

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>ELECTRONIC COMMUNICATION</u></b>					
Commerce, Corporations and Commercial Code	23595	R154-10	AMD	05/18/2001	2001-8/15
<b><u>ELEVATORS</u></b>					
Labor Commission, Safety	23473	R616-3-3	AMD	03/20/2001	2001-4/36
<b><u>EMERGENCY MEDICAL SERVICES</u></b>					
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
<b><u>EMERGENCY VEHICLES</u></b>					
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23446	R724-6 (Changed to R722-340)	NSC	02/01/2001	Not Printed
<b><u>EMPLOYEE BENEFITS</u></b>					
Human Resource Management, Administration	23774	R477-7	AMD	07/03/2001	2001-11/87
<b><u>EMPLOYEE PERFORMANCE EVALUATION</u></b>					
Human Resource Management, Administration	23776	R477-10	AMD	07/03/2001	2001-11/98
<b><u>EMPLOYEE PRODUCTIVITY</u></b>					
Human Resource Management, Administration	23776	R477-10	AMD	07/03/2001	2001-11/98
<b><u>EMPLOYER LIABILITY</u></b>					
Workforce Services, Workforce Information and Payment Services	23744	R994-302	5YR	05/11/2001	2001-11/119
<b><u>EMPLOYMENT</u></b>					
Human Resource Management, Administration	23773	R477-5	AMD	07/03/2001	2001-11/86
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	23515	R606-1-3	AMD	04/03/2001	2001-5/17
Workforce Services, Employment Development	23723	R986-601	REP	07/01/2001	2001-10/57
	23724	R986-602	REP	07/01/2001	2001-10/67
	23725	R986-603	REP	07/01/2001	2001-10/75
<b><u>ENERGY ASSISTANCE</u></b>					
Community and Economic Development, Community Development, Community Services	23687	R202-201	NSC	05/01/2001	Not Printed
	23688	R202-203	NSC	05/01/2001	Not Printed
	23689	R202-204	NSC	05/01/2001	Not Printed
	23690	R202-205	NSC	05/01/2001	Not Printed
	23691	R202-206	NSC	05/01/2001	Not Printed
	23692	R202-207	NSC	05/01/2001	Not Printed
	23693	R202-208	NSC	05/01/2001	Not Printed

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>ENERGY INDUSTRIES</u></b>					
Community and Economic Development, Community Development, Community Services	23693	R202-208	NSC	05/01/2001	Not Printed
<b><u>ENFORCEMENT</u></b>					
Agriculture and Food, Animal Industry	23588	R58-15	5YR	03/30/2001	2001-8/85
Environmental Quality, Radiation Control	23668	R313-14	AMD	06/08/2001	2001-9/55
	23933	R313-14	5YR	07/23/2001	2001-16/53
Human Services, Recovery Services	23929	R527-800	5YR	07/23/2001	2001-16/55
<b><u>ENGINEERING</u></b>					
Education, Administration	23856	R277-717	NEW	08/01/2001	2001-13/16
<b><u>ENGINEERS</u></b>					
Commerce, Occupational and Professional Licensing	23517	R156-22	AMD	see CPR	2001-5/4
	23517	R156-22	CPR	05/17/2001	2001-8/81
<b><u>ENVIRONMENTAL PROTECTION</u></b>					
Environmental Quality, Drinking Water	23662	R309-101	5YR	04/16/2001	2001-9/140
	23664	R309-103	5YR	04/16/2001	2001-9/141
	23665	R309-104	5YR	04/16/2001	2001-9/141
	23252	R309-150	AMD	01/04/2001	2000-22/33
<b><u>EQUIPMENT LEASING</u></b>					
Commerce, Corporations and Commercial Code	23672	R154-2	NEW	07/26/2001	2001-9/3
	23858	R154-2	NSC	08/01/2001	Not Printed
<b><u>ETHICS</u></b>					
Natural Resources, Wildlife Resources	23360	R657-38	AMD	01/16/2001	2000-24/53
<b><u>EXEMPTIONS</u></b>					
Environmental Quality, Radiation Control	23667	R313-12	AMD	06/08/2001	2001-9/54
	23932	R313-12	5YR	07/23/2001	2001-16/53
	23312	R313-19	AMD	01/26/2001	2000-23/19
<b><u>EXTENDED AREA SERVICE</u></b>					
Public Service Commission, Administration	23844	R746-347	REP	08/01/2001	2001-13/73
<b><u>FACILITY</u></b>					
Human Services, Mental Health, State Hospital	23666	R525-8	NEW	06/04/2001	2001-9/98
<b><u>FACULTY</u></b>					
Education, Administration	23855	R277-526	AMD	08/01/2001	2001-13/13
<b><u>FAIR EMPLOYMENT PRACTICES</u></b>					
Human Resource Management, Administration	23771	R477-2	AMD	07/03/2001	2001-11/82
	23773	R477-5	AMD	07/03/2001	2001-11/86
<b><u>FAIRS</u></b>					
Fair Corporation (Utah State), Administration	23890	R325-1	5YR	07/12/2001	2001-15/50
	23891	R325-2	5YR	07/12/2001	2001-15/50
	23892	R325-3	5YR	07/12/2001	2001-15/51

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	23893	R325-4	5YR	07/12/2001	2001-15/51
	23894	R325-5	5YR	07/12/2001	2001-15/52
<b><u>FAMILY EMPLOYMENT</u></b>					
Workforce Services, Employment Development	23271	R986-200	AMD	07/01/2001	2001-10/49
<b><u>FEED CONTAMINATION</u></b>					
Agriculture and Food, Plant Industry	23435	R68-2	5YR	01/16/2001	2001-3/95
<b><u>FEES</u></b>					
Administrative Services, Finance	23366	R25-14	AMD	01/22/2001	2000-24/5
Health, Center for Health Data, Vital Records and Statistics	23681	R436-11	NSC	05/01/2001	Not Printed
Labor Commission, Industrial Accidents	23463	R612-2-3	NSC	02/15/2001	Not Printed
	23548	R612-2-5	EMR	03/08/2001	2001-7/43
	23464	R612-2-5	NSC	02/15/2001	Not Printed
	23549	R612-2-5	AMD	05/03/2001	2001-7/21
	23746	R612-2-5	AMD	07/05/2001	2001-11/108
	23465	R612-2-6	NSC	02/15/2001	Not Printed
	23466	R612-2-11	NSC	02/15/2001	Not Printed
	23467	R612-2-16	AMD	03/20/2001	2001-4/33
	23468	R612-2-17	NSC	02/15/2001	Not Printed
	23469	R612-2-22	AMD	03/20/2001	2001-4/33
	23470	R612-2-23	NSC	02/15/2001	Not Printed
	23471	R612-2-24	AMD	03/20/2001	2001-4/34
	23472	R612-2-26	NSC	02/15/2001	Not Printed
Natural Resources, Parks and Recreation	23978	R651-611	5YR	08/07/2001	2001-17/49
Public Safety, Driver License	23957	R708-18	5YR	07/30/2001	2001-16/59
<b><u>FILING DEADLINES</u></b>					
Labor Commission, Industrial Accidents	23223	R612-1-10	AMD	see CPR	2000-21/18
	23223	R612-1-10	CPR	03/20/2001	2001-1/36
Workforce Services, Workforce Information and Payment Services	23824	R994-403-102a	AMD	08/09/2001	2001-13/78
<b><u>FILING DOCUMENTS</u></b>					
Commerce, Corporations and Commercial Code	23672	R154-2	NEW	07/26/2001	2001-9/3
	23858	R154-2	NSC	08/01/2001	Not Printed
<b><u>FILTRATION</u></b>					
Environmental Quality, Drinking Water	23658	R309-206 (Changed to R309-525)	AMD	08/15/2001	2001-9/32
<b><u>FINANCIAL DISCLOSURE</u></b>					
Community and Economic Development, Community Development, Community Services	23689	R202-204	NSC	05/01/2001	Not Printed
Health, Health Care Financing, Coverage and Reimbursement Policy	23397	R414-304	EMR	01/03/2001	2001-3/89
	23753	R414-304	AMD	07/06/2001	2001-11/62

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>FIRE</u></b>					
Environmental Quality, Air Quality	23139	R307-204	NEW	see CPR	2000-19/14
	23139	R307-204	CPR	03/06/2001	2001-3/81
<b><u>FIREARMS</u></b>					
Administrative Services, Fleet Operations, Surplus Property	23523	R28-2	5YR	02/08/2001	2001-5/39
<b><u>FIRE PREVENTION</u></b>					
Public Safety, Fire Marshal	23339	R710-4	AMD	01/16/2001	2000-24/61
	23580	R710-4	AMD	05/16/2001	2001-8/77
<b><u>FIRE PREVENTION LAW</u></b>					
Public Safety, Fire Marshal	23340	R710-9	AMD	01/16/2001	2000-24/64
<b><u>FISH</u></b>					
Natural Resources, Wildlife Resources	23189	R657-13	AMD	01/02/2001	2000-21/23
<b><u>FISHING</u></b>					
Natural Resources, Wildlife Resources	23189	R657-13	AMD	01/02/2001	2000-21/23
<b><u>FLOCCULATION</u></b>					
Environmental Quality, Drinking Water	23658	R309-206 (Changed to R309-525)	AMD	08/15/2001	2001-9/32
<b><u>FLOODS</u></b>					
Natural Resources, Water Rights	23896	R655-11	5YR	07/12/2001	2001-15/54
<b><u>FOOD INSPECTION</u></b>					
Agriculture and Food, Animal Industry	23306	R58-10	AMD	01/03/2001	2000-23/9
	23585	R58-11	5YR	03/30/2001	2001-8/83
	23586	R58-12	5YR	03/30/2001	2001-8/84
	23587	R58-13	5YR	03/30/2001	2001-8/84
	23589	R58-16	5YR	03/30/2001	2001-8/85
Plant Industry	23960	R68-4	5YR	07/31/2001	2001-16/49
Agriculture and Food, Regulatory Services	23428	R70-420	REP	03/06/2001	2001-3/5
	23429	R70-430	REP	03/06/2001	2001-3/6
	23430	R70-610	5YR	01/16/2001	2001-3/96
	23431	R70-610	NSC	02/01/2001	Not Printed
	23432	R70-620	5YR	01/16/2001	2001-3/97
	23433	R70-620	AMD	03/06/2001	2001-3/7
<b><u>FOOD STAMPS</u></b>					
Workforce Services, Employment Development	23474	R986-900-902	AMD	03/20/2001	2001-4/47
	23727	R986-900-902	AMD	07/01/2001	2001-10/79
<b><u>FORENSIC</u></b>					
Human Services, Mental Health, State Hospital	23666	R525-8	NEW	06/04/2001	2001-9/98
<b><u>FOSTER CARE</u></b>					
Human Services, Administration, Administrative Services, Licensing	23626	R501-12	AMD	08/09/2001	2001-9/94
Human Services, Child and Family Services	23866	R512-43	EMR	06/29/2001	2001-14/65

**RULES INDEX**

---

<b>KEYWORD AGENCY</b>	<b>FILE NUMBER</b>	<b>CODE REFERENCE</b>	<b>ACTION</b>	<b>EFFECTIVE DATE</b>	<b>BULLETIN ISSUE/PAGE</b>
<b><u>FRANCHISES</u></b>					
Commerce, Consumer Protection	23792	R152-15	AMD	07/30/2001	2001-12/14
Tax Commission, Auditing	23555	R865-6F-1	NSC	04/01/2001	Not Printed
	23556	R865-6F-15	NSC	04/01/2001	Not Printed
<b><u>FRAUD</u></b>					
Commerce, Consumer Protection	23795	R152-26	AMD	07/30/2001	2001-12/19
Human Services, Recovery Services	23389	R527-928	AMD	02/15/2001	2001-2/7
<b><u>FREEDOM OF INFORMATION</u></b>					
Agriculture and Food, Administration	23958	R51-3	5YR	07/31/2001	2001-16/48
<b><u>FUEL</u></b>					
Community and Economic Development, Community Development, Energy Services	23377	R203-1	AMD	see CPR	2001-1/6
	23377	R203-1	CPR	06/15/2001	2001-4/52
<b><u>FUEL PRICES</u></b>					
Commerce, Consumer Protection	23793	R152-16	REP	07/30/2001	2001-12/15
<b><u>GAME LAWS</u></b>					
Natural Resources, Wildlife Resources	23356	R657-5	AMD	01/16/2001	2000-24/40
	23528	R657-5	AMD	04/03/2001	2001-5/19
	23806	R657-5	AMD	07/18/2001	2001-12/63
	23601	R657-14	AMD	05/17/2001	2001-8/71
	23358	R657-17	AMD	01/16/2001	2000-24/51
	23810	R657-23	5YR	05/30/2001	2001-12/74
	23807	R657-23	AMD	07/18/2001	2001-12/66
	23393	R657-33	AMD	02/15/2001	2001-2/8
<b><u>GOVERNMENT DOCUMENTS</u></b>					
Agriculture and Food, Administration	23958	R51-3	5YR	07/31/2001	2001-16/48
Community and Economic Development, Community Development, Community Services	23692	R202-207	NSC	05/01/2001	Not Printed
<b><u>GOVERNMENT HEARINGS</u></b>					
Agriculture and Food	23928	R51-2-11	NSC	08/01/2001	Not Printed
Commerce, Administration	23537	R151-46b	5YR	02/28/2001	2001-6/49
	23945	R151-46b	5YR	07/27/2001	2001-16/50
Commerce, Occupational and Professional Licensing	23839	R156-46b	5YR	06/11/2001	2001-13/85
Human Resource Management	23777	R477-11	AMD	07/03/2001	2001-11/99
Transportation, Preconstruction	23616	R930-2	NSC	05/01/2001	Not Printed
<b><u>GOVERNMENT INFORMATION RESOURCES</u></b>					
Transportation, Administration	23634	R907-40	NSC	05/01/2001	Not Printed
<b><u>GRANTS</u></b>					
Community and Economic Development, Community Development	23231	R199-8	AMD	01/23/2001	2000-21/3
	23575	R199-9	NSC	03/28/2001	Not Printed
Health, Health Systems Improvement, Primary Care and Rural Health	23888	R434-30	5YR	07/11/2001	2001-15/52



