UTAH STATE BULLETIN

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

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

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

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit http://www.rules.utah.gov/publicat/digest.htm for additional information.

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EDITOR'S NOTES

S.B. 170 TAKES EFFECT -- ONE CODIFIED ADMINISTRATIVE RULE SUBSECTION EXPIRES

UTAH CODE Section 63-46a-11.5 provides that "every agency [administrative] rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature" during its annual general session. The statute further requires that "[p]rior to January 1 of each year, the [Legislature's] Administrative Rules Review Committee shall have omnibus legislation prepared for consideration by the Legislature during its annual general session." The form of the legislation is a statement that all administrative rules are reauthorized, followed by an exception list of rules that were not.

During the 2002 General Session, Sen. Howard Stephenson sponsored S.B. 170 (UT Law 2002 ch 325) entitled "Reauthorization of Administrative Rules." This bill reauthorized all but one administrative rule subsection:

> From Human Services, Administration, Administrative Services, Licensing, under Rule R501-12 (Foster Care Rules), Section R501-12-6 (Foster Parent Requirements), Subsection R501-12-6(B)(2)(d) which deals with the number of children in a foster home

Therefore, on May 1, 2002, Subsection R501-12-6(B)(2)(d) expires and the Division of Administrative Rules (Division) will remove this rule subsection from the *Utah Administrative Code*. The Division will publish formal notice of this action in the May 15, 2002, issue of the *Utah State Bulletin*.

S.B. 170 also identified policies from Utah's colleges and universities that were not reauthorized. The Division has no jurisdiction over policies, and therefore will take no action regarding them.

Printed copies of the enrolled bill may be obtained from the Office of Legislative Printing, 419 State Capitol, Salt Lake City, UT 84114, (801) 538-1103. Copies of bills may also be obtained over the Internet at http://www.le.state.ut.us/~2002/htmdoc/sbillhtm/SB0170.htm.

If you have any questions regarding S.B. 170 or the reauthorization process, please contact Kenneth A. Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3777, FAX: (801) 538-1773, or Internet E-mail: khansen@utah.gov.

End of the Editor's Notes Section

Special Notices Begin on the Following Page

SPECIAL NOTICES

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. 02-08, dated April 12, 2002 (http://library.utah.gov/02-08.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.

G O V E R N O R'S P R O C L A M A T I O N

WHEREAS, since the close of the 2002 General Session of the 54th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature in Extraordinary Session;

NOW, THEREFORE, I, MICHAEL O. LEAVITT, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 54th Legislature of the State of Utah into a Seventh Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 24th day of April, 2002, at 12:00 noon, for the following purpose:

For the Senate to advise and consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2002 General Session of the 54th Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 9th day of April, 2002.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

OLENE S. WALKER
Lieutenant Governor

Notice of Proposed Rules Begin on the Following Page

NOTICES OF
PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between April 2, 2002, 12:00 a.m., and April 15, 2002, 11:59 p.m. are included in this, the May 1, 2002, 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 each rule that is 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 May 31, 2002. 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 August 29, 2002, 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.

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Animal Industry
R58-18
Elk Farming

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24689
FILED: 04/04/2002, 15:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To help prevent Chronic Wasting Disease (CWD) in domestic elk in the State of Utah.

SUMMARY OF THE RULE OR CHANGE: Will change import regulations of domestic elk, to help State Veterinarian's office prevent elk that may have been exposed to CWD from entering Utah and endangering the domestic elk, wild elk, and unknown risks associated with public health. (DAR Note: A corresponding 120-day (emergency) rule that was effective as of 03/06/2002, was published April 1, 2002, issue of the Utah State Bulletin under DAR No. 24544.)

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 66 FR 188, dated September 27, 2001, Declaration of Emergency Because of CWD.

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There will be no cost to the state budget associated with the amendments of this rule. The amendments are being made to prevent the spread of CWD in domestic elk within the State of Utah.
❖ LOCAL GOVERNMENTS: There will be no cost to the local government associated with the amendments of this rule. The amendments are being made to prevent the spread of CWD in domestic elk within the State of Utah.
❖ OTHER PERSONS: There will be no cost associated with the amendments of this rule. The amendments are merely clarifications. May result in the five licensed hunting parks in Utah having to pay a higher price for the elk they purchase to harvest on the hunting parks.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no cost associated with the amendments of this rule. The amendments are merely clarifications. May result in the five licensed hunting parks in Utah having to pay a higher price for the elk they purchase to harvest on the hunting parks.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: May result in the five licensed hunting parks in Utah having to pay a higher price for the elk they purchase to harvest on the hunting parks. May also result in the reduction of bulls that are available for this business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mike Marshall, Terry Menlove, or Earl Rogers at the above address, by phone at 801-538-7160, 801-538-7166, or 801-538-7162, by FAX at 801-538-7169, 801-538-7169, or 801-538-7169, or by Internet E-mail at
agmain.mmarshall@state.ut.us,
agmain.tmenlove@state.ut.us, or
agmain.erogers@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2002

AUTHORIZED BY: Cary Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.
R58-18. Elk Farming.
R58-18-1. Authority.

Regulations governing elk farming promulgated under authority of 4-39-106.

R58-18-2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R58-18-3. Application and Licensing Process.

(1) Each applicant for a license shall submit a signed, complete, accurate and legible application on a department issued form.

(2) In addition to the application, a general plot plan should be submitted showing the location of the proposed farm in conjunction with roads, towns, etc. in the immediate area.

(3) A facility number shall be assigned to an elk farm at the time a completed application is received at the Department of Agriculture and Food building.

(4) A complete facility inspection and approval shall be conducted prior to the issuing of a license or entry of elk to any facility. This inspection shall be made by an approved Department of Agriculture and Food employee and Division of Wildlife Resource employee. It shall be the responsibility of the applicant to request this inspection at least 72 hours in advance.

(5) Upon receipt of an application, inspection and approval of the facility and completion of the facility approval form and receipt of the license fee, a license will be issued.

(6) All licenses expire on July 1st in the year following the year of issuance.

(7) Elk may enter into the facility only after a license is issued by the department and received by the applicant.

R58-18-4. License Renewal.

(1) Each elk farm must make renewal application to the department on the prescribed form no later than April 30th indicating its desire to continue as an elk farm. This application shall be accompanied by the required fee.

(2) Any license renewal application received after April 30th will have a late fee assessed.

(3) Any license received after July 1st is delinquent and any animals on the farm will be quarantined until due process of law against the current owner has occurred. This may result in revocation of the license, loss of the facility number, closure of the facility and or removal of the elk from the premise.

(4) Prior to renewal of the license, the facility will again be inspected by a Utah Department of Agriculture and Food employee. Documentation that all fencing and facility requirements are met [~~is~~]as required.

(5) An inventory check will be completed of all elk on the premise, and a visual general health check of all animals will be made. Documentation showing that genetic purity has been maintained throughout the year is also required for annual license renewal.

(6) The licensee shall provide a copy of the inventory sheet to the inspector at the time of inspection.

R58-18-5. Facilities.

(1) All perimeter fences and gates shall meet the minimum standard as defined in Section 4-39-201.

(2) Internal handling facilities shall be capable of humanely restraining an individual animal for the applying or reading of any animal identification, the taking of blood or tissue samples, or conducting other required testing by an inspector or veterinarian. Any such restraint shall be properly constructed to protect inspection personnel while handling the animals. Minimum requirements include a working pen, an alley way and a restraining chute.