<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Pioneer Sesquicentennial Celebration Coordinating Council (Utah), Administration	23742	R674-2	EXD	05/09/2001	2001-11/121
<b><u>GRIEVANCE PROCEDURES</u></b>					
Career Service Review Board, Administration	23979	R137-1	5YR	08/08/2001	2001-17/46
Tax Commission, Administration	23846	R861-1A-9	AMD	08/02/2001	2001-13/75
	23717	R861-1A-17	AMD	07/04/2001	2001-10/44
	23403	R861-1A-36	AMD	04/11/2001	2001-3/76
<b><u>GRIEVANCES</u></b>					
Agriculture and Food, Administration	23959	R51-4	5YR	07/31/2001	2001-16/49
Human Resource Management, Administration	23772	R477-4	AMD	07/03/2001	2001-11/85
	23777	R477-11	AMD	07/03/2001	2001-11/99
<b><u>HABITAT DESIGNATION</u></b>					
Natural Resources, Wildlife Resources	23677	R657-48	NEW	06/13/2001	2001-9/124
<b><u>HALFWAY HOUSES</u></b>					
Corrections, Administration	23512	R251-301	5YR	02/05/2001	2001-5/40
	23400	R251-301	AMD	03/13/2001	2001-3/8
<b><u>HAZARDOUS MATERIALS TRANSPORTATION</u></b>					
Transportation, Motor Carrier	23461	R909-75	AMD	03/20/2001	2001-4/45
	23857	R909-75	AMD	08/15/2001	2001-14/43
<b><u>HAZARDOUS SUBSTANCES</u></b>					
Transportation, Motor Carrier	23461	R909-75	AMD	03/20/2001	2001-4/45
	23857	R909-75	AMD	08/15/2001	2001-14/43
<b><u>HAZARDOUS WASTE</u></b>					
Environmental Quality, Solid and Hazardous Waste	23409	R315-1	AMD	04/20/2001	2001-3/14
	23410	R315-2	AMD	04/20/2001	2001-3/16
	23521	R315-2-2	AMD	06/15/2001	2001-5/15
	23411	R315-3	AMD	see CPR	2001-3/22
	23411	R315-3	CPR	06/15/2001	2001-9/130
	23947	R315-3	NSC	08/01/2001	Not Printed
	23764	R315-3-1	AMD	07/20/2001	2001-11/29
	23412	R315-5-3	AMD	04/20/2001	2001-3/30
	23413	R315-7	AMD	see CPR	2001-3/31
	23413	R315-7	CPR	06/15/2001	2001-9/131
	23414	R315-8	AMD	see CPR	2001-3/36
	23414	R315-8	CPR	06/15/2001	2001-9/133
	23415	R315-13-1	AMD	04/20/2001	2001-3/40
	23416	R315-14-7	AMD	04/20/2001	2001-3/41
	23417	R315-16	AMD	04/20/2001	2001-3/42
	23951	R315-16-5	NSC	08/01/2001	Not Printed
	23418	R315-50	AMD	04/20/2001	2001-3/50
	23419	R315-101-7	AMD	see CPR	2001-3/51
	23419	R315-101-7	CPR	07/20/2001	2001-11/113

**RULES INDEX**

---

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Transportation, Motor Carrier	23461	R909-75	AMD	03/20/2001	2001-4/45
	23857	R909-75	AMD	08/15/2001	2001-14/43
<b>HEALTH CARE</b>					
Health, Community and Family Health Services, Children with Special Health Care Needs	23834	R398-1	AMD	08/07/2001	2001-13/61
<b>HEALTH FACILITIES</b>					
Health, Health Systems Improvement, Health Facility Licensure	23292	R432-106	NEW	01/23/2001	2000-23/31
Health, Health Systems Improvement, Health Facility Licensure (Changed to Health, Health Systems Improvement, Licensing)	23477	R432-1	NSC	04/01/2001	Not Printed
	23784	R432-1-3	AMD	08/07/2001	2001-12/51
	23478	R432-2	NSC	04/01/2001	Not Printed
	23479	R432-3	NSC	04/01/2001	Not Printed
	23480	R432-4	NSC	04/01/2001	Not Printed
	23481	R432-5	NSC	04/01/2001	Not Printed
	23482	R432-6	NSC	04/01/2001	Not Printed
	23483	R432-7	NSC	04/01/2001	Not Printed
	23484	R432-8	NSC	04/01/2001	Not Printed
	23485	R432-9	NSC	04/01/2001	Not Printed
	23486	R432-10	NSC	04/01/2001	Not Printed
	23487	R432-11	NSC	04/01/2001	Not Printed
	23488	R432-12	NSC	04/01/2001	Not Printed
	23489	R432-13	NSC	04/01/2001	Not Printed
	23490	R432-14	NSC	04/01/2001	Not Printed
	23491	R432-16	NSC	04/01/2001	Not Printed
	23492	R432-30	NSC	04/01/2001	Not Printed
	23493	R432-35	NSC	04/01/2001	Not Printed
	23494	R432-100	NSC	04/01/2001	Not Printed
	23495	R432-101	NSC	04/01/2001	Not Printed
	23496	R432-102	NSC	04/01/2001	Not Printed
	23497	R432-103	NSC	04/01/2001	Not Printed
	23498	R432-104	NSC	04/01/2001	Not Printed
	23499	R432-105	NSC	04/01/2001	Not Printed
	23561	R432-106	NSC	04/01/2001	Not Printed
	23500	R432-150	NSC	04/01/2001	Not Printed
	23501	R432-151	NSC	04/01/2001	Not Printed
	23502	R432-152	NSC	04/01/2001	Not Printed
	23503	R432-200	NSC	04/01/2001	Not Printed
	23504	R432-201	NSC	04/01/2001	Not Printed
	23505	R432-270	NSC	04/01/2001	Not Printed
	23380	R432-270	AMD	03/30/2001	2001-1/10
	23506	R432-300	NSC	04/01/2001	Not Printed
	23567	R432-500	NSC	04/01/2001	Not Printed
	23564	R432-500	AMD	08/13/2001	2001-8/63

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	23507	R432-550	NSC	04/01/2001	Not Printed
	23508	R432-600	NSC	04/01/2001	Not Printed
	23562	R432-650	NSC	04/01/2001	Not Printed
	23509	R432-700	NSC	04/01/2001	Not Printed
	23510	R432-750	NSC	04/01/2001	Not Printed
	23563	R432-950	NSC	04/01/2001	Not Printed
<b><u>HEALTH SPAS</u></b>					
Commerce, Consumer Protection	23791	R152-7 (Changed to R152-23)	AMD	07/30/2001	2001-12/12
<b><u>HEARING AIDS</u></b>					
Commerce, Occupational and Professional Licensing	23735	R156-46a-308	AMD	07/05/2001	2001-11/4
<b><u>HEARINGS</u></b>					
Community and Economic Development, Community Development, Community Services	23686	R202-201	NSC	05/01/2001	Not Printed
Environmental Quality, Air Quality	23442	R307-103-1	NSC	02/01/2001	Not Printed
	23407	R307-103-2	AMD	04/12/2001	2001-3/13
Professional Practices Advisory Commission, Administration	23427	R686-100	AMD	03/06/2001	2001-3/67
	23547	R686-100	NSC	04/01/2001	Not Printed
<b><u>HIGHER EDUCATION</u></b>					
Regents (Board Of), Administration	23596	R765-649	NEW	05/16/2001	2001-8/78
	23782	R765-649	AMD	07/17/2001	2001-12/71
<b><u>HIGHWAY BEAUTIFICATION</u></b>					
Transportation, Preconstruction, Right- of-Way Acquisition	23637	R933-1	NSC	05/01/2001	Not Printed
<b><u>HIGHWAY FINANCE</u></b>					
Transportation, Program Development	23613	R926-3	NSC	05/01/2001	Not Printed
	23614	R926-5	NSC	05/01/2001	Not Printed
<b><u>HIGHWAY HEARINGS</u></b>					
Transportation, Preconstruction	23616	R930-2	NSC	05/01/2001	Not Printed
<b><u>HIGHWAY PLANNING</u></b>					
Transportation, Program Development	23612	R926-2	NSC	05/01/2001	Not Printed
<b><u>HIGHWAY ROADS</u></b>					
Transportation, Program Development	23613	R926-3	NSC	05/01/2001	Not Printed
<b><u>HIGHWAYS</u></b>					
Transportation, Operations, Construction	23609	R916-3	NSC	05/01/2001	Not Printed
	23750	R916-3	5YR	05/14/2001	2001-11/119
<b><u>HIGH QUALITY GROUND WATER</u></b>					
Environmental Quality, Drinking Water	23656	R309-202 (Changed to R309-505)	AMD	08/15/2001	2001-9/26
<b><u>HIRING PRACTICES</u></b>					
Human Resource Management, Administration	23773	R477-5	AMD	07/03/2001	2001-11/86

**RULES INDEX**

---

<b>KEYWORD AGENCY</b>	<b>FILE NUMBER</b>	<b>CODE REFERENCE</b>	<b>ACTION</b>	<b>EFFECTIVE DATE</b>	<b>BULLETIN ISSUE/PAGE</b>
<b><u>HISTORIC PRESERVATION</u></b>					
Tax Commission, Auditing	23555	R865-6F-1	NSC	04/01/2001	Not Printed
	23556	R865-6F-15	NSC	04/01/2001	Not Printed
<b><u>HOSTILE WORK ENVIRONMENT</u></b>					
Human Resource Management, Administration	23779	R477-15	AMD	07/03/2001	2001-11/103
<b><u>HOUSING</u></b>					
Community and Economic Development, Community Development, History	23607	R212-11	NSC	05/01/2001	Not Printed
<b><u>HUMAN SERVICES</u></b>					
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
	23322	R501-8	AMD	01/16/2001	2000-23/33
	23406	R501-8	NSC	02/01/2001	Not Printed
	23626	R501-12	AMD	08/09/2001	2001-9/94
	23783	R501-14	5YR	05/18/2001	2001-12/75
	23323	R501-17	AMD	01/16/2001	2000-23/39
	23923	R501-22	NSC	08/01/2001	Not Printed
<b><u>HUNTER EDUCATION</u></b>					
Natural Resources, Wildlife Resources	23810	R657-23	5YR	05/30/2001	2001-12/74
	23807	R657-23	AMD	07/18/2001	2001-12/66
<b><u>HUNTING</u></b>					
Natural Resources, Wildlife Resources	23360	R657-38	AMD	01/16/2001	2000-24/53
<b><u>HUNTING AND FISHING LICENSES</u></b>					
Natural Resources, Wildlife Resources	23358	R657-17	AMD	01/16/2001	2000-24/51
<b><u>HYDROPNEUMATIC SYSTEMS</u></b>					
Environmental Quality, Drinking Water	23660	R309-209 (Changed to R309-540)	AMD	08/15/2001	2001-9/46
<b><u>IMPACTED AREA PROGRAMS</u></b>					
Community and Economic Development, Community Development	23576	R199-10	NSC	04/01/2001	Not Printed
<b><u>IMPORT RESTRICTIONS</u></b>					
Natural Resources, Wildlife Resources	23673	R657-3	5YR	04/16/2001	2001-9/143
<b><u>IMMUNIZATION</u></b>					
Health, Community and Family Health Services, Immunization	23762	R396-100	R&R	07/19/2001	2001-11/52
<b><u>INCIDENTS</u></b>					
Administrative Services, Fleet Operations	23345	R27-7	NEW	01/31/2001	2000-24/6
<b><u>INCOME</u></b>					
Community and Economic Development, Community Development, Community Services	23688	R202-203	NSC	05/01/2001	Not Printed

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Health, Health Care Financing, Coverage and Reimbursement Policy	23396	R414-303	EMR	01/03/2001	2001-3/87
	23420	R414-303	AMD	03/13/2001	2001-3/52
	23752	R414-303	AMD	07/06/2001	2001-11/59
	23397	R414-304	EMR	01/03/2001	2001-3/89
	23753	R414-304	AMD	07/06/2001	2001-11/62
	23452	R414-310	REP	04/04/2001	2001-4/13
<b><u>INCOME ELIGIBILITY</u></b>					
Community and Economic Development, Community Development, Community Services	23688	R202-203	NSC	05/01/2001	Not Printed
<b><u>INCOME WITHHOLDING FEES</u></b>					
Human Services, Recovery Services	23955	R527-302	NSC	08/01/2001	Not Printed
<b><u>INDIAN AFFAIRS</u></b>					
Community and Economic Development, Indian Affairs	23476	R230-1	5YR	02/01/2001	2001-4/61
<b><u>INDIGENT</u></b>					
Health, Health Care Financing, Medical Assistance Program	23351	R420-1	AMD	01/23/2001	2000-24/28
	23701	R420-1	EMR	05/01/2001	2001-10/85
	23703	R420-1	AMD	06/25/2001	2001-10/19
<b><u>INDIVIDUAL HOME BOOSTER PUMPS</u></b>					
Environmental Quality, Drinking Water	23660	R309-209 (Changed to R309-540)	AMD	08/15/2001	2001-9/46
<b><u>INDUSTRIAL WASTE</u></b>					
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
	23599	R317-1-6	AMD	08/13/2001	2001-8/44
<b><u>INDUSTRY</u></b>					
Environmental Quality, Radiation Control	23552	R313-36	AMD	05/11/2001	2001-7/13
<b><u>INFORMATION TECHNOLOGY</u></b>					
Administrative Services, Information Technology Services	23944	R29-1	5YR	07/26/2001	2001-16/48
<b><u>INMATES</u></b>					
Corrections, Administration	23968	R251-702	5YR	08/01/2001	2001-16/52
<b><u>IN-SERVICE TRAINING</u></b>					
Public Safety, Peace Officer Standards and Training	23630	R728-500	NSC	05/01/2001	Not Printed
<b><u>INSPECTIONS</u></b>					
Agriculture and Food, Plant Industry	23973	R68-7	5YR	08/07/2001	2001-17/46
	23961	R68-8	5YR	07/31/2001	2001-16/50
Agriculture and Food, Regulatory Services	23728	R70-910	5YR	05/03/2001	2001-11/116
	23729	R70-950	5YR	05/03/2001	2001-11/116
Environmental Quality, Radiation Control	23667	R313-12	AMD	06/08/2001	2001-9/54
	23932	R313-12	5YR	07/23/2001	2001-16/53

RULES INDEX

---

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	23934	R313-16	5YR	07/23/2001	2001-16/54
	23936	R313-18	5YR	07/23/2001	2001-16/55
<b><u>INSTRUCTIONAL MATERIALS</u></b>					
Education, Administration	23426	R277-469	AMD	03/06/2001	2001-3/9
<b><u>INSURANCE</u></b>					
Human Resource Management, Administration	23774	R477-7	AMD	07/03/2001	2001-11/87
Insurance, Administration	23582	R590-144	5YR	03/30/2001	2001-8/88
	23583	R590-144	NSC	05/01/2001	Not Printed
	23598	R590-146	AMD	05/23/2001	2001-8/65
	23765	R590-155	AMD	08/20/2001	2001-11/106
	23713	R590-177	5YR	04/30/2001	2001-10/91
<b><u>INSURANCE BENEFITS</u></b>					
Insurance, Administration	23378	R590-204	NEW	02/09/2001	2001-1/23
<b><u>INSURANCE CERTIFICATE OF AUTHORITY</u></b>					
Insurance, Administration	23560	R590-208	NEW	06/12/2001	2001-7/20
<b><u>INSURANCE LAW</u></b>					
Insurance, Administration	23904	R590-136	5YR	07/13/2001	2001-15/53
	22923	R590-200	NEW	see CPR (First)	2000-13/51
	22923	R590-200	CPR (First)	see CPR (Second)	2000-19/159
	22923	R590-200	CPR (Second)	see CPR (Third)	2000-23/60
	22923	R590-200	CPR (Third)	04/30/2001	2001-3/84
	23720	R590-206	NEW	07/01/2001	2001-10/23
<b><u>INSURANCE LAW PRIVACY</u></b>					
Insurance, Administration	23247	R590-205	NEW	01/11/2001	2000-22/35
	23864	R590-210	EMR	07/01/2001	2001-14/70
<b><u>INTERNET ACCESS</u></b>					
Community and Economic Development, Community Development, Library	23352	R223-2	NEW	02/15/2001	2000-24/11
	23519	R223-2	NSC	02/23/2001	Not Printed
<b><u>INTRASTATE DRIVER LICENSE WAIVERS</u></b>					
Public Safety, Driver License	23597	R708-34	AMD	05/16/2001	2001-8/74
<b><u>INVESTIGATIONS</u></b>					
Public Safety, Peace Officer Standards and Training	23629	R728-409	NSC	05/01/2001	Not Printed
<b><u>IRON AND MANGANESE CONTROL</u></b>					
Environmental Quality, Drinking Water	23394	R309-208 (Changed to R309-535)	AMD	05/01/2001	2001-2/3
<b><u>JOB DESCRIPTION</u></b>					
Human Resource Management, Administration	23772	R477-4	AMD	07/03/2001	2001-11/85

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>JUDGES</u></b>					
Judicial Conduct Commission, Administration	23908	R595-1	NSC	07/30/2001	Not printed
<b><u>JUDICIAL ETHICS</u></b>					
Judicial Conduct Commission, Administration	23908	R595-1	NSC	07/30/2001	Not Printed
<b><u>JURISDICTION</u></b>					
Workforce Services, Workforce Information and Payment Services	23525	R994-406-304	AMD	04/05/2001	2001-5/28
<b><u>JUVENILE COURTS</u></b>					
Education, Administration	23670	R277-709	AMD	06/05/2001	2001-9/19
<b><u>LABOR</u></b>					
Labor Commission, Antidiscrimination and Labor, Labor	23861	R610-1-3	NSC	07/05/2001	Not Printed
<b><u>LAND EXCHANGE</u></b>					
Natural Resources, Forestry, Fire and State Lands	23941	R652-80	5YR	07/23/2001	2001-16/59
<b><u>LAND MANAGER</u></b>					
Environmental Quality, Air Quality	23139	R307-204	NEW	see CPR	2000-19/14
	23139	R307-204	CPR	03/06/2001	2001-3/81
<b><u>LANDOWNER PERMITS</u></b>					
Natural Resources, Wildlife Resources	23675	R657-43	AMD	06/04/2001	2001-9/119
<b><u>LAW</u></b>					
Human Services, Aging and Adult Services	23453	R510-1	5YR	01/23/2001	2001-4/62
	23538	R510-1	AMD	04/17/2001	2001-6/45
	23822	R510-1	5YR	06/04/2001	2001-13/86
Public Safety, Fire Marshal	23340	R710-9	AMD	01/16/2001	2000-24/64
<b><u>LAW ENFORCEMENT</u></b>					
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23447	R724-7 (Changed to R722-320)	NSC	02/01/2001	Not Printed
Public Safety, Peace Officer Standards and Training	23628	R728-404	NSC	05/01/2001	Not Printed
	23629	R728-409	NSC	05/01/2001	Not Printed
<b><u>LAW ENFORCEMENT OFFICERS</u></b>					
Public Safety, Peace Officer Standards and Training	23630	R728-500	NSC	05/01/2001	Not Printed
<b><u>LEAVE</u></b>					
Human Resource Management, Administration	23775	R477-8	AMD	07/03/2001	2001-11/90
<b><u>LIBRARIES</u></b>					
Community and Economic Development, Community Development, Library	23352	R223-2	NEW	02/15/2001	2000-24/11
	23519	R223-2	NSC	02/23/2001	Not Printed

**RULES INDEX**

---

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>LICENSE</u></b>					
Environmental Quality, Radiation Control	23312	R313-19	AMD	01/26/2001	2000-23/19
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23448	R724-9 (Changed to R722-330)	NSC	02/01/2001	Not Printed
	23449	R724-10 (Changed to R722-310)	NSC	02/01/2001	Not Printed
<b><u>LICENSE PLATES</u></b>					
Tax Commission, Motor Vehicle	23718	R873-22M-35	AMD	07/04/2001	2001-10/48
<b><u>LICENSING</u></b>					
Commerce, Occupational and Professional Licensing	23798	R156-1-308a	AMD	07/17/2001	2001-12/22
	23295	R156-1-308d	AMD	01/04/2001	2000-23/9
	23550	R156-3a	AMD	05/03/2001	2001-7/9
	23730	R156-3a	NSC	06/01/2001	Not Printed
	23837	R156-3a	5YR	06/11/2001	2001-13/85
	23797	R156-5a	AMD	07/17/2001	2001-12/24
	23796	R156-9a	NEW	07/17/2001	2001-12/25
	23260	R156-11a	AMD	see CPR	2000-22/5
	23260	R156-11a	CPR	03/06/2001	2001-3/79
	23566	R156-16a	AMD	05/17/2001	2001-8/16
	23695	R156-17a	5YR	04/26/2001	2001-10/89
	23296	R156-26a	AMD	01/04/2001	2000-23/11
	23309	R156-28	AMD	see CPR	2000-23/15
	23309	R156-28	CPR	03/08/2001	2001-3/80
	23401	R156-37-502	NSC	02/01/2001	Not Printed
	23799	R156-38	AMD	07/17/2001	2001-12/26
	23734	R156-44a	AMD	07/05/2001	2001-11/3
	23735	R156-46a-308	AMD	07/05/2001	2001-11/4
	23535	R156-47b	5YR	02/26/2001	2001-6/49
	23696	R156-50	5YR	04/26/2001	2001-10/90
	23518	R156-54-302b	AMD	04/03/2001	2001-5/7
	23602	R156-54-302b	NSC	05/01/2001	Not Printed
	23374	R156-55b	AMD	04/30/2001	2001-1/4
	23375	R156-55c-102	AMD	04/30/2001	2001-1/5
	23524	R156-55d-603	AMD	04/03/2001	2001-5/8
	23577	R156-56	AMD	07/01/2001	2001-8/18
	23788	R156-56-704	NSC	06/26/2001	Not Printed
	23883	R156-59-102	NSC	07/30/2001	Not printed
	23620	R156-60b	AMD	06/01/2001	2001-9/13
	23679	R156-60c	AMD	06/19/2001	2001-10/11
	23838	R156-60d	5YR	06/11/2001	2001-13/86
	23632	R156-61	AMD	06/01/2001	2001-9/16
	23925	R156-67	5YR	07/19/2001	2001-16/51
	23736	R156-68-305	AMD	07/05/2001	2001-11/5



<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	23141	R156-69	AMD	see CPR	2000-10/10
	23141	R156-69	CPR	02/15/2001	2001-2/17
	23878	R156-69	5YR	07/05/2001	2001-15/47
	23737	R156-69-305	AMD	07/05/2001	2001-11/6
	23738	R156-71	AMD	07/05/2001	2001-11/7
	23390	R156-73	AMD	02/15/2001	2001-2/2
	23879	R156-73	5YR	07/05/2001	2001-15/48
	23743	R156-73	AMD	07/05/2001	2001-11/8
Commerce, Occupational and Professional Licensing (Changed to Commerce, Administration)	23859	R156-66 (Changed to R151-33)	EMR	07/01/2001	2001-14/54
Commerce, Real Estate	23321	R162-102	AMD	02/07/2001	2000-23/17
Environmental Quality, Radiation Control	23552	R313-36	AMD	05/11/2001	2001-7/13
	23936	R313-18	5YR	07/23/2001	2001-16/55
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
	23322	R501-8	AMD	01/16/2001	2000-23/33
	23406	R501-8	NSC	02/01/2001	Not Printed
	23626	R501-12	AMD	08/09/2001	2001-9/94
	23783	R501-14	5YR	05/18/2001	2001-12/73
	23323	R501-17	AMD	01/16/2001	2000-23/39
	23923	R501-22	NSC	08/01/2001	Not Printed
Natural Resources, Wildlife Resources	23455	R657-27	AMD	03/26/2001	2001-4/39
Public Safety, Driver License	23957	R708-18	5YR	07/30/2001	2001-16/59
<b><u>LICENSING (TRADEMARK)</u></b>					
Pioneer Sesquicentennial Celebration Coordinating Council (Utah), Administration	23740	R674-3	EXD	05/07/2001	2001-11/121
<b><u>LIENS</u></b>					
Commerce, Occupational and Professional Licensing	23799	R156-38	AMD	07/17/2001	2001-12/26
<b><u>LIFELINE RATES</u></b>					
Public Service Commission, Administration	23376	R746-341	AMD	03/01/2001	2001-1/30
<b><u>LIMITED ACCESS HIGHWAYS</u></b>					
Transportation, Preconstruction, Right- of-Way Acquisition	23619	R933-3	NSC	05/01/2001	Not Printed
<b><u>LIQUEFIED PETROLEUM GAS</u></b>					
Public Safety, Fire Marshal	23367	R710-6	AMD	01/16/2001	2000-24/63
	23880	R710-6	5YR	07/05/2001	2001-15/55
<b><u>LOAN PROGRAM</u></b>					
Community and Economic Development, Community Development, Energy Services	23377	R203-1	AMD	see CPR	2001-1/6
	23377	R203-1	CPR	06/15/2001	2001-4/52