(3) The licensee shall provide an isolation or quarantine holding facility which is adequate to contain the animals and provide proper feed, water and other care necessary for the physical well being of the animal(s) for the period of time necessary to separate the animal from other animals on the farm.

(4) Each location of a licensed facility with separate perimeter fences must have its own separate loading facility.

R58-18-6. Records.

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

(a) Name and address of agent(s) which the elk was purchased from

(b) Identification number (tattoo or chip)

(c) Age

(d) Sex

(e) Date of purchase or birth

(f) Date of death or change of ownership

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

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

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

R58-18-7. Genetic Purity.

(1) All animals entering Utah must have written evidence of genetic purity. Written evidence of genetic purity will include one of the following:

(a) Test charts from an approved lab that have run either a:

(i) Blood genetic purity test or

(ii) DNA genetic purity test.

(b) Registration papers from the North American Elk Breeders Association.

(c) Herd purity certification papers issued by another state agency.

(2) Genetic purity records must be kept on file and presented to the inspector at the time elk are brought into the state and also each year during the license renewal process.

(3) Any elk identified as having red deer genetic influence shall be destroyed, or immediately removed from the state.

R58-18-8. Acquisition of Elk.

(1) Only domesticated elk will be allowed to enter and be kept on any elk farm in Utah.

(2) All new elk brought into a facility shall be held in a quarantine facility until a livestock inspector has inspected the animal(s) to verify that all health, identification and genetic purity requirements have been met. New animals may not co-mingle with any elk already on the premise until this verification is completed by the livestock inspector.

R58-18-9. Identification.

(1) All elk shall be permanently identified with either a tattoo or micro chip.

(2) If the identification method chosen to use is the micro chip, a reader must be made available, by the owner, to the inspector at the time of any inspection to verify chip number. The chip shall be placed in the right ear.

(3) If tattooing is the chosen method of identification, each elk shall bear a tattoo number consisting of the following:

(a) UT (indicating Utah) followed by a number assigned by the department (indicating the facility number of the elk farm) and

(b) Any alphanumeric combination of letters or numbers consisting of not less than 3 digits, indicating the individual animal number herein referred to as the "ID number".

Example:

UTxxx

ID number (001)

(c) Each elk shall be tattooed on either the right peri-anal hairless area beside the tail or in the right ear.

(d) Each alphanumeric character must be at least 3/8 inch high.

(e) Each newly purchased elk will not need to be retattooed or chipped if they already have this type of identification.

(f) Any purchased elk not already identified shall be tattooed or chipped within 30 days after arriving on the farm.

(g) All calves must be tattooed within 15 days after weaning or in no case later than January 1st.

(4) In addition to one of the two above mentioned identification methods, each elk shall be identified by the official USDA ear tag or other ear tag approved by the director.

R58-18-10. Inspections.

(1) All facilities must be inspected within 60 days before a license or the renewal of an existing license is issued. It is the responsibility of the applicant to arrange for an appointment with the department for such inspection, giving the department ample time to respond to such a request.

(2) All elk must be inspected for inventory purposes within 60 days before a license renewal can be issued.

(3) All elk must be inspected when any change of ownership, moving out of state, leaving the facility, slaughter or selling of elk products, such as antlers, occurs except as indicated in (f) below.

(a) It is the responsibility of the licensee to arrange for any inspection with the local state livestock inspector.

(b) A minimum of 48 hours advance notice shall be given to the inspector.

(c) When inspected, the licensee or his representative shall make available such records as will certify ownership, genetic purity, and animal health.

(d) All elk to be inspected shall be properly contained in facilities adequate to confine each individual animal for proper inspection.

(e) Animals shall be inspected before being loaded or moved outside the facility.

(f) Animals moving from one perimeter fence to another within the facility may move directly from one site to another site without a brand inspection, but must be accompanied with a copy of the facility license.

(4) Any elk purchased or brought into the facility from an out-of-state source shall be inspected upon arrival at a licensed farm before being released into an area inhabited by other elk. All requirements of R58-18-10(3) above shall apply to the inspection of such animals.

(5) A Utah Brand Inspection Certificate shall accompany any shipment of elk or elk products, including velveted antlers, which are to be moved from a Utah elk farm. Shed antlers are excluded from needing an inspection. Proof of ownership and proper health papers shall accompany all interstate movement of elk to a Utah destination.

(6) Proof of ownership may include:

(a) A brand inspection certificate issued by another state.

(b) A purchase invoice from a licensed public livestock market showing individual animal identification.

(c) Court orders.

(d) Registration papers showing individual animal identification.

(e) A duly executed bill (notarized) of sale.

R58-18-11. Health Rules.

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

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

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

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

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

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

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

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

(e) The certificate of veterinary inspection must also include the following signed statement: "To the best of my knowledge the

elk listed herein are not infected with Johne's Disease (Paratuberculosis), Chronic Wasting Disease or Malignant Catarrhal Fever and have never been east of the 100 degree meridian."

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

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

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

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

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

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

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

(9) No elk originating from a CWD affected herd, trace back herd/[-]source herd, trace forward herd, [~~or~~]adjacent herd, or from an area considered to be endemic to CWD, may be imported to Utah.

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

R58-18-12. Chronic Wasting Disease Surveillance.

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

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

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

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

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

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

KEY: inspections
[~~October 17, 2000~~]2002
Notice of Continuation February 13, 2002
4-39-106

Environmental Quality, Radiation Control
R313-17-2
Public Notice and Public Comment Period

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24715
FILED: 04/15/2002, 08:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To maintain rules which are compatible with 10 CFR 40.

SUMMARY OF THE RULE OR CHANGE: To add three license categories to Subsection R313-17-2(1)(a). Subsection R313-17-2(1)(a) states that the Executive Secretary will give public notice and an opportunity to comment on proposed licensing actions for these license categories.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-103.5 and 19-3-108

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since this rule change requires only public notice and the opportunity to comment on proposed licensing actions associated with identified license categories, there is no cost or savings impact for the State budget.
❖ LOCAL GOVERNMENTS: Since the rule requires only public notice and an opportunity to comment on licensing actions associated with identified license categories, there is no cost or savings impact to the local Government.
❖ OTHER PERSONS: Since the rule requires only public notice and an opportunity to comment on licensing actions associated with identified license categories, there is no cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the rule change only relates to public notice and an opportunity to comment on proposed licensing actions and not inspections, there is no compliance costs for affected persons associated with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule change will have no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Giddings at the above address, by phone at 801-536-4259, by FAX at 801-533-4097, or by Internet E-mail at sgidding@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/10/2002

AUTHORIZED BY: William Sinclair, Director

R313. Environmental Quality, Radiation.
R313-17. Administrative Procedures.
R313-17-2. Public Notice and Public Comment Period.

(1) The Executive Secretary shall give public notice of, and an opportunity to comment on the following actions:

(a) Proposed licensing action for license categories 2b, c, and d, 4a, b, c, d and 6 identified in R313-70-7 or a proposed approval or denial of a significant radioactive materials license, license amendment, or license renewal.

(b) The initial proposed registration of an ionizing radiation producing machine which operates at a kilovoltage potential (kVp) greater than 200 in an open beam configuration. R313-17-2(1)(b) does not apply to use in the healing arts.

(c) Board activities that may have significant public interest and the Board requests the Executive Secretary to take public comment on those proposed activities.

(2) Public notice shall allow at least 30 days for public comment.

(3) Public notice may describe more than one action listed in R313-17-2(1) and may combine notice of a public hearing with notice of the proposed action.

(4) Public notice shall be given by publication in a newspaper of general circulation in the area affected by the proposed action. Notice shall also be given to persons on a mailing list developed by the Executive Secretary and those who request in writing to be notified.

KEY: administrative procedures, public comment, public hearings, orders
[~~January 10, 1997~~]2002
Notice of Continuation July 23, 2001
19-3-103.5
19-3-104

▼ ▼

Environmental Quality, Radiation Control
R313-22-33
Specific Licenses

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24716
FILED: 04/15/2002, 09:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To maintain rules with are compatible with 10 CFR 40.

SUMMARY OF THE RULE OR CHANGE: To add a reference to Rule R313-24 at Subsection R313-22-33(1)(e). The license applicant must satisfy applicable special requirements in this rule for the issuance of a specific license.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-104 and 19-3-108

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since the rule change requires the license applicant satisfy applicable special requirements in R313-24 for the issuance of a specific license, there is no cost or savings impact on the State budget associated with this rule change.
❖ LOCAL GOVERNMENTS: Since the rule change requires the license applicant satisfy applicable special requirements in R313-24 for the issuance of a specific license, there is no cost or savings impact on the local government associated with this rule change.
❖ OTHER PERSONS: Since the rule change requires the license applicant satisfy applicable special requirements in R313-24 for the issuance of a specific license, there is no cost or savings impact on other persons associated with this rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the rule change only requires the license applicant satisfy applicable special requirements in R313-24 for the issuance of a specific license, there is no compliance costs for affected persons associated with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Giddings at the above address, by phone at 801-536-4259, by FAX at 801-533-4097, or by Internet E-mail at sgidding@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/10/2002

AUTHORIZED BY: William Sinclair, Director

R313. Environmental Quality, Radiation Control.
R313-22. Specific Licenses.
R313-22-33. General Requirements for the Issuance of Specific Licenses.

(1) A license application shall be approved if the Executive Secretary determines that:

(a) the applicant and all personnel who will be handling the radioactive material are qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these rules in a manner as to minimize danger to public health and safety or the environment;

(b) the applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or the environment;

(c) the applicant's facilities are permanently located in Utah, otherwise the applicant shall seek reciprocal recognition as required by Section R313-19-30;

(d) the issuance of the license will not be inimical to the health and safety of the public;

(e) the applicant satisfies applicable special requirements in Sections R313-22-50 and R313-22-75, and Rules R313-24, R313-25, R313-32, R313-34, R313-36, or R313-38; and

(f) in the case of an application for a license to receive and possess radioactive material for commercial waste disposal by land burial, or for the conduct of other activities which the Executive Secretary determines will significantly affect the quality of the environment, the Executive Secretary, before commencement of construction of the plant or facility in which the activity will be conducted, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. The Executive Secretary shall respond to the application within 60 days. Commencement of construction prior to a response and conclusion shall be grounds for denial of a license to receive and possess radioactive material in the plant or facility. As used in this paragraph the term "commencement of construction" means clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

KEY: specific licenses, decommissioning, broad scope, radioactive materials
[~~September 14, 2001~~]2002
Notice of Continuation October 10, 2001
19-3-104
19-3-108

▼ ▼

Environmental Quality, Radiation Control
R313-70-7
License Categories and Types of Fees for Radioactive Materials Licenses

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24717
FILED: 04/15/2002, 09:05

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To add new license categories and types of fees in Subsections R313-70-7(2)(b), (c), and (d) reflecting the new rule, R313-24, Uranium

Mills, and Mill Tailings Disposal Facility Requirements and maintain rules which are compatible with 10 CFR 40.

SUMMARY OF THE RULE OR CHANGE: The rule adds the following three fee categories for source material in Section R313-70-7: at Subsection R313-70-7(2)(b) licenses for possession and use of source material in recovery operations such as milling, in situ leaching, heap-leaching, and ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as possession and maintenance of a facility in standby mode; at Subsection R313-70-7(2)(c) Licenses that authorize the receipt of byproduct material, as defined in Section 19-3-102, from other persons for possession and disposal; and at Subsection R313-70-7(2)(d) licenses that authorize the receipt of byproduct material, as defined in Section 19-3-102, from other persons for possession and disposal incidental to the disposal of uranium waste tailings generated by the licensee's milling operations. An annual fee is also associated with each fee category.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-104 and 19-3-108

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since there is a transfer of regulatory authority from Federal to State Government, there will be a savings impact through the collection of annual fees from licensees.
❖ LOCAL GOVERNMENTS: Since the rule change relates to license categories for licensees, there will be no cost or savings impact to the local government.
❖ OTHER PERSONS: There will be a cost impact to other persons associated with this rule change. Licensees will pay an annual fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be an annual fee cost associated with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is an annual fee for business that possess radioactive material in license category R313-70-7(2)(b), (c), or (d).

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Giddings at the above address, by phone at 801-536-4259, by FAX at 801-533-4097, or by Internet E-mail at sgidding@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/10/2002

AUTHORIZED BY: William Sinclair, Director

R313. Environmental Quality, Radiation Control.
R313-70. Payments, Categories and Types of Fees.
R313-70-7. License Categories and Types of Fees for Radioactive Materials Licenses.

Fees shall be established in accordance with the Legislative Appropriations Act. Copies of established fee schedules may be obtained from the Executive Secretary.

TABLE

LICENSE CATEGORY	TYPE OF FEE
(1) Special Nuclear Material	
(a) Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers and neutron generators.	New License or Renewal Annual Fee
(b) Licenses for possession and use of less than 15 g special nuclear material in unsealed form for research and development.	New License or Renewal Annual Fee
(c) All other special nuclear material licenses.	New License or Renewal Annual Fee
(d) Special nuclear material to be used as calibration and reference sources.	New License or Renewal Annual Fee
(2) Source Material.	
(a) Licenses for concentrations of uranium from other areas like copper or phosphates for the production of moist, solid, uranium yellow cake.	New License or Renewal Annual Fee
(b) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, and ion exchange facilities, and in processing of ores containing source material	Annual Fee

for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.		
(c) Licenses that authorize the receipt of byproduct material, as defined in Section 19-3-102, from other persons for possession and disposal.	Annual Fee	
(d) Licenses that authorize the receipt of byproduct material, as defined in Section 19-3-102, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations.	Annual Fee	
[~~(b)~~](e) Licenses for possession and use of source material for shielding.	New License or Renewal Annual Fee	
[~~(c)~~](f) All other source material licenses.	New License or Renewal Annual Fee	
(3) Radioactive Material Other than Source Material and Special Nuclear Material.		
(a)(i) Licenses of broad scope for possession and use of radioactive material for processing or manufacturing of items containing radioactive material for commercial distribution.	New License or Renewal Annual Fee	
(a)(ii) Other licenses for possession and use of radioactive material for processing or manufacturing of items containing radioactive material for commercial distribution.	New License or Renewal Annual Fee	
(b) Licenses authorizing the processing or manufacturing and distribution or redistribution of radio-pharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material.	New License or Renewal Annual Fee	
(c) Licenses authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material.	New License or Renewal Annual Fee	
(d) Licenses for possession and use of radioactive material for industrial radiography operations.	New License or Renewal Annual Fee	
(e) Licenses for possession and use of sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).	New License or Renewal Annual Fee	
(f)(i) Licenses for possession and use of less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes.	New License or Renewal Annual Fee	
(f)(ii) Licenses for possession and use of 10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes.	New License or Renewal Annual Fee	
(g) Licenses to distribute items containing radioactive material that require device review to persons exempt from the licensing requirements of R313-19, except specific licenses authorizing redistribution of items that have have been authorized for distribution to persons exempt from the licensing requirements of R313-19.	New License or Renewal Annual Fee	
(h) Licenses to distribute items containing radioactive material or	New License or Renewal Annual Fee	