**RULES INDEX**

---

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>LOCAL GOVERNMENT</u></b>					
Health, Center for Health Data, Vital Records and Statistics	23681	R436-11	NSC	05/01/2001	Not Printed
<b><u>LOSS RECOVERY</u></b>					
Transportation, Administration	23623	R907-63-1	NSC	05/01/2001	Not Printed
<b><u>LOW QUALITY GROUND WATER</u></b>					
Environmental Quality, Drinking Water	23656	R309-202 (Changed to R309-505)	AMD	08/15/2001	2001-9/26
<b><u>MAMMOGRAPHY</u></b>					
Health, Health Systems Improvement, Health Facility Licensure (Changed to Health Systems Improvement, Licensing)	23563	R432-950	NSC	04/01/2001	Not Printed
<b><u>MANAGEMENT</u></b>					
Natural Resources; Forestry, Fire and State Lands	23940	R652-41	5YR	07/23/2001	2001-16/58
<b><u>MARKETING</u></b>					
Commerce, Consumer Protection	23792	R152-15	AMD	07/30/2001	2001-12/14
<b><u>MARRIAGE AND FAMILY THERAPIST</u></b>					
Commerce, Occupational and Professional Licensing	23620	R156-60b	AMD	06/01/2001	2001-9/13
<b><u>MASSAGE</u></b>					
Commerce, Occupational and Professional Licensing	23535	R156-47b	5YR	02/26/2001	2001-6/49
<b><u>MATHEMATICS</u></b>					
Education, Administration	23856	R277-717	NEW	08/01/2001	2001-13/16
<b><u>MEDICAID</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	23823	R414-61	AMD	08/08/2001	2001-13/63
	23347	R414-63	NEW	01/17/2001	2000-24/23
	23551	R414-63	AMD	05/07/2001	2001-7/17
	23421	R414-304	AMD	03/13/2001	2001-3/56
	23398	R414-305	EMR	01/03/2001	2001-3/91
	23422	R414-305	AMD	03/13/2001	2001-3/60
	23754	R414-305	AMD	07/06/2001	2001-11/72
	23802	R414-501	AMD	07/18/2001	2001-12/40
	23803	R414-502	AMD	07/18/2001	2001-12/43
	23804	R414-503	AMD	07/18/2001	2001-12/46
Health, Health Care Financing, Medical Assistance Program	23351	R420-1	AMD	01/23/2001	2000-24/28
	23701	R420-1	EMR	05/01/2001	2001-10/85
	23703	R420-1	AMD	06/25/2001	2001-10/19
Human Services, Recovery Services	23929	R527-800	5YR	07/23/2001	2001-16/55
	23887	R527-936	5YR	07/10/2001	2001-15/53
	23821	R527-936	AMD	08/03/2001	2001-13/70
<b><u>MEDICALLY UNDERSERVED</u></b>					
Health, Health Systems Improvement, Primary Care and Rural Health	23888	R434-30	5YR	07/11/2001	2001-15/52

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>MEDICAL PRACTITIONER</u></b>					
Labor Commission, Industrial Accidents	23463	R612-2-3	NSC	02/15/2001	Not Printed
	23548	R612-2-5	EMR	03/08/2001	2001-7/43
	23464	R612-2-5	NSC	02/15/2001	Not Printed
	23549	R612-2-5	AMD	05/03/2001	2001-7/21
	23746	R612-2-5	AMD	07/05/2001	2001-11/108
	23465	R612-2-6	NSC	02/15/2001	Not Printed
	23466	R612-2-11	NSC	02/15/2001	Not Printed
	23467	R612-2-16	AMD	03/20/2001	2001-4/32
	23468	R612-2-17	NSC	02/15/2001	Not Printed
	23469	R612-2-22	AMD	03/20/2001	2001-4/33
	23470	R612-2-23	NSC	02/15/2001	Not Printed
	23471	R612-2-24	AMD	03/20/2001	2001-4/34
	23472	R612-2-26	NSC	02/15/2001	Not Printed
<b><u>MEDICAL RECORDS</u></b>					
Corrections, Administration	23313	R251-102	AMD	01/04/2001	2000-23/18
	23511	R251-102	5YR	02/05/2001	2001-5/40
<b><u>MEMBRANE TECHNOLOGY</u></b>					
Environmental Quality, Drinking Water	23659	R309-207 (Changed to R309-530)	AMD	08/15/2001	2001-9/43
<b><u>MENTAL HEALTH</u></b>					
Commerce, Occupational and Professional Licensing	23679	R156-60c	AMD	06/19/2001	2001-10/11
Corrections, Administration	23568	R251-109	5YR	03/27/2001	2001-8/86
Human Services, Mental Health, State Hospital	23666	R525-8	NEW	06/04/2001	2001-9/98
<b><u>METHADONE PROGRAMS</u></b>					
Human Services, Substance Abuse	23706	R544-2	5YR	04/30/2001	2001-10/90
<b><u>MIDWIFERY</u></b>					
Commerce, Occupational and Professional Licensing	23734	R156-44a	AMD	07/05/2001	2001-11/3
<b><u>MINIMUM SIZING</u></b>					
Environmental Quality, Drinking Water	23657	R309-203 (Changed to R309-510)	AMD	08/15/2001	2001-9/29
<b><u>MINORITY EDUCATION</u></b>					
Education, Administration	23856	R277-717	NEW	08/01/2001	2001-13/16
<b><u>MINORS</u></b>					
Labor Commission, Antidiscrimination and Labor, Labor	23861	R610-1-3	NSC	07/05/2001	Not Printed
<b><u>MISCELLANEOUS TREATMENT</u></b>					
Environmental Quality, Drinking Water	23394	R309-208 (Changed to R309-535)	AMD	05/01/2001	2001-2/3
<b><u>MOTORBOAT NOISE</u></b>					
Natural Resources, Parks and Recreation	23976	R651-222	5YR	08/07/2001	2001-17/48
<b><u>MOTOR VEHICLES</u></b>					
Commerce, Consumer Protection	23793	R152-16	REP	07/30/2001	2001-12/15

**RULES INDEX**

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<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Tax Commission, Motor Vehicle	23718	R873-22M-35	AMD	07/04/2001	2001-10/48
Transportation, Motor Carrier, Ports of Entry	23698	R912-8	5YR	04/27/2001	2001-10/91
<b><u>NATIVE AMERICAN REMAINS</u></b>					
Community and Economic Development, Indian Affairs	23476	R230-1	5YR	02/01/2001	2001-4/61
<b><u>NATURAL RESOURCES</u></b>					
Natural Resources; Forestry, Fire and State Lands	23940	R652-41	5YR	07/23/2001	2001-16/58
<b><u>NATUROPATHIC PHYSICIANS</u></b>					
Commerce, Occupational and Professional Licensing	23738	R156-71	AMD	07/05/2001	2001-11/7
<b><u>NATUROPATHS</u></b>					
Commerce, Occupational and Professional Licensing	23738	R156-71	AMD	07/05/2001	2001-11/7
<b><u>NEWBORN SCREENING</u></b>					
Health, Community and Family Health Services, Children with Special Health Care Needs	23834	R398-1	AMD	08/07/2001	2001-13/61
<b><u>NEW SOURCE REVIEW</u></b>					
Environmental Quality, Air Quality	23987	R307-210	5YR	08/15/2001	2001-17/47
<b><u>NOISE ABATEMENT</u></b>					
Transportation, Preconstruction	23617	R930-3	NSC	05/01/2001	Not Printed
<b><u>NOISE CONTROL</u></b>					
Transportation, Preconstruction	23617	R930-3	NSC	05/01/2001	Not Printed
<b><u>NOISE WALL</u></b>					
Transportation, Preconstruction	23617	R930-3	NSC	05/01/2001	Not Printed
<b><u>NOTIFICATION</u></b>					
Corrections, Administration	23571	R251-110	5YR	03/27/2001	2001-8/87
	23571	R251-110	AMD	08/09/2001	2001-8/43
<b><u>NURSERIES (AGRICULTURAL)</u></b>					
Agriculture and Food, Plant Industry	23436	R68-6	5YR	01/16/2001	2001-3/95
<b><u>OCCUPATIONAL LICENSING</u></b>					
Commerce, Occupational and Professional Licensing	23798	R156-1-308a	AMD	07/17/2001	2001-12/22
	23295	R156-1-308d	AMD	01/04/2001	2000-23/9
	23839	R156-46b	5YR	06/11/2001	2001-13/85
	23374	R156-55b	AMD	04/30/2001	2001-1/4
	23375	R156-55c-102	AMD	04/30/2001	2001-1/5
<b><u>OFF-HIGHWAY VEHICLES</u></b>					
Natural Resources, Parks and Recreation	23707	R651-401	AMD	06/15/2001	2001-10/37
	23708	R651-403	AMD	06/15/2001	2001-10/38
	23709	R651-404	AMD	06/15/2001	2001-10/39
<b><u>OIL AND GAS LAW</u></b>					
Natural Resources; Oil, Gas and Mining; Oil and Gas	23304	R649-4	NEW	01/03/2001	2001-23/43
	23927	R649-10	5YR	07/19/2001	2001-16/56

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>OLDER AMERICANS ACT</u></b>					
Human Services, Aging and Adult Services	23453	R510-1	5YR	01/23/2001	2001-4/62
	23538	R510-1	AMD	04/17/2001	2001-6/45
	23822	R510-1	5YR	06/04/2001	2001-13/86
<b><u>OPERATION AND MAINTENANCE REQUIREMENTS</u></b>					
Environmental Quality, Drinking Water	23655	R309-201 (Changed to R309-500)	AMD	08/15/2001	2001-9/22
<b><u>OPTOMETRIST</u></b>					
Commerce, Occupational and Professional Licensing	23566	R156-16a	AMD	05/17/2001	2001-8/16
<b><u>ORDERS</u></b>					
Environmental Quality, Radiation Control	23935	R313-17	5YR	07/23/2001	2001-16/54
<b><u>OSTEOPATHIC PHYSICIANS</u></b>					
Commerce, Occupational and Professional Licensing	23736	R156-68-305	AMD	07/05/2001	2001-11/5
<b><u>OSTEOPATHS</u></b>					
Commerce, Occupational and Professional Licensing	23736	R156-68-305	AMD	07/05/2001	2001-11/5
<b><u>OVERPAYMENTS</u></b>					
Human Services, Recovery Services	23733	R527-200	5YR	05/07/2001	2001-11/118
Workforce Services, Workforce Information and Payment Services	23525	R994-406-304	AMD	04/05/2001	2001-5/28
<b><u>OZONE</u></b>					
Environmental Quality, Air Quality	23756	R307-110-31	AMD	08/02/2001	2001-11/18
	23757	R307-110-33	AMD	08/02/2001	2001-11/19
<b><u>PARKS</u></b>					
Natural Resources, Parks and Recreation	23423	R651-601	AMD	03/06/2001	2001-3/62
	23710	R651-601	AMD	06/15/2001	2001-10/40
	23711	R651-603	AMD	06/15/2001	2001-10/41
	23424	R651-608-2	AMD	03/06/2001	2001-3/63
	23978	R651-611	5YR	08/07/2001	2001-17/49
	23712	R651-620	AMD	06/15/2001	2001-10/42
	23848	R651-620	AMD	08/06/2001	2001-13/72
	23654	R651-635	NEW	06/11/2001	2001-9/99
<b><u>PARTICULATE MATTER</u></b>					
Environmental Quality, Air Quality	23756	R307-110-31	AMD	08/02/2001	2001-11/18
	23757	R307-110-33	AMD	08/02/2001	2001-11/19
<b><u>PAYMENT DETERMINATION</u></b>					
Community and Economic Development, Community Development, Community Services	23688	R202-203	NSC	05/01/2001	Not Printed
<b><u>PEACE OFFICER</u></b>					
Public Safety, Peace Officer Standards and Training	23627	R728-205	NSC	05/01/2001	Not Printed