quantities of radioactive material that do not require device evaluation to persons exempt from the licensing requirements of R313-19, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of R313-19.	
(i) Licenses to distribute items containing radio-active material that require sealed source or device review to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under R313-21.	New License or Renewal Annual Fee
(j) Licenses to distribute items containing radioactive material or quantities of radioactive material that do not require sealed source or device review to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under R313-21.	New License or Renewal Annual Fee
(k) Licenses for possession and use of radioactive material for research and development, which do not authorize commercial distribution.	New License or Renewal Annual Fee
(l) All other specific radioactive material licenses.	New License or Renewal Annual Fee
(m) Licenses of broad scope for possession and use of radioactive material for research and development which do not authorize commercial distribution.	New License or Renewal Annual Fee
(n) Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services which are subject to the fees specified for the listed services.	New License or Renewal Annual Fee
(o) Licenses that authorize services for leak testing only.	New License or Renewal Annual Fee
(4) Radioactive Waste Disposal:	
(a) Licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee.	Application Fee New License or Renewal
(b) Licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	New License or Renewal Annual Fee
(c) Licenses specifically authorizing the receipt of prepackaged waste radioactive material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	New License or Renewal Annual Fee
(d) Licenses authorizing packaging of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material.	New License or Renewal Annual Fee
(5) Well logging, well surveys and	

tracer studies.	
(a) Licenses for possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies.	New License or Renewal Annual Fee
(b) Licenses for possession and use of radioactive material for field flooding tracer studies.	New License or Renewal Annual Fee
(6) Nuclear laundries.	
(a) Licenses for commercial collection and laundry of items contaminated with radioactive material.	New License or Renewal Annual Fee
(7) Human use of radioactive material.	
(a) Licenses for human use of radioactive material in sealed sources contained in teletherapy devices.	New License or Renewal Annual Fee
(b) Other licenses issued for human use of radioactive material, except licenses for use of radioactive material contained in teletherapy devices.	New License or Renewal Annual Fee
(c) Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development, including human use of radioactive material, except licenses for radio-active material in sealed sources contained in teletherapy devices.	New License or Renewal Annual Fee
(8) Civil Defense.	
(a) Licenses for possession and use of radioactive material for civil defense activities.	New License or Renewal Annual Fee
(9) Power Source.	
(a) Licenses for the manufacture and distribution of encapsulated radioactive material wherein the decay energy of the material is used as a source for power.	New License or Renewal Annual Fee
(10) General License.	
(a) Measuring, gauging and control devices as described in R313-21-22(4), other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere.	Fee per registration certificate
(b) In Vitro testing	Fee per registration certificate
(c) Depleted uranium	Fee per registration certificate
(d) Reciprocal recognition, as provided for in R313-19-30, of a license issued by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.	Annual fee for license category listed in R313-70-7(1) through (10), per 180 days in one calendar year

KEY: radioactive material, x-rays, registration, fees
[~~August 13, 1999~~]2002
Notice of Continuation October 10, 2001
19-3-104[~~(4)~~](6)

Environmental Quality, Solid and Hazardous Waste
R315-301-2
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24703
FILED: 04/11/2002, 14:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed in response to expressed interests and requests from private waste management stakeholders and members of the Utah Legislature to clarify the requirements for a commercial solid waste landfill (Class V Landfill) that may receive only construction/demolition waste and other similar wastes for disposal.

SUMMARY OF THE RULE OR CHANGE: Clarification between a commercial and a noncommercial landfill is made in the definitions of all classes of landfills. Commercial landfills are divided into the separate categories of Class V and Class VI Landfills based on the wastes received. A Class V Landfill may accept any nonhazardous waste for disposal. A Class VI Landfill may accept only inert waste, construction/demolition waste, yard waste, and by meeting certain requirements, waste tires and materials derived from waste tires. The waste received at any class of landfill may be further limited by a solid waste permit. A Class VI Landfill may not change to the

Class V Landfill category except by meeting all requirements of a Class V Landfill including obtaining a new Class V Landfill permit, as well as receiving all other required approvals including local, Legislative, and gubernatorial. Also, the definition of the term "municipal landfill" is changed to reflect the type of waste received rather than the ownership of the landfill.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, and 19-6-108; and 40 CFR 258

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Appendix A, 40 CFR 763.1, 2001

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The proposed changes in the rule do not affect state entities and the oversight and enforcement of the rule will not change, therefore, no cost or savings impact is anticipated for the state budget.
❖ LOCAL GOVERNMENTS: The proposed changes in the rule do not affect local governments and the oversight and enforcement of the rule will not change, therefore, no cost or savings impact is anticipated for local governments.
❖ OTHER PERSONS: As this is a definition change only, the actual requirements that landfill operators must meet are not changed, therefore, no cost or savings impact is anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the actual requirements that landfill operators must meet are not changed, it is anticipated that affected persons will experience no additional costs beyond those required by current statues or rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements that landfill operators must meet will not change, there will be no additional fiscal impact on businesses beyond that currently required by statue or rule. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl Wadsworth at the above address, by phone at 801-538-6769, by FAX at 801-538-6715, or by Internet E-mail at cwadswor@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2002

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-301. Solid Waste Authority, Definitions, and General Requirements.
R315-301-2. Definitions.

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

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

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

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

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

(5) "Asbestos Waste" means friable asbestos, which is any material containing more than 1% asbestos as determined using the method specified in Appendix A, 40 CFR Part 763.1, [~~1991~~]2001 ed., which is adopted and incorporated by reference, that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

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

(7) "Class I landfill" means a non-commercial landfill[~~municipal landfill or a commercial~~] or a landfill solely under contract with a local government taking municipal solid waste generated within the boundaries of the local government [~~and receiving~~]that is permitted by the Executive Secretary to receive municipal solid waste and any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit, for disposal and receives, on a yearly average, over 20 tons of solid waste per day.

(8) "Class II landfill" means a non-commercial landfill[~~municipal landfill or a commercial~~] or a landfill solely under contract with a local government taking municipal solid waste generated within the boundaries of the local government [~~and receiving~~]that is permitted by the Executive Secretary to receive municipal solid waste and any other nonhazardous waste, not otherwise limited by rule or solid waste permit, for disposal and receives, on a yearly average, 20 tons, or less, of solid waste per day.

(9) "Class III landfill" means a non-commercial landfill that is permitted by the Executive Secretary to receive only nonhazardous industrial solid waste for disposal[~~, but excluding farms and ranches~~].

(10) "Class IV landfill" means a non-commercial landfill that is permitted by the Executive Secretary to receive only nonhazardous construction/demolition waste, yard waste, inert waste, dead animals, or upon meeting the requirements of Section 19-6-804 and Section R315-320-3, waste tires and materials derived from waste tires for disposal.

(11) "Class V landfill" means a commercial [~~landfill which receives any~~]nonhazardous solid waste disposal facility, as defined by Subsection 19-6-102(3)(a), that is permitted by the Executive Secretary to receive municipal solid waste and any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit, for disposal. Class V [~~landfill~~]Landfill does not include a landfill that is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

(12) "Class VI Landfill" means a commercial nonhazardous solid waste landfill that is permitted by the Executive Secretary to receive inert waste; construction/demolition waste; yard waste; or upon meeting the requirements of Section 19-6-804 and Subsection R315-320-3(1) or (2), waste tires and materials derived from waste tires for disposal.

(a) A Class VI Landfill may not receive for disposal:

(i) hazardous waste as defined by Subsection R315-301-2(29);

(ii) construction/demolition waste containing PCBs except as allowed by Section R315-315-7;

(iii) conditionally exempt small quantity generator hazardous waste as defined by Subsection R315-2-5;

(iv) garbage as defined by Subsection R315-301-2(26);

(v) dead animals;

(vi) municipal solid waste as defined by Subsection R315-301-2(46); or

(vii) industrial solid waste as defined by Subsection R315-301-2(34).

(b) The wastes received at a Class VI Landfill may be further limited by a solid waste permit.

(c) A Class VI Landfill may not change to a Class V Landfill except by meeting all requirements for a Class V Landfill including obtaining a new Class V Landfill permit and completing the requirements specified in Subsection R315-310-3(2).

[~~(12)~~](13) "Closed facility" means any facility that no longer receives solid waste and has completed an approved closure plan, and any landfill on which an approved final cover has been installed.

[~~(13)~~](14) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household waste and industrial wastes.

[~~(14)~~](15) "Composite liner" means a liner system consisting of two components: the upper component consisting of a synthetic flexible membrane liner, and the lower component consisting of a layer of compacted soil. The composite liner must have the synthetic flexible membrane liner installed in direct and uniform contact with the compacted soil component and be constructed of specified materials and compaction to meet specified permeabilities.

[~~(15)~~](16) "Composting" means a method of solid waste management whereby the organic component of the waste stream is biologically decomposed under controlled conditions to a state in which the end product or compost can be safely handled, stored, or applied to the land without adversely affecting human health or the environment.

[~~(16)~~](17) "Construction/demolition waste" means solid waste from building materials, packaging, and rubble resulting from construction, remodeling, repair, abatement, rehabilitation, renovation, and demolition operations on pavements, houses, commercial buildings, and other structures. Such waste may include: bricks, concrete, other masonry materials, soil, asphalt, rock, untreated lumber, rebar, and tree stumps. It does not include asbestos, contaminated soils or tanks resulting from remediation or clean-up at any release or spill, waste paints, solvents, sealers, adhesives, or similar hazardous or potentially hazardous materials.

[~~(17)~~](18) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water or soil which is a result of human activity.

[~~(18)~~](19) "Displaced" or "displacement" means the relative movement of any two sides of a fault measured in any direction.

[~~(19)~~](20) "Drop box facility" means a facility used for the placement of a large detachable container or drop box for the collection of solid waste for transport to a solid waste disposal facility. The facility includes the area adjacent to the containers for necessary entrance, exit, unloading, and turn-around areas. Drop box facilities normally serve the general public with uncompacted loads and receive waste from off-site. Drop box facilities do not include residential or commercial waste containers on the site of waste generation.

[~~(20)~~](21) "Energy recovery" means the recovery of energy in a useable form from incineration, burning, or any other means of using the heat of combustion of solid waste that involves high temperature (above 1200 degrees Fahrenheit) processing.

[~~(21)~~](22) "Existing facility" means any facility that was receiving solid waste on or before July 15, 1993.

[~~(22)~~](23) "Expansion of a solid waste disposal facility" means any lateral or vertical expansion beyond or above the boundaries outlined in the initial permit application. Where no boundaries were designated in the disposal facility permit, expansion shall apply to all new land purchased or acquired after the effective date of these rules.

[~~(23)~~](24) "Facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, e.g., one or more incinerators, landfills, container storage areas, or combinations of these.

[~~(24)~~](25) "Floodplain" means the land which has been or may be hereafter covered by flood water which has a 1% chance of occurring any given year. The flood is also referred to as the base flood or 100-year flood.

[~~(25)~~](26) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure or as determined by EPA test method 9095 (Paint Filter Liquids Test) as provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste" as revised December (1996) which is adopted and incorporated by reference.

[~~(26)~~](27) "Garbage" means discarded animal and vegetable wastes and animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and of such a character and proportion as to be capable of attracting or providing food for vectors. Garbage does not include sewage and sewage sludge.

[~~(27)~~](28) "Ground water" means subsurface water which is in the zone of saturation including perched ground water.

[~~(28)~~](29) "Ground water quality standard" means a standard for maximum allowable contamination in ground water as set by Section R315-308-4.

[~~(29)~~](30) "Hazardous waste" means hazardous waste as defined by Subsection 19-6-102(9) and Section R315-2-3.

[~~(30)~~](31) "Holocene fault" means a fracture or zone of fractures along which rocks on one side of the fracture have been displaced with respect to those on the other side, which has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene, approximately 11,000 years ago, to the present.

[~~(31)~~](32) "Household size" means a container for a material or product that is normally and reasonably associated with households or household activities. The containers are of a size and design to hold materials or products generally for immediate use and not for storage, five gallons or less in size.

[~~(32)~~](33) "Household waste" means any solid waste, including garbage, trash, and sanitary waste in septic tanks, derived from households including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

[~~(33)~~](34) "Incineration" means a controlled thermal process by which solid wastes are physically or chemically altered to gas, liquid, or solid residues which are also regulated solid wastes. Incineration does not include smelting operations where metals are reprocessed or the refining, processing, or the burning of used oil for energy recovery as described in Rule R315-15.

[~~(34)~~](35) "Industrial solid waste" means any solid waste generated at a manufacturing or other industrial facility that is not a hazardous waste. Industrial solid waste includes waste resulting from the following manufacturing processes and associated activities: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing or foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste; oil and gas waste; or other waste excluded by Subsection 19-6-102(17)(b).

[~~(35)~~](36) "Industrial solid waste facility" means a facility which receives only industrial solid waste from on-site or off-site sources for disposal.

[~~(36)~~](37) "Inert waste" means noncombustible, nonhazardous solid wastes that retain their physical and chemical structure under expected conditions of disposal, including resistance to biological or chemical attack.

[~~(37)~~](38) "Landfill" means a disposal facility where solid waste is placed in or on the land and which is not a landtreatment facility or surface impoundment.

[~~(38)~~](39) "Landtreatment, landfarming, or landspreading facility" means a facility or part of a facility where solid waste is applied onto or incorporated into the soil surface for the purpose of biodegradation.

[~~(39)~~](40) "Lateral expansion of a solid waste disposal facility" means any horizontal expansion of the waste boundaries of an existing landfill cell, module, or unit or expansions not consistent with past normal operating practices.

[~~(40)~~](41) "Lateral hydraulically equivalent point" means a point located hydraulically equal to a facility and in the same ground water with similar geochemistry such that the ground water, at that point, has not been affected by the facility.

[~~(41)~~](42) "Leachate" means a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, miscible, or immiscible materials removed from such waste.

[~~(42)~~](43) "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include human-made materials, such as fill, concrete and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

[~~(43)~~](44) "Lower explosive limit" means the lowest percentage by volume of a mixture of explosive gases which will propagate a flame in air at 25 degrees Celsius (77 degrees Fahrenheit) and atmospheric pressure.

[~~(44)~~](45) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on site specific seismic risk assessment.