**RULES INDEX**

---

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>PEER REVIEW</u></b>					
Commerce, Occupational and Professional Licensing	23296	R156-26a	AMD	01/04/2001	2000-23/11
<b><u>PENALTIES</u></b>					
Environmental Quality, Radiation Control	23668	R313-14	AMD	06/08/2001	2001-9/55
	23933	R313-14	5YR	07/23/2001	2001-16/53
<b><u>PER DIEM ALLOWANCE</u></b>					
Administrative Services, Finance	23699	R25-7	AMD	07/01/2001	2001-10/5
<b><u>PERMITS</u></b>					
Environmental Quality, Air Quality	23781	R307-501	EMR	05/15/2001	2001-11/114
Environmental Quality, Drinking Water	23655	R309-201 (Changed to R309-500)	AMD	08/15/2001	2001-9/22
Natural Resources; Forestry, Fire and State Lands	23621	R652-70-2400	AMD	06/11/2001	2001-9/100
Natural Resources, Wildlife Resources	23364	R657-42	AMD	01/16/2001	2000-24/60
	23533	R657-42-6	AMD	04/03/2001	2001-5/27
	23809	R657-42-8	AMD	07/18/2001	2001-12/70
<b><u>PERSONAL PROPERTY</u></b>					
Tax Commission, Property Tax	23475	R884-24P-49	AMD	04/11/2001	2001-4/42
	23395	R884-24P-62	AMD	05/14/2001	2001-2/11
	23316	R884-24P-65	AMD	02/20/2001	2000-23/54
	23847	R884-24P-66	AMD	08/02/2001	2001-13/77
<b><u>PERSONNEL MANAGEMENT</u></b>					
Human Resource Management, Administration	23770	R477-1	AMD	07/03/2001	2001-11/76
	23774	R477-7	AMD	07/03/2001	2001-11/87
	23778	R477-14	AMD	07/03/2001	2001-11/101
<b><u>PHARMACIES</u></b>					
Commerce, Occupational and Professional Licensing	23695	R156-17a	5YR	04/26/2001	2001-10/89
<b><u>PHARMACISTS</u></b>					
Commerce, Occupational and Professional Licensing	23695	R156-17a	5YR	04/26/2001	2001-10/89
<b><u>PHYSICIANS</u></b>					
Commerce, Occupational and Professional Licensing	23925	R156-67	5YR	07/19/2001	2001-16/51
<b><u>PIPELINE</u></b>					
Public Service Commission, Administration	23705	R746-409	AMD	06/28/2001	2001-10/42
<b><u>PLANNING</u></b>					
Governor, Planning and Budget	23408	R361-1	5YR	01/11/2001	2001-3/97
<b><u>PLAN REVIEW</u></b>					
Environmental Quality, Drinking Water	23655	R309-201 (Changed to R309-500)	AMD	08/15/2001	2001-9/22
<b><u>PLANT DISEASES</u></b>					
Agriculture and Food, Plant Industry	23437	R68-10	5YR	01/16/2001	2001-3/96
	23438	R68-12	5YR	01/16/2001	2001-3/96

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>PLUMBERS</u></b>					
Commerce, Occupational and Professional Licensing	23375	R156-55c-102	AMD	04/30/2001	2001-1/5
<b><u>PLUMBING</u></b>					
Commerce, Occupational and Professional Licensing	23375	R156-55c-102	AMD	04/30/2001	2001-1/5
<b><u>PODIATRIC PHYSICIAN</u></b>					
Commerce, Occupational and Professional Licensing	23797	R156-5a	AMD	07/17/2001	2001-12/24
<b><u>PODIATRIST</u></b>					
Commerce, Occupational and Professional Licensing	23797	R156-5a	AMD	07/17/2001	2001-12/24
<b><u>POINT SYSTEM</u></b>					
Public Safety, Driver License	23402	R708-3	AMD	03/06/2001	2001-3/75
	23514	R708-3	NSC	02/22/2001	Not Printed
<b><u>PORTABLE ELECTRICITY GENERATOR SETS</u></b>					
Environmental Quality, Air Quality	23781	R307-501	EMR	05/15/2001	2001-11/114
<b><u>POSITION CLASSIFICATION</u></b>					
Human Resource Management, Administration	23772	R477-4	AMD	07/03/2001	2001-11/85
<b><u>POSTAL SERVICE</u></b>					
Transportation, Preconstruction	23615	R930-1	NSC	05/01/2001	Not Printed
<b><u>POST CONVICTION</u></b>					
Administrative Services, Finance	23366	R25-14	AMD	01/22/2001	2000-24/5
<b><u>PRESERVATION</u></b>					
Community and Economic Development, Community Development, History	23607	R212-11	NSC	05/01/2001	Not Printed
<b><u>PRICE INDEXES</u></b>					
Public Service Commission, Administration	23232	R746-352	NEW	see CPR (First)	2000-21/26
	23232	R746-352	CPR (First)	see CPR (Second)	2001-5/32
	23232	R746-352	CPR (Second)	06/15/2001	2001-7/38
<b><u>PRIMARY HEALTH CARE</u></b>					
Health, Health Systems Improvement, Primary Care and Rural Health	23888	R434-30	5YR	07/11/2001	2001-15/52
<b><u>PRISONS</u></b>					
Corrections, Administration	23968	R251-702	5YR	08/01/2001	2001-16/52
	23901	R251-708	5YR	07/12/2001	2001-15/48
	23570	R251-709	5YR	03/27/2001	2001-8/87
	23540	R251-709	AMD	05/15/2001	2001-7/12
	23902	R251-711	5YR	07/12/2001	2001-15/49
	23903	R251-712	5YR	07/12/2001	2001-15/49

**RULES INDEX**

---

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>PRIVATE INVESTIGATORS</u></b>					
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23448	R724-9 (Changed to R722-330)	NSC	02/01/2001	Not Printed
<b><u>PRIVATE PROBATION PROVIDER</u></b>					
Commerce, Occupational and Professional Licensing	23696	R156-50	5YR	04/26/2001	2001-10/90
<b><u>PROBATION</u></b>					
Commerce, Occupational and Professional Licensing	23696	R156-50	5YR	04/26/2001	2001-10/90
<b><u>PROCEDURES</u></b>					
Public Service Commission, Administration	23354	R746-240	AMD	02/15/2001	2000-24/67
	23328	R746-340	AMD	see CPR	2000-23/49
	23328	R746-340	CPR	03/26/2001	2001-4/56
<b><u>PROCEEDINGS</u></b>					
Judicial Conduct Commission, Administration	23908	R595-1	NSC	07/30/2001	Not Printed
<b><u>PROCUREMENT</u></b>					
Administrative Services, Facilities Construction and Management	23870	R23-1	AMD	08/15/2001	2001-14/5
Capitol Preservation Board (State), Administration	23578	R131-4	NEW	05/16/2001	2001-8/7
<b><u>PROFESSIONAL COMPETENCY</u></b>					
Education, Administration	23748	R277-513	5YR	05/14/2001	2001-11/117
	23546	R277-514	NSC	04/01/2001	Not Printed
	23855	R277-526	AMD	08/01/2001	2001-13/13
Money Management Council, Administration	23624	R628-10	5YR	04/11/2001	2001-9/143
<b><u>PROFESSIONAL COUNSELORS</u></b>					
Commerce, Occupational and Professional Licensing	23679	R156-60c	AMD	06/19/2001	2001-10/11
<b><u>PROFESSIONAL EMPLOYER ORGANIZATION</u></b>					
Commerce, Occupational and Professional Licensing	23883	R156-59-102	NSC	07/30/2001	Not Printed
<b><u>PROFESSIONAL ENGINEERS</u></b>					
Commerce, Occupational and Professional Licensing	23517	R156-22	AMD	see CPR	2001-5/4
	23517	R156-22	CPR	05/17/2001	2001-8/81
<b><u>PROFESSIONAL LAND SURVEYORS</u></b>					
Commerce, Occupational and Professional Licensing	23517	R156-22	AMD	see CPR	2001-5/4
	23517	R156-22	CPR	05/17/2001	2001-8/81
<b><u>PROGRAM BENEFITS</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	23459	R414-306	AMD	04/04/2001	2001-4/11
	23943	R414-306	EMR	07/26/2001	2001-16/46



<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>PROMOTIONS</u></b>					
Agriculture and Food, Marketing and Conservation	23543	R65-1	5YR	03/06/2001	2001-7/45
	23544	R65-3	5YR	03/06/2001	2001-7/45
	23545	R65-4	5YR	03/06/2001	2001-7/46
<b><u>PROPERTY TAX</u></b>					
Tax Commission, Property Tax	23475	R884-24P-49	AMD	04/11/2001	2001-4/42
	23395	R884-24P-62	AMD	05/14/2001	2001-2/11
	23316	R884-24P-65	AMD	02/20/2001	2000-23/54
	23847	R884-24P-66	AMD	08/02/2001	2001-13/77
<b><u>PROVIDER CONDUCT</u></b>					
Human Services, Administration	23867	R495-876	5YR	07/02/2001	2001-14/73
	23868	R495-876	AMD	08/15/2001	2001-14/38
<b><u>PSD (Prevention of Significant Deterioration of Air Quality)</u></b>					
Environmental Quality, Air Quality	23760	R307-405-1	AMD	07/12/2001	2001-11/21
<b><u>PSYCHIATRIC PERSONNEL</u></b>					
Corrections, Administration	23568	R251-109	5YR	03/27/2001	2001-8/86
<b><u>PSYCHOLOGISTS</u></b>					
Commerce, Occupational and Professional Licensing	23632	R156-61	AMD	06/01/2001	2001-9/16
<b><u>PSYCHOTHERAPY</u></b>					
Corrections, Administration	23568	R251-109	5YR	03/27/2001	2001-8/86
<b><u>PUBLIC ASSISTANCE</u></b>					
Workforce Services, Employment Development	23474	R986-900-902	AMD	03/20/2001	2001-4/47
	23727	R986-900-902	AMD	07/01/2001	2001-10/79
<b><u>PUBLIC ASSISTANCE PROGRAMS</u></b>					
Human Services, Recovery Services	23389	R527-928	AMD	02/15/2001	2001-2/7
<b><u>PUBLIC BUILDINGS</u></b>					
Administrative Services, Facilities Construction and Management	23870	R23-1	AMD	08/15/2001	2001-14/5
	23697	R23-6	NSC	05/01/2001	Not Printed
Capitol Preservation Board (State), Administration	23578	R131-4	NEW	05/16/2001	2001-8/7
Public Safety, Fire Marshal	23339	R710-4	AMD	01/16/2001	2000-24/61
	23580	R710-4	AMD	05/16/2001	2001-8/77
<b><u>PUBLIC COMMENT</u></b>					
Environmental Quality, Radiation Control	23935	R313-17	5YR	07/23/2001	2001-16/54
<b><u>PUBLIC HEARINGS</u></b>					
Environmental Quality, Radiation Control	23935	R313-17	5YR	07/23/2001	2001-16/54
Transportation, Preconstruction	23616	R930-2	NSC	05/01/2001	Not Printed
<b><u>PUBLIC INFORMATION</u></b>					
Human Resource Management, Administration	23771	R477-2	AMD	07/03/2001	2001-11/82
Transportation, Administration	23634	R907-40	NSC	05/01/2001	Not Printed

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>PUBLIC INVESTMENTS</u></b>					
Money Management Council, Administration	23624	R628-10	5YR	04/11/2001	2001-9/143
<b><u>PUBLIC LIBRARY</u></b>					
Community and Economic Development, Community Development, Library	23352	R223-2	NEW	02/15/2001	2000-24/11
	23519	R223-2	NSC	02/23/2001	Not Printed
<b><u>PUBLIC MEETINGS</u></b>					
Natural Resources, Wildlife Resources	23529	R657-39	5YR	02/15/2001	2001-5/41
	23530	R657-39	AMD	04/03/2001	2001-5/20
<b><u>PUBLIC RECORDS</u></b>					
Agriculture and Food, Administration	23958	R51-3	5YR	07/31/2001	2001-16/48
<b><u>PUBLIC SAFETY</u></b>					
Transportation, Operations, Traffic and Safety	23611	R920-7	NSC	05/01/2001	Not Printed
<b><u>PUBLIC UTILITIES</u></b>					
Public Service Commission, Administration	23353	R746-200	AMD	02/15/2001	2000-24/66
	23844	R746-347	REP	08/01/2001	2001-13/73
	23232	R746-352	NEW	see CPR (First)	2000-21/26
	23232	R746-352	CPR (First)	see CPR (Second)	2001-5/32
	23232	R746-352	CPR (Second)	06/15/2001	2001-7/38
	23271	R746-360	AMD	02/15/2001	2000-22/45
<b><u>PUMPS</u></b>					
Environmental Quality, Drinking Water	23660	R309-209 (Changed to R309-540)	AMD	08/15/2001	2001-9/46
<b><u>QUALITY CONTROL</u></b>					
Agriculture and Food, Regulatory Services	23541	R70-101	5YR	03/06/2001	2001-7/46
	23542	R70-101	AMD	05/02/2001	2001-7/6
	23653	R70-101-14	NSC	06/01/2001	Not Printed
<b><u>QUARANTINES</u></b>					
Agriculture and Food, Animal Industry	23557	R58-2	NSC	04/01/2001	Not Printed
<b><u>RADIATION SAFETY</u></b>					
Environmental Quality, Radiation Control	23936	R313-18	5YR	07/23/2001	2001-16/55
<b><u>RADIOACTIVE MATERIAL</u></b>					
Environmental Quality, Radiation Control	23552	R313-36	AMD	05/11/2001	2001-7/13
	23936	R313-18	5YR	07/23/2001	2001-16/55
<b><u>RADIOACTIVE WASTE GENERATOR PERMIT</u></b>					
Environmental Quality, Radiation Control	23669	R313-26	NEW	06/08/2001	2001-9/58
<b><u>RADIOLOGY</u></b>					
Commerce, Occupational and Professional Licensing	23518	R156-54-302b	AMD	04/03/2001	2001-5/7

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>RADIOLOGY PRACTICAL TECHNICIAN</u></b>					
Commerce, Occupational and Professional Licensing	23518	R156-54-302b	AMD	04/03/2001	2001-5/7
	23602	R156-54b-302b	NSC	05/01/2001	Not Printed
<b><u>RADIOLOGY TECHNOLOGIST</u></b>					
Commerce, Occupational and Professional Licensing	23602	R156-54b-302b	NSC	05/01/2001	Not Printed
<b><u>RAILROAD CROSSINGS</u></b>					
Transportation, Preconstruction	23618	R930-5	NSC	05/01/2001	Not Printed
<b><u>RAILROADS</u></b>					
Transportation, Operations, Traffic and Safety	23635	R920-2	NSC	05/01/2001	Not Printed
Transportation, Preconstruction	23618	R930-5	NSC	05/01/2001	Not Printed
<b><u>RANGE MANAGEMENT</u></b>					
School and Institutional Trust Lands, Administration	23558	R850-50-400	AMD	05/02/2001	2001-7/22
<b><u>RATES</u></b>					
Labor Commission, Industrial Accidents	23520	R612-4	5YR	02/08/2001	2001-5/41
<b><u>REAL ESTATE APPRAISAL</u></b>					
Commerce, Real Estate	23321	R162-102	AMD	02/07/2001	2000-23/17
<b><u>RECIPROCITY</u></b>					
Environmental Quality, Radiation Control	23312	R313-19	AMD	01/26/2001	2000-23/19
<b><u>RECLAMATION</u></b>					
Natural Resources; Oil, Gas and Mining; Coal	23385	R645-100-200	AMD	04/02/2001	2001-1/25
	23926	R645-106	5YR	07/19/2001	2001-16/56
	23386	R645-301-500	AMD	04/02/2001	2001-1/26
	23387	R645-301-700	AMD	see CPR	2001-1/29
	23387	R645-301-700	CPR	05/03/2001	2001-7/26
<b><u>RECREATION</u></b>					
Natural Resources, Wildlife Resources	23360	R657-38	AMD	01/16/2001	2000-24/53
<b><u>REGIONAL ADVISORY COUNCILS</u></b>					
Natural Resources, Wildlife Resources	23529	R657-39	5YR	02/15/2001	2001-5/41
	23530	R657-39	AMD	04/03/2001	2001-5/20
<b><u>REGIONAL SERVICE CENTERS</u></b>					
Education, Administration	23851	R277-456	REP	08/01/2001	2001-13/6
<b><u>REGISTRATION</u></b>					
Workforce Services, Workforce Information and Payment Services	23824	R994-403-102a	AMD	08/09/2001	2001-13/78
<b><u>REHABILITATION</u></b>					
Community and Economic Development, Community Development, History	23607	R212-11	NSC	05/01/2001	Not Printed
Natural Resources, Wildlife Resources	23531	R657-40	5YR	02/15/2001	2001-5/42
	23532	R657-40	AMD	04/03/2001	2001-5/22
<b><u>RELIGIOUS ACTIVITIES</u></b>					
Tax Commission, Auditing	23716	R865-19S-85	AMD	07/04/2001	2001-10/46

**RULES INDEX**

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<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>RESERVOIRS</u></b>					
Natural Resources, Water Rights	23895	R655-10	5YR	07/12/2001	2001-15/54
	23896	R655-11	5YR	07/12/2001	2001-15/54
	23897	R655-12	5YR	07/12/2001	2001-15/55
<b><u>RESIDENCY REQUIREMENTS</u></b>					
Community and Economic Development, Community Development, Community Services	23687	R202-201	NSC	05/01/2001	Not Printed
<b><u>RESIDENTIAL MORTGAGE LOAN ORIGINATION</u></b>					
Commerce, Real Estate	23526	R162-209	NEW	04/13/2001	2001-5/9
<b><u>RESOURCE COORDINATION</u></b>					
Governor, Planning and Budget	23408	R361-1	5YR	01/11/2001	2001-3/97
<b><u>RETIREMENT</u></b>					
Public Safety, Peace Officer Standards and Training	23627	R728-205	NSC	05/01/2001	Not Printed
<b><u>RIGHT OF PETITION</u></b>					
Corrections, Administration	23967	R251-104	5YR	08/01/2001	2001-16/52
Natural Resources; Forestry, Fire and State Lands	23939	R652-9	5YR	07/23/2001	2001-16/58
<b><u>RIGHT-OF-WAY</u></b>					
Transportation, Program Development	23311	R926-6	AMD	01/03/2001	2000-23/55
Transportation, Preconstruction, Right- of-Way Acquisition	23637	R933-1	NSC	05/01/2001	Not Printed
	23536	R933-4	AMD	04/18/2001	2001-6/45
<b><u>RULES</u></b>					
Public Service Commission, Administration	23353	R746-200	AMD	02/15/2001	2000-24/66
<b><u>RULES AND PROCEDURES</u></b>					
Fair Corporation (Utah State), Administration	23890	R325-1	5YR	07/12/2001	2001-15/50
	23891	R325-2	5YR	07/12/2001	2001-15/50
	23892	R325-3	5YR	07/12/2001	2001-15/51
	23893	R325-4	5YR	07/12/2001	2001-15/51
	23894	R325-5	5YR	07/12/2001	2001-15/52
Health, Community and Family Health Services, Immunization	23762	R396-100	R&R	07/19/2001	2001-11/52
Human Resource Management, Administration	23770	R477-1	AMD	07/03/2001	2001-11/76
Natural Resources; Forestry, Fire and State Lands	23937	R652-2	5YR	07/23/2001	2001-16/57
Natural Resources, Wildlife Resources	23455	R657-27	AMD	03/26/2001	2001-4/39
Public Safety, Peace Officer Standards and Training	23629	R728-409	NSC	05/01/2001	Not Printed
Public Service Commission, Administration	23376	R746-341	AMD	03/01/2001	2001-1/30
	23705	R746-409	AMD	06/28/2001	2001-10/42

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>SAFETY</u></b>					
Labor Commission, Occupational Safety and Health	23372	R614-1-4	AMD	02/01/2001	2001-1/24
	23516	R614-1-4	NSC	02/22/2001	Not Printed
Labor Commission, Safety	23310	R616-2-3	AMD	01/03/2001	2000-23/42
	23473	R616-3-3	AMD	03/20/2001	2001-4/36
Public Service Commission, Administration	23705	R746-409	AMD	06/28/2001	2001-10/42
Transportation, Motor Carrier, Ports of Entry	23625	R912-16	NSC	05/01/2001	Not Printed
<b><u>SAFETY REGULATION</u></b>					
Transportation, Motor Carrier	23565	R909-4	NSC	04/01/2001	Not Printed
	23461	R909-75	AMD	03/20/2001	2001-4/45
	23857	R909-75	AMD	08/15/2001	2001-14/43
<b><u>SALARIES</u></b>					
Human Resource Management, Administration	23774	R477-7	AMD	07/03/2001	2001-11/87
<b><u>SALES TAX</u></b>					
Tax Commission, Auditing	23716	R865-19S-85	AMD	07/04/2001	2001-10/46
<b><u>SANCTIONS</u></b>					
Judicial Conduct Commission, Administration	23908	R595-1	NSC	07/30/2001	Not Printed
<b><u>SCHOOL DISTRICT SERVICES</u></b>					
Education, Administration	23854	R277-479	NEW	08/01/2001	2001-13/11
<b><u>SCHOOL PERSONNEL</u></b>					
Education, Administration	23748	R277-513	5YR	05/14/2001	2001-11/117
<b><u>SCIENCE</u></b>					
Education, Administration	23856	R277-717	NEW	08/01/2001	2001-13/16
<b><u>SCREENING</u></b>					
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	23303	R388-804	AMD	02/02/2001	2000-23/29
<b><u>SECONDARY EDUCATION</u></b>					
Education, Administration	23920	R277-914	EXD	07/16/2001	2001-16/61
<b><u>SECURITY MEASURES</u></b>					
Corrections, Administration	23901	R251-708	5YR	07/12/2001	2001-15/48
	23570	R251-709	5YR	03/27/2001	2001-8/87
	23540	R251-709	AMD	05/15/2001	2001-7/12
<b><u>SEDIMENTATION</u></b>					
Environmental Quality, Drinking Water	23658	R309-206 (Changed to R309-525)	AMD	08/15/2001	2001-9/32
<b><u>SEIZURE OF PROPERTY</u></b>					
Tax Commission, Collections	23574	R867-2B	5YR	03/27/2001	2001-8/89
<b><u>SERVER TRAINING</u></b>					
Human services, Substance Abuse	23719	R544-5	AMD	06/26/2001	2001-10/21

**RULES INDEX**

---

<b>KEYWORD AGENCY</b>	<b>FILE NUMBER</b>	<b>CODE REFERENCE</b>	<b>ACTION</b>	<b>EFFECTIVE DATE</b>	<b>BULLETIN ISSUE/PAGE</b>
<b><u>SESQUICENTENNIAL (UTAH PIONEER)</u></b>					
Pioneer Sesquicentennial Celebration Coordinating Council (Utah), Administration	23739	R674-1	EXD	05/07/2001	2001-11/121
	23742	R674-2	EXD	05/09/2001	2001-11/121
	23740	R674-3	EXD	05/07/2001	2001-11/121
<b><u>SEX CRIMES</u></b>					
Corrections, Administration	23571	R251-110	5YR	03/27/2001	2001-8/87
	23571	R251-110	AMD	08/09/2001	2001-8/43
<b><u>SIGNS</u></b>					
Transportation, Operations, Traffic and Safety	23611	R920-7	NSC	05/01/2001	Not Printed
Transportation, Preconstruction, Right- of-Way Acquisition	23942	R933-2	NSC	08/01/2001	Not Printed
	23622	R933-2-15	AMD	07/09/2001	2001-9/128
<b><u>SLOW SAND FILTRATION</u></b>					
Environmental Quality, Drinking Water	23659	R309-207 (Changed to R309-530)	AMD	08/15/2001	2001-9/43
<b><u>SMALL BUSINESS ASSISTANCE PROGRAM</u></b>					
Environmental Quality, Air Quality	23756	R307-110-31	AMD	08/02/2001	2001-11/18
	23757	R307-110-33	AMD	08/02/2001	2001-11/19
<b><u>SMOKE</u></b>					
Environmental Quality, Air Quality	23139	R307-204	NEW	see CPR	2000-19/14
	23139	R307-204	CPR	03/06/2001	2001-3/81
<b><u>SNOW</u></b>					
Transportation, Operations, Traffic and Safety	23610	R920-6	NSC	05/01/2001	Not Printed
<b><u>SNOW REMOVAL</u></b>					
Transportation, Operations, Maintenance	23379	R918-3	AMD	02/15/2001	2001-1/32
<b><u>SOCIAL SERVICES</u></b>					
Human Services, Administration	23605	R495-862	5YR	04/04/2001	2001-9/142
	23867	R495-876	5YR	07/02/2001	2001-14/73
	23868	R495-876	AMD	08/15/2001	2001-14/38
<b><u>SOLICITATIONS</u></b>					
Commerce, Consumer Protection	23794	R152-22	AMD	07/30/2001	2001-12/17
<b><u>SOLID WASTE MANAGEMENT</u></b>					
Environmental Quality, Solid and Hazardous Waste	23638	R315-301-2	AMD	07/01/2001	2001-9/60
	23639	R315-302	AMD	07/01/2001	2001-9/64
	23640	R315-303-3	AMD	07/01/2001	2001-9/68
	23871	R315-304-5	NSC	07/30/2001	Not Printed
	23641	R315-304-5	AMD	07/01/2001	2001-9/71
	23642	R315-305	AMD	07/01/2001	2001-9/72
	23872	R315-305-5	NSC	07/30/2001	Not Printed
	23643	R315-306	AMD	07/01/2001	2001-9/74
	23644	R315-307-1	AMD	07/01/2001	2001-9/76