[~~(45)~~](46) "Municipal solid waste landfill" means a [~~landfill that is not for profit and is either owned and operated by a local government or a government entity such as a city, town, county, service district, or an entity created by interlocal agreement of local governments, or is solely under contract with a local government or government entity~~]permitted nonhazardous solid waste landfill that may receive municipal solid waste for disposal.

[~~(46)~~](47) "Municipal solid waste" means household waste, nonhazardous commercial solid waste, and non-hazardous sludge.

[~~(47)~~](48) "New facility" means any facility that begins receiving solid waste after July 15, 1993.

[~~(48)~~](49) "Off-site" means any site which is not on-site.

[~~(49)~~](50) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along the right-of-way. Property separated by a private right-of-way, which the site owner or operator controls, and to which the public does not have access, is also considered on-site property.

[~~(50)~~](51) "Operator" means the person, as defined by Subsection 19-1-103(4), responsible for the overall operation of a facility.

[~~(51)~~](52) "Owner" means the person, as defined by Subsection 19-1-103(4), who owns a facility or part of a facility.

[~~(52)~~](53) "PCB" or "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of materials which contain such substances.

[~~(53)~~](54) "Permeability" means the ease with which a porous material allows water and the solutes contained therein to flow through it. This is usually expressed in units of centimeters per second (cm/sec) and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of 1×10^{-7} cm/sec or less may be considered impermeable.

[~~(54)~~](55) "Permit" means the plan approval as required by Subsection 19-6-108(3)(a), or equivalent control document issued by the Executive Secretary to implement the requirements of the Utah Solid and Hazardous Waste Act.

[~~(55)~~](56) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

[~~(56)~~](57) "Poor foundation conditions" means those areas where features exist which indicate that a natural or human-induced event may result in inadequate foundation support for the structural components of a landfill unit.

[~~(57)~~](58) "Putrescible" means organic material subject to decomposition by microorganisms.

[~~(58)~~](59) "Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certification, or completion of accredited university programs that enable that individual to make sound professional judgements regarding ground water monitoring, contaminant fate and transport, and corrective action.

[~~(59)~~](60) "Recycling" means extracting valuable materials from the waste stream and transforming or remanufacturing them into usable materials that have a demonstrated or potential market.

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

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

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

[~~(60)~~](61) "Recyclable materials" means those solid wastes that can be recovered from or otherwise diverted from the waste stream for the purpose of recycling, such as metals, paper, glass, and plastics.

[~~(61)~~](62) "Run-off" means any rainwater, leachate, or other liquid that has contacted solid waste and drains over land from any part of a facility.

[~~(62)~~](63) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto the active area of a facility.

[~~(63)~~](64) "Scavenging" means the uncontrolled removal of solid waste from a facility.

[~~(64)~~](65) "Seismic impact zone" means an area with a 10% or greater probability that the maximum horizonal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in 250 years.

[~~(65)~~](66) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from septic tank systems.

[~~(66)~~](67) "Sharps" means any discarded or contaminated article or instrument from a health facility that may cause puncture or cuts. Such waste may include needles, syringes, blades, needles with attached tubing, pipettes, pasteurs, broken glass, and blood vials.

[~~(67)~~](68) "Sludge" means any solid, semisolid, or liquid waste, including grit and screenings generated from a:

(a) municipal, commercial, or industrial waste water treatment plant;

(b) water supply treatment plant;

(c) car wash facility;

(d) air pollution control facility; or

(e) any other such waste having similar characteristics.

[~~(68)~~](69) "Solid waste disposal facility" means a facility or part of a facility at which solid waste is received from on-site or off-site sources and intentionally placed into or on land and at which waste, if allowed by permit, may remain after closure. Solid waste disposal facilities include landfills, incinerators, and land treatment areas.

[~~(69)~~](70) "Solid waste incinerator facility" means a facility at which solid waste is received from on-site or off-site sources and is subjected to the incineration process. An incinerator facility that incinerates solid waste for any reason, including energy recovery, volume reduction, or to render it non-infectious, is a solid waste incinerator facility and is subject to Rules R315-301 through 320.

[~~(70)~~](71) "Special waste" means discarded solid waste that may require special handling or other solid waste that may pose a threat to public safety, human health, or the environment. Special waste may include:

(a) ash;

(b) automobile bodies;

(c) furniture and appliances;

(d) infectious waste;

(e) waste tires;

(f) dead animals;

(g) asbestos;

(h) waste exempt from the hazardous waste regulations under Section R315-2-4;

(i) conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5;

(j) waste containing PCBs;

(k) petroleum contaminated soils;

(l) waste asphalt; and

(m) sludge.

[~~(71)~~](72) "State" means the State of Utah.

[~~(72)~~](73) "Structural components" means liners, leachate collection systems, final covers, run-on or run-off systems, and any other component used in the construction and operation of a landfill that is necessary for the protection of human health and the environment.

[~~(73)~~](74) "Surface impoundment or impoundment" means a facility or part of a facility which is a natural topographic depression, human-made excavation, or diked area formed primarily of earthen materials, although it may be lined with synthetic materials, which is designed to hold an accumulation of liquid waste or waste containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

[~~(74)~~](75) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is staffed by a minimum of one employee of the owner or operator during hours of operation and is used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a solid waste handling or disposal facility.

[~~(75)~~](76) "Transport vehicle" means a vehicle capable of hauling large amounts of solid waste such as a truck, packer, or trailer that may be used by refuse haulers to transport solid waste from the point of generation to a transfer station or a disposal facility.

[~~(76)~~](77) "Twenty-five year storm" means a 24-hour storm of such intensity that it has a 4% probability of being equaled or exceeded any given year. The storm could result in what is referred to as a 25-year flood.

[~~(77)~~](78) "Unit boundary" means a vertical surface located at the hydraulically downgradient limit of a landfill unit or other solid waste disposal facility unit which is required to monitor ground water. This vertical surface extends down into the ground water.

[~~(78)~~](79) "Unstable area" means a location that is susceptible to natural or human induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a facility. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

[~~(79)~~](80) "Vadose zone" means the zone of aeration including soil and capillary water. The zone is bound above by the land surface and below by the water table.

[~~(80)~~](81) "Vector" means a living animal including insect or other arthropod which is capable of transmitting an infectious disease from one organism to another.

[~~(81)~~](82) "Washout" means the carrying away of solid waste by waters of a base or 100-year flood.

[~~(82)~~](83) "Waste tire storage facility" or "waste tire pile" means any site where more than 1,000 waste tires or 1,000 passenger tire equivalents are stored on the ground.

(a) A waste tire storage facility includes:

(i) whole waste tires used as a fence;

(ii) whole waste tires used as a windbreak; and

(iii) waste tire generators where more than 1,000 waste tires are held.

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

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

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

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

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

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

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

[~~(83)~~](84) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

[~~(84)~~](85) "Yard waste" means vegetative matter resulting from landscaping, land maintenance, and land clearing operations including grass clippings, prunings, and other discarded material generated from yards, gardens, parks, and similar types of facilities. Yard waste does not include garbage, paper, plastic, processed wood, sludge, septage, or manure.

KEY: solid waste management, waste disposal
[~~July 1, 2001~~]2002
Notice of Continuation April 2, 1998
19-6-105
19-6-108
19-6-109
40 CFR 258

▼ ▼

Environmental Quality, Solid and Hazardous Waste
R315-302
Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24704
FILED: 04/11/2002, 14:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to specify the requirements that are applicable to the categories of commercial landfills: Class V Landfill and Class VI Landfill. Also, the procedure for submitting a plan of operation for recycling or composting facilities is clarified.