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	23645	R315-308-2	AMD	07/01/2001	2001-9/77
	23646	R315-309-2	AMD	07/01/2001	2001-9/80
	23647	R315-310	AMD	07/01/2001	2001-9/81
	23874	R315-310-2	NSC	07/30/2001	Not Printed
	23648	R315-312	AMD	07/01/2001	2001-9/85
	23875	R315-312-4	NSC	07/30/2001	Not Printed
	23649	R315-313	AMD	07/01/2001	2001-9/86
	23650	R315-314-3	AMD	07/01/2001	2001-9/87
	23882	R315-314-3	NSC	07/30/2001	Not printed
	22858	R315-315-8	AMD	see CPR (First)	2000-11/18
	22858	R315-315-8	CPR (First)	see CPR (Second)	2000-17/67
	22858	R315-315-8	CPR (Second)	01/05/2001	2000-23/58
	23651	R315-316	AMD	07/01/2001	2001-9/89
	23652	R315-320	AMD	07/01/2001	2001-9/91
	23876	R315-320-7	NSC	07/30/2001	Not Printed
<b><u>SOVEREIGN LANDS</u></b>					
Natural Resources; Forestry, Fire and State Lands	23621	R652-70-2400	AMD	06/11/2001	2001-9/100
<b><u>SPECIES OF CONCERN</u></b>					
Natural Resources, Wildlife Resources	23677	R657-48	NEW	06/13/2001	2001-9/124
<b><u>STABILIZATION</u></b>					
Environmental Quality, Drinking Water	23394	R309-208 (Changed to R309-535)	AMD	05/01/2001	2001-2/3
<b><u>STANDARDS</u></b>					
Natural Resources, Wildlife Resources	23531	R657-40	5YR	02/15/2001	2001-5/42
	23532	R657-40	AMD	04/03/2001	2001-5/22
<b><u>STATE EMPLOYEES</u></b>					
Administrative Services, Finance	23699	R25-7	AMD	07/01/2001	2001-10/5
<b><u>STATE LANDS</u></b>					
Community and Economic Development, Indian Affairs	23476	R230-1	5YR	02/01/2001	2001-4/61
<b><u>STATE PARKS</u></b>					
Transportation, Program Development	23614	R926-5	NSC	05/01/2001	Not Printed
<b><u>STATIONARY SOURCES</u></b>					
Environmental Quality, Air Quality	23987	R307-210	5YR	08/15/2001	2001-17/47
<b><u>STRATEGIC PLANNING</u></b>					
Education, Administration	23747	R277-415	5YR	05/14/2001	2001-11/117
<b><u>STUDENT ELIGIBILITY</u></b>					
Workforce Services, Workforce Information and Payment Services	23824	R994-403-102a	AMD	08/09/2001	2001-13/78
<b><u>STUDENT LOANS</u></b>					
Regents (Board of), Administration	23596	R765-649	NEW	05/16/2001	2001-8/78
	23782	R765-649	AMD	07/17/2001	2001-12/71

**RULES INDEX**

---

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>STUDENTS</u></b>					
Education, Administration	23670	R277-709	AMD	06/05/2001	2001-9/19
<b><u>SUBSTANCE ABUSE</u></b>					
Human Services, Substance Abuse	23710	R544-5	AMD	06/26/2001	2001-10/21
<b><u>SUBSTANCE ABUSE COUNSELORS</u></b>					
Commerce, Occupational and Professional Licensing	23838	R156-60d	5YR	06/11/2001	2001-13/86
<b><u>SURFACE WATER TREATMENT</u></b>					
Environmental Quality, Drinking Water	23656	R309-202 (Changed to R309-505)	AMD	08/15/2001	2001-9/26
<b><u>SURVEYORS</u></b>					
Commerce, Occupational and Professional Licensing	23517	R156-22	AMD	see CPR	2001-5/4
	23517	R156-22	CPR	05/17/2001	2001-8/81
<b><u>SURVEYS</u></b>					
Environmental Quality, Radiation Control	23552	R313-36	AMD	05/11/2001	2001-7/13
<b><u>TAXATION</u></b>					
Tax Commission, Administration	23846	R861-1A-9	AMD	08/02/2001	2001-13/75
	23717	R861-1A-17	AMD	07/04/2001	2001-10/44
	23403	R861-1A-36	AMD	04/11/2001	2001-3/76
Tax Commission, Auditing	23555	R865-6F-1	NSC	04/01/2001	Not Printed
	23556	R865-6F-15	NSC	04/01/2001	Not Printed
	23572	R865-21U	5YR	03/27/2001	2001-8/88
	23553	R865-21U-6	NSC	04/01/2001	Not Printed
Tax Commission, Collections	23574	R867-2B	5YR	03/27/2001	2001-8/89
Tax Commission, Motor Vehicle	23718	R873-22M-35	AMD	07/04/2001	2001-10/48
Tax Commission, Property Tax	23475	R884-24P-49	AMD	04/11/2001	2001-4/42
	23395	R884-24P-62	AMD	05/14/2001	2001-2/11
	23316	R884-24P-65	AMD	02/20/2001	2000-23/54
	23847	R884-24P-66	AMD	08/02/2001	2001-13/77
<b><u>TAX CREDIT</u></b>					
Community and Economic Development, Community Development, History	23607	R212-11	NSC	05/01/2001	Not Printed
<b><u>TAX EXEMPTIONS</u></b>					
Tax Commission, Auditing	23716	R865-19S-85	AMD	07/04/2001	2001-10/46
<b><u>TEACHER CERTIFICATION</u></b>					
Education, Administration	23748	R277-513	5YR	05/14/2001	2001-11/117
	23749	R277-517	5YR	05/14/2001	2001-11/118
Professional Practices Advisory Commission, Administration	23427	R686-100	AMD	03/06/2001	2001-3/67
	23547	R686-100	NSC	04/01/2001	Not Printed
<b><u>TEACHER LICENSURE</u></b>					
Education, Administration	23546	R277-514	NSC	04/01/2001	Not Printed
<b><u>TECHNICAL EDUCATION</u></b>					
Education, Administration	23671	R277-911	AMD	06/05/2001	2001-9/21



<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>TELECOMMUNICATIONS</u></b>					
Public Service Commission, Administration	23354	R746-240	AMD	02/15/2001	2000-24/67
	23328	R746-340	AMD	see CPR	2000-23/49
	23328	R746-340	CPR	03/27/2001	2001-4/56
	23376	R746-341	AMD	03/01/2001	2001-1/30
	23844	R746-347	REP	08/01/2001	2001-13/73
	23232	R746-352	NEW	see CPR (First)	2000-21/26
	23232	R746-352	CPR (First)	see CPR (Second)	2001-5/32
	23232	R746-352	CPR (Second)	06/15/2001	2001-7/38
	23271	R746-360	AMD	02/15/2001	2000-22/45
<b><u>TELEPHONE</u></b>					
Commerce, Consumer Protection	23795	R152-26	AMD	07/30/2001	2001-12/19
Public Service Commission, Administration	23354	R746-240	AMD	02/15/2001	2000-24/67
	23376	R746-341	AMD	03/01/2001	2001-1/30
<b><u>TELEPHONE UTILITY REGULATION</u></b>					
Public Service Commission, Administration	23328	R746-340	AMD	see CPR	2000-23/49
	23328	R746-340	CPR	03/27/2001	2001-4/56
<b><u>TERMS OF OFFICE</u></b>					
Natural Resources, Wildlife Resources	23529	R657-39	5YR	02/15/2001	2001-5/41
	23530	R657-39	AMD	04/03/2001	2001-5/20
<b><u>THERAPISTS</u></b>					
Commerce, Occupational and Professional Licensing	23620	R156-60b	AMD	06/01/2001	2001-9/13
<b><u>TICKETS</u></b>					
Administrative Services, Fleet Operation	23345	R27-7	NEW	01/31/2001	2000-24/6
<b><u>TIME</u></b>					
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	23515	R606-1-3	AMD	04/03/2001	2001-5/17
Labor Commission, Antidiscrimination and Labor, Labor	23861	R610-1-3	NSC	07/05/2001	Not Printed
Labor Commission, Industrial Accidents	23223	R612-1-10	AMD	see CPR	2000-21/18
	23223	R612-1-10	CPR	03/20/2001	2001-1/36
<b><u>TIRES</u></b>					
Transportation, Operations, Traffic and Safety	23610	R920-6	NSC	05/01/2001	Not Printed
<b><u>TOWING</u></b>					
Transportation, Motor Carrier	23565	R909-4	NSC	04/01/2001	Not Printed
<b><u>TRAFFIC CONTROL</u></b>					
Transportation, Operations, Traffic and Safety	23635	R920-2	NSC	05/01/2001	Not Printed

**RULES INDEX**

---

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>TRAFFIC SAFETY</u></b>					
Transportation, Operations, Traffic and Safety	23611	R920-7	NSC	05/01/2001	Not Printed
<b><u>TRAFFIC SIGNS</u></b>					
Transportation, Operations, Traffic and Safety	23611	R920-7	NSC	05/01/2001	Not Printed
<b><u>TRAFFIC VIOLATIONS</u></b>					
Public Safety, Driver License	23402	R708-3	AMD	03/06/2001	2001-3/75
	23514	R708-3	NSC	02/22/2001	Not Printed
<b><u>TRAINING</u></b>					
Corrections, Administration	23512	R251-301	5YR	02/05/2001	2001-5/40
	23400	R251-301	AMD	03/13/2001	2001-3/8
<b><u>TRAINING PROGRAMS</u></b>					
Human Resource Management, Administration	23776	R477-10	AMD	07/03/2001	2001-11/98
Workforce Services, Employment Development	23723	R986-601	REP	07/01/2001	2001-10/57
	23724	R986-602	REP	07/01/2001	2001-10/67
	23725	R986-603	REP	07/01/2001	2001-10/75
<b><u>TRANSMISSION AND DISTRIBUTION PIPELINES</u></b>					
Environmental Quality, Drinking Water	23661	R309-211 (Changed to R309-550)	AMD	08/15/2001	2001-9/50
<b><u>TRANSPORTATION</u></b>					
Administrative Services, Finance	23699	R25-7	AMD	07/01/2001	2001-10/5
Environmental Quality, Radiation Control	23312	R313-19	AMD	01/26/2001	2000-23/19
Transportation, Motor Carrier	23460	R909-1	AMD	03/20/001	2001-4/44
Transportation, Program Development	23614	R926-5	NSC	05/01/2001	Not Printed
	23311	R926-6	AMD	01/03/2001	2000-23/55
<b><u>TRANSPORTATION CORRIDOR PRESERVATION REVOLVING LOAN FUND</u></b>					
Transportation, Program Development	23311	R926-6	AMD	01/03/2001	2000-23/55
<b><u>TRANSPORTATION PLANNING</u></b>					
Transportation, Program Development	23612	R926-2	NSC	05/01/2001	Not Printed
	23311	R926-6	AMD	01/03/2001	2000-23/55
<b><u>TRANSPORTATION POLICY</u></b>					
Transportation, Program Development	23613	R926-3	NSC	05/01/2001	Not Printed
<b><u>TRANSPORTATION SAFETY</u></b>					
Transportation, Motor Carrier	23460	R909-1	AMD	03/20/2001	2001-4/44
	23573	R909-1	NSC	04/01/2001	Not Printed
	23590	R909-1	NSC	05/01/2001	Not Printed
<b><u>TRESPASS</u></b>					
Natural Resources, Parks and Recreation	23848	R651-620	AMD	08/06/2001	2001-13/72
<b><u>TRUCKING INDUSTRIES</u></b>					
Tax Commission, Auditing	23555	R865-6F-1	NSC	04/01/2001	Not Printed
	23556	R865-6F-15	NSC	04/01/2001	Not Printed

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>TRUCKS</u></b>					
Transportation, Motor Carrier	23460	R909-1	AMD	03/20/2001	2001-4/44
	23573	R909-1	NSC	04/01/2001	Not Printed
	23590	R909-1	NSC	05/01/2001	Not Printed
	23565	R909-4	NSC	04/01/2001	Not Printed
	23625	R912-16	NSC	05/01/2001	Not Printed
<b><u>TUBERCULOSIS</u></b>					
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	23303	R388-804	AMD	02/02/2001	2000-23/29
<b><u>UMAP (Utah Medical Assistance Program)</u></b>					
Health, Health Care Financing, Converge and Reimbursement Policy	23349	R414-309	AMD	01/17/2001	2000-24/24
	23700	R414-309	EMR	05/01/2001	2001-10/82
	23702	R414-309	AMD	06/25/2001	2001-10/15
Health, Health Care Financing, Medical Assistance Program	23351	R420-1	AMD	01/23/2001	2000-24/28
	23701	R420-1	EMR	05/01/2001	2001-10/85
	23703	R420-1	AMD	06/25/2001	2001-10/19
<b><u>UNDERCOVER IDENTIFICATION</u></b>					
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification)	23447	R724-7 (Changed to R722-320)	NSC	02/01/2001	Not Printed
<b><u>UNDERGROUND INJECTION CONTROL</u></b>					
Environmental Quality, Water Quality	23162	R317-7	AMD	see CPR	2000-19/34
	23162	R317-7	CPR	01/23/2001	2000-24/75
<b><u>UNEMPLOYED WORKERS</u></b>					
Workforce Services, Employment Development	23724	R986-602	REP	07/01/2001	2001-10/67
	23725	R986-603	REP	07/01/2001	2001-10/75
<b><u>UNEMPLOYMENT</u></b>					
Workforce Services, Employment Development	23723	R986-601	REP	07/01/2001	2001-10/57
	23724	R986-602	REP	07/01/2001	2001-10/67
	23725	R986-603	REP	07/01/2001	2001-10/75
<b><u>UNEMPLOYMENT COMPENSATION</u></b>					
Workforce Services, Workforce Information and Payment Services	23744	R994-302	5YR	05/11/2001	2001-11/119
	23745	R994-308	5YR	05/11/2001	2001-11/120
	23824	R994-403-102a	AMD	08/09/2001	2001-13/78
	23525	R994-406-304	AMD	04/05/2001	2001-5/28
<b><u>UNITS</u></b>					
Environmental Quality, Radiation Control	23667	R313-12	AMD	06/08/2001	2001-9/54
	23932	R313-12	5YR	07/23/2001	2001-16/53

**RULES INDEX**

---

<b>KEYWORD AGENCY</b>	<b>FILE NUMBER</b>	<b>CODE REFERENCE</b>	<b>ACTION</b>	<b>EFFECTIVE DATE</b>	<b>BULLETIN ISSUE/PAGE</b>
<b><u>UNIVERSAL SERVICE</u></b>					
Public Service Commission, Administration	23271	R746-360	AMD	02/15/2001	2000-22/45
<b><u>UPSCCC (Utah Pioneer Sesquicentennial Celebration Coordinating Council)</u></b>					
Pioneer Sesquicentennial Celebration Coordinating Council (Utah), Administration	23739	R674-1	EXD	05/07/2001	2001-11/121
	23742	R674-2	EXD	05/09/2001	2001-11/121
	23740	R674-3	EXD	05/07/2001	2001-11/121
<b><u>USER TAX</u></b>					
Tax Commission, Auditing	23572	R865-21U	5YR	03/27/2001	2001-8/88
	23553	R865-21U-6	NSC	04/01/2001	Not Printed
<b><u>UTILITY RULES</u></b>					
Transportation, Preconstruction	23198	R930-6	AMD	01/19/2001	2000-21/43
	23443	R930-6	NSC	02/12/2001	Not Printed
<b><u>UTILITY SERVICE SHUTOFF</u></b>					
Public Service Commission, Administration	23353	R746-200	AMD	02/15/2001	2000-24/66
<b><u>VACATIONS</u></b>					
Human resource Management, Administration	23775	R477-8	AMD	07/03/2001	2001-11/90
<b><u>VETERINARY MEDICINE</u></b>					
Commerce, Occupational and Professional Licensing	23309	R156-28	AMD	see CPR	2000-23/15
	23309	R156-28	CPR	03/08/2001	2001-3/80
<b><u>VICTIM COMPENSATION</u></b>					
Crime Victim Reparations, Administration	23527	R270-1	AMD	04/03/2001	2001-5/11
<b><u>VICTIMS OF CRIMES</u></b>					
Crime Victim Reparations, Administration	23527	R270-1	AMD	04/03/2001	2001-5/11
<b><u>VIOLATIONS</u></b>					
Environmental Quality, Radiation Control	23668	R313-14	AMD	06/08/2001	2001-9/55
	23933	R313-14	5YR	07/23/2001	2001-16/53
<b><u>VITAL STATISTICS</u></b>					
Health, Center for Health Data, Vital Records and Statistics	23681	R436-11	NSC	05/01/2001	Not Printed
<b><u>WAGES</u></b>					
Labor Commission, Antidiscrimination and Labor, Labor	23861	R610-1-3	NSC	07/05/2001	Not Printed
<b><u>WASTE DISPOSAL</u></b>					
Environmental Quality, Solid and Hazardous Waste	23638	R315-301-2	AMD	07/01/2001	2001-9/60
	23639	R315-302	AMD	07/01/2001	2001-9/64
	23640	R315-303-3	AMD	07/01/2001	2001-9/68
	23871	R315-304-5	NSC	07/30/2001	Not Printed
	23641	R315-304-5	AMD	07/01/2001	2001-9/71

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	23642	R315-305	AMD	07/01/2001	2001-9/72
	23872	R315-305-5	NSC	07/30/2001	Not Printed
	23643	R315-306	AMD	07/01/2001	2001-9/74
	23644	R315-307-1	AMD	07/01/2001	2001-9/76
	23645	R315-308-2	AMD	07/01/2001	2001-9/77
	23646	R315-309-2	AMD	07/01/2001	2001-9/80
	23647	R315-310	AMD	07/01/2001	2001-9/81
	23874	R315-310-2	NSC	07/30/2001	Not Printed
	23648	R315-312	AMD	07/01/2001	2001-9/85
	23875	R315-312-4	NSC	07/30/2001	Not Printed
	23650	R315-314-3	AMD	07/01/2001	2001-9/87
	23882	R315-314-3	NSC	07/30/2001	Not printed
	22858	R315-315-8	AMD	see CPR (First)	2000-11/18
	22858	R315-315-8	CPR (First)	see CPR (Second)	2000-17/67
	22858	R315-315-8	CPR (Second)	01/05/2001	2000-23/58
	23651	R315-316	AMD	07/01/2001	2001-9/89
	23652	R315-320	AMD	07/01/2001	2001-9/91
	23876	R315-320-7	NSC	07/30/2001	Not Printed
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
	23599	R317-1-6	AMD	08/13/2001	2001-8/44
	23161	R317-8	AMD	see CPR	2000-19/40
	23161	R317-8	CPR	01/23/2001	2000-24/78
<b><u>WATER CONSERVATION</u></b>					
Environmental Quality, Drinking Water	23657	R309-203 (Changed to R309-510)	AMD	08/15/2001	2001-9/29
<b><u>WATER HAULING</u></b>					
Environmental Quality, Drinking Water	23661	R309-211 (Changed to R309-550)	AMD	08/15/2001	2001-9/50
<b><u>WATER POLLUTION</u></b>					
Environmental Quality, Water Quality	23164	R317-1-3	AMD	see CPR	2000-19/25
	23164	R317-1-3	CPR	01/23/2001	2000-24/72
	23599	R317-1-6	AMD	08/13/2001	2001-8/44
<b><u>WATER QUALITY</u></b>					
Environmental Quality, Water Quality	23162	R317-7	AMD	see CPR	2000-19/34
	23162	R317-7	CPR	01/23/2001	2000-24/75
<b><u>WATERSHED MANAGEMENT</u></b>					
Environmental Quality, Drinking Water	23663	R309-102	5YR	04/16/2001	2001-9/140
<b><u>WATER SKIING</u></b>					
Natural Resources, Parks and Recreation	23977	R651-224	5YR	08/07/2001	2001-17/49
<b><u>WATER SYSTEM RATING</u></b>					
Environmental Quality, Drinking Water	23252	R309-150	AMD	01/04/2001	2000-22/33

**RULES INDEX**

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<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>WELFARE FRAUD</u></b>					
Human Services, Recovery Services	23733	R527-200	5YR	05/07/2001	2001-11/118
	23929	R527-800	5YR	07/23/2001	2001-16/55
<b><u>WILDLAND FIRE FUND</u></b>					
Natural Resources; Forestry, Fire and State Lands	23425	R652-121	AMD	03/12/2001	2001-3/64
<b><u>WILDLIFE</u></b>					
Natural Resources, Wildlife Resources	23673	R657-3	5YR	04/16/2001	2001-9/143
	23356	R657-5	AMD	01/16/2001	2000-24/40
	23528	R657-5	AMD	04/03/2001	2001-5/19
	23806	R657-5	AMD	07/18/2001	2001-12/63
	23189	R657-13	AMD	01/02/2001	2000-21/23
	23358	R657-17	AMD	01/16/2001	2000-24/51
	23810	R657-23	5YR	05/30/2001	2001-12/74
	23807	R657-23	AMD	07/18/2001	2001-12/66
	23455	R657-27	AMD	03/26/2001	2001-4/39
	23393	R657-33	AMD	02/15/2001	2001-2/8
	23808	R657-37	AMD	07/18/2001	2001-12/67
	23360	R657-38	AMD	01/16/2001	2000-24/53
	23531	R657-40	5YR	02/15/2001	2001-5/42
	23532	R657-40	AMD	04/03/2001	2001-5/22
	23362	R657-41	AMD	01/16/2001	2000-24/56
	23364	R657-42	AMD	01/16/2001	2000-24/60
	23533	R657-42-6	AMD	04/03/2001	2001-5/27
	23809	R657-42-8	AMD	07/18/2001	2001-12/70
	23675	R657-43	AMD	06/04/2001	2001-9/119
	23676	R657-44	AMD	06/04/2001	2001-9/122
<b><u>WILDLIFE LAW</u></b>					
Natural Resources, Wildlife Resources	23189	R657-13	AMD	01/02/2001	2000-21/23
	23455	R657-27	AMD	03/26/2001	2001-4/39
<b><u>WILDLIFE PERMITS</u></b>					
Natural Resources, Wildlife Resources	23362	R657-41	AMD	01/16/2001	2000-24/56
<b><u>WORKERS' COMPENSATION</u></b>					
Labor Commission, Industrial Accidents	23462	R612-1-3	NSC	02/15/2001	Not Printed
	23223	R612-1-10	AMD	see CPR	2000-21/18
	23223	R612-1-10	CPR	03/20/2001	2001-1/36
	23463	R612-2-3	NSC	02/15/2001	Not Printed
	23548	R612-2-5	EMR	03/08/2001	2001-7/43
	23464	R612-2-5	NSC	02/15/2001	Not Printed
	23549	R612-2-5	AMD	05/03/2001	2001-7/21
	23746	R612-2-5	AMD	07/05/2001	2001-11/108
	23465	R612-2-6	NSC	02/15/2001	Not Printed
	23466	R612-2-11	NSC	02/15/2001	Not Printed
	23467	R612-2-16	AMD	03/20/2001	2001-4/32
	23468	R612-2-17	NSC	02/15/2001	Not Printed

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	23469	R612-2-22	AMD	03/20/2001	2001-4/33
	23470	R612-2-23	NSC	02/15/2001	Not Printed
	23471	R612-2-24	AMD	03/20/2001	2001-4/34
	23472	R612-2-26	NSC	02/15/2001	Not Printed
	23520	R612-4	5YR	02/08/2001	2001-5/41
<b><u>WORKFORCE INVESTMENT ACT</u></b>					
Workforce Services, Employment Development	23722	R986-600	NEW	07/01/2001	2001-10/50
<b><u>WORK ZONE TRAFFIC CONTROL</u></b>					
Transportation, Operations, Traffic and Safety	23636	R920-3	NSC	05/01/2001	Not Printed
<b><u>X-RAY</u></b>					
Environmental Quality, Radiation Control	23934	R313-16	5YR	07/23/2001	2001-16/54
<b><u>YOUTH</u></b>					
Human Services, Administration, Administrative Services, Licensing	23322	R501-8	AMD	01/16/2001	2000-23/33
	23406	R501-8	NSC	02/01/2001	Not Printed
<b><u>ZOOLOGICAL ANIMALS</u></b>					
Natural Resources, Wildlife Resources	23673	R657-3	5YR	04/16/2001	2001-9/143