SUMMARY OF THE RULE OR CHANGE: The location standards, general facility requirements, and the general closure requirements for Class V and VI Landfills are specified. Generally, a Class V Landfill will be subject to the same requirements as a large noncommercial landfill and a Class VI Landfill will be subject to the same requirements as a noncommercial construction/demolition landfill. Also, the procedure for submitting a plan of operation for a recycling or composting facility is clarified and it is specified that a recycling or composting facility must receive notice from the Executive Secretary that the plan meets the requirements prior to beginning operations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, 19-6-108, 19-6-109; and 40 CFR 258

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no current or planned state-owned or operated landfills, therefore, the requirements specified for commercial landfills (Class V and VI Landfills) do not apply to state agencies; the actual requirements for recycling and composting are not changed; and the state oversight and enforcement of the rule will not change. Therefore, no cost or savings impact is anticipated for the state budget.

❖ LOCAL GOVERNMENTS: There is currently one existing commercial landfill that is owned by a local government and since this is an existing facility, the operating costs are expected to be unaffected by the proposed rule changes. Also, there are no other commercial landfills planned by local governments. Therefore, no cost or savings impact is anticipated for landfills owned or operated by local governments as a result of the proposed changes to the rule relating to commercial landfills. The actual requirements for recycling and composting are not changed; and the local government oversight and enforcement of the rule will not

change. Therefore, no cost or savings impact is anticipated for local governments.

❖ OTHER PERSONS: Since the actual requirements for recycling and composting are not changed, no cost or savings impact is anticipated for other persons who own or operate these facilities. The requirements imposed on a Class V Landfill will not change, therefore, no cost or savings impact is anticipated for these landfills. The rule specifies that a Class VI Landfill, which may accept only construction/demolition and other similar wastes, is to meet the same requirements as a noncommercial construction/demolition landfill (Class IVb Landfill). These requirements are less stringent with respect to design, construction, operation, closure, and post-closure care than for a Class V Commercial Landfill. Therefore, it is anticipated that other persons who own or operate a commercial construction/demolition landfill (Class VI Landfill) will experience a significant decrease in costs. Because of the various technical standards related to landfills, he anticipated aggregate cost savings to other people cannot be estimated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the actual requirements for recycling and composting are not changed, the compliance costs for affected persons who engage in these activities will not change. Also, since the requirements for a Class V Landfill will not change, the compliance costs for these landfills will not change. Owners or operators of Class VI Landfills will experience a significant decrease in compliance costs. The decreased compliance costs will be a result of less stringent requirements for design, construction, operation, closure, and post-closure care. Due to the wide differences in location, size, design, and operation at the individual landfills, the reduction in compliance costs for affected persons cannot be estimated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact beyond that required by current statute and rules is expected for businesses that own or operate recycling or composting facilities or for Class V Landfills since the actual requirements for these facilities are not changed. The new landfill category for commercial construction/demolition landfills (Class VI Landfill) will allow a significant decrease in costs for businesses that operate these landfills. Due to the wide differences in location, size, design, construction, operation, and closure at the individual landfills, the reduction in costs for businesses cannot be estimated. Dianne R. Neilson, Ph.D.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl Wadsworth at the above address, by phone at 801-538-6769, by FAX at 801-538-6715, or by Internet E-mail at cwadswor@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2002

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements.
R315-302-1. Location Standards for Disposal Facilities.

(1) Applicability.

(a) These standards apply to:

(i) Class I, II, and Va Landfills;

(ii) Class III Landfills as specified in Rule R315-304;

(iii) Class IV and VI Landfills as specified in Rule R315-305; and

(iv) each new disposal facility and any existing disposal facility seeking facility expansion, including landfills, landtreatment disposal sites, and piles that are to be closed as landfills.

(b) These standards, unless otherwise noted, do not apply to:

(i) an existing facility;

(ii) transfer stations and drop box facilities;

(iii) piles used for storage;

(iv) composting or utilization of sludge or other solid waste on land; or

(v) hazardous waste disposal sites regulated by Rules R315-1 through R315-50 and Rule R315-101.

(2) Location Standards. Each applicable solid waste facility shall be subject to the following location standards.

(a) Land Use Compatibility. No new facility shall be located within:

(i) one thousand feet of a national, state or county park, monument, or recreation area; designated wilderness or wilderness study area; or wild and scenic river area;

(ii) ecologically and scientifically significant natural areas, including wildlife management areas and habitat for threatened or endangered species as designated pursuant to the Endangered Species Act of 1982;

(iii) farmland classified or evaluated as "prime," "unique," or of "statewide importance" by the U.S. Department of Agriculture Soil Conservation Service under the Prime Farmland Protection Act;

(iv) one-fourth mile of:

(A) existing permanent dwellings, residential areas, and other incompatible structures such as schools or churches unless otherwise allowed by local zoning or ordinance; and

(B) historic structures or properties listed or eligible to be listed in the State or National Register of Historic Places;

(v) ten thousand feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used by only piston-type aircraft unless the owner or operator demonstrates that the facility design and operation will not increase the likelihood of bird/aircraft collisions. Every new and existing disposal facility is subject to this requirement. If a new landfill or a lateral expansion of an existing landfill is located within five miles of an airport runway end, the owner or operator must notify the affected airport and the Federal Aviation Administration; or

(vi) areas with respect to archeological sites that would violate Section 9-8-404.

(b) Geology. No new facility or lateral expansion of an existing facility shall be located in a subsidence area, a dam failure flood area, above an underground mine, above a salt dome, above a salt bed, or on or adjacent to geologic features which could compromise the structural integrity of the facility.

(i) Holocene Fault Areas. A new facility or a lateral expansions of an existing facility shall not be located within 200 feet of a Holocene fault unless the owner or operator demonstrates to the Executive Secretary that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

(ii) Seismic Impact Zones. A new facility or a lateral expansion of an existing facility shall not be located in seismic impact zones unless the owner or operator demonstrates to the satisfaction of the Executive Secretary that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

(iii) Unstable Areas. The owner or operator of an existing facility, a lateral expansion of an existing facility, or a new facility located in an unstable area must demonstrate to the satisfaction of the Executive Secretary that engineering measures have been incorporated into the facility design to ensure that the integrity of the structural components of the facility will not be disrupted. The owner or operator must consider the following factors when determining whether an area is unstable:

(A) on-site or local soil conditions that may result in significant differential settling;

(B) on-site or local geologic or geomorphologic features; and

(C) on-site or local human-made features or events, both surface and subsurface.

(c) Surface Water.

(i) No new facility or lateral expansion of an existing facility shall be located on any public land that is being used by a public water system for water shed control for municipal drinking water purposes, or in a location that could cause contamination to a lake, reservoir, or pond.

(ii) Floodplains. No new or existing facility shall be located in a floodplain unless the owner or operator demonstrates to the Executive Secretary that the unit will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in a washout of solid waste so as to pose a hazard to human health or the environment.

(d) Wetlands. No new facility or lateral expansion of an existing facility shall be located in wetlands unless the owner or operator demonstrates to the Executive Secretary that:

(i) where applicable under section 404 of the Clean Water Act or applicable State wetlands laws, the presumption that a practicable alternative to the proposed landfill is available which does not involve wetlands is clearly rebutted;

(ii) the unit will not violate any applicable state water quality standard or section 307 of the Clean Water Act;

(iii) the unit will not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of a critical habitat protected under the Endangered Species Act of 1973;

(iv) the unit will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the unit and its ability to protect ecological resources by addressing the following factors:

(A) erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the unit;

(B) erosion, stability, and migration potential of dredged and fill materials used to support the unit;

(C) the volume and chemical nature of the waste managed in the unit;

(D) impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(E) the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

(F) any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

(v) to the extent required under section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands, as defined by acreage and function, by first avoiding impacts to wetlands to the maximum extent practicable as required by Subsection R315-302-1(2)(d)(i), then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

(vi) sufficient information is available to make a reasonable determination with respect to these demonstrations.

(e) Ground Water.

(i) No new facility or lateral expansion of an existing facility shall be located at a site:

(A) where the bottom of the lowest liner is less than five feet above the historical high level of ground water; or

(B) for a landfill that is not required to install a liner, the lowest level of waste must be at least ten feet above the historical high level of ground water.

(C) If the aquifer beneath a landfill contains ground water which has a Total Dissolved Solids (TDS) of 10,000 mg/l or greater and the landfill is constructed with a composite liner, the bottom of the lowest liner may be less than five feet above the historical high level of the ground water.

(ii) No new facility shall be located over a sole source aquifer as designated in 40 CFR 149.

(iii) No new facility shall be located over groundwater classed as IB under Section R317-6-3.3.

(iv) Unless all units of the proposed facility are constructed with a composite liner or other equivalent design approved by the Executive Secretary:

(A) a new facility located above any aquifer containing ground water which has a TDS content below 1,000 mg/l which does not exceed applicable ground water quality standards for any contaminant is permitted only where the depth to ground water is greater than 100 feet; or

(B) a new facility located above any aquifer containing ground water which has a TDS content between 1,000 and 3,000 mg/l and does not exceed applicable ground water quality standards for any contaminant is permitted only where the depth to ground water is 50 feet or greater.

(C) The applicant for the proposed facility will make the demonstration of ground water quality necessary to determine the appropriate aquifer classification.

(v) No new facility shall be located in designated drinking water source protection areas or, if no source protection area is

designated, within a distance to existing drinking water wells or springs for public water supplies of 250 days ground water travel time. This requirement does not include on-site operation wells. The applicant for the proposed facility will make the demonstration, acceptable to the Executive Secretary, of hydraulic conductivity and other information necessary to determine the 250 days ground water travel distance.

(vi) Ground Water Exception. Subject to the ground water performance standard stated in Subsection R315-303-3(1), if a solid waste disposal facility is to be located over an area where the ground water has a TDS of 10,000 mg/l or greater, or where there is an extreme depth to ground water, or where there is a natural impermeable barrier above the ground water, or where there is no ground water, the Executive Secretary may exempt the disposal site, on a site specific basis, from some design criteria and ground water monitoring. Exemption of ground water monitoring may require the owner or operator to make the demonstration stated in Subsection R315-308-1(3).

(3) Exemptions. Exemptions from the location standards with respect to airports, floodplains, wetlands, fault areas, seismic impact zones, and unstable areas cannot be granted. Exemptions from other location standards of this section may be granted by the Executive Secretary on a site specific basis if it is determined that the exemption will cause no adverse impacts to public health or the environment.

(a) No exemption may be granted without application to the Executive Secretary.

(b) If an exemption is granted, a facility may be required to have more stringent design, construction, monitoring program, or operational practice to protect human health or the environment.

(c) All applications for exemptions shall meet the conditions of Section R315-311-3 pertaining to public notice and comment period.

R315-302-2. General Facility Requirements.

(1) Applicability.

(a) Each new landfill, expansion of an existing landfill, energy recovery or incinerator facility, landtreatment disposal site, waste tire storage facility, transfer station, and existing facility applying for a permit or permit renewal shall meet the requirements of Section R315-302-2.

(b) Any facility which stores waste in piles that is subject to the requirements of Rule R315-314 shall meet the applicable requirements of [~~this section~~]Section R315-302-2.

(c) Any recycling facility or composting facility subject to the standards of Rule R315-312 shall submit a plan of operation, to the Executive Secretary, that demonstrates compliance with the applicable standards of Section R315-302-2 and Rule R315-312.[~~This plan does not require Executive Secretary approval.~~]

(i) The submitted plan of operation shall be reviewed to determine compliance with the applicable standards of Section R315-302-2 and Rule R315-312.

(ii) Prior to the acceptance of waste or recyclable material or beginning operations at the facility, the owner or operator of a recycling or composting facility must receive notice from the Executive Secretary that the plan of operation meets the applicable standards of Section R315-302-2 and Rule R315-312.

(d) The requirements of Section R315-302-2 apply to industrial solid waste facilities as specified in Rule R315-304.

(2) Plan of Operation. Each owner or operator shall develop, keep on file, and abide by a plan of operation approved by the Executive Secretary. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the Executive Secretary or his authorized representative. The facility must be operated in accordance with the plan or the plan must be so modified with the approval of the Executive Secretary, to allow the facility to operate in accordance with an approved plan. Each plan of operation shall include:

(a) an intended schedule of construction. Facility plan approvals will be reviewed by the Executive Secretary no later than 18 months after the permit is issued and periodically thereafter, to determine if the schedule of construction is reasonably being followed. Failure to comply with the schedule of construction may result in revocation of the plan approval;

(b) a description of on-site solid waste handling procedures during the active life of the facility;

(c) a schedule for conducting inspections and monitoring for the facility;

(d) contingency plans in the event of a fire or explosion;

(e) corrective action programs to be initiated if ground water is contaminated;

(f) contingency plans for other releases, e.g. release of explosive gases or failure of run-off containment system;

(g) a plan to control fugitive dust generated from roads, construction, general operations, and covering the waste;

(h) a description of maintenance of installed equipment including leachate and gas collection systems, and ground water monitoring systems;

(i) procedures for excluding the receipt of prohibited hazardous waste or prohibited waste containing PCBs;

(j) procedures for controlling disease vectors;

(k) a plan for an alternative waste handling or disposal system during periods when the solid waste facility is not able to dispose of solid waste, including procedures to be followed in case of equipment breakdown;

(l) closure and post-closure care plans;

(m) cost estimates and financial assurance as required by Subsection R315-309-2(3);

(n) a general training and safety plan for site operators; and

(o) other information pertaining to the plan of operation as required by the Executive Secretary.

(3) Recordkeeping. Each owner or operator shall maintain and keep, on-site or at a location approved by the Executive Secretary, the following permanent records:

(a) a daily operating record, to be completed at the end of each day of operation, that shall contain:

(i) the weights or volumes, number of vehicles entering, and if available, the types of wastes received each day;

(ii) deviations from the approved plan of operation;

(iii) training and notification procedures;

(iv) results of ground water and gas monitoring that may be required; and

(v) an inspection log or summary; and

(b) other records to include:

(i) documentation of any demonstration made with respect to any location standard or exemption;

(ii) any design documentation for the placement or recirculation of leachate or gas condensate into the landfill as allowed by Subsection R315-303-3(2)(b);

(iii) closure and post-closure care plans as required by Subsections R315-302-3(4) and (7);

(iv) cost estimates and financial assurance documentation as required by Subsection R315-309-2(3);

(v) any information demonstrating compliance with Class II Landfill requirements if applicable; and

(vi) other information pertaining to operation, maintenance, monitoring, or inspections as may be required by the Executive Secretary.

(4) Reporting. Each owner or operator of any facility, including a facility performing post-closure care, shall prepare an annual report and place the report in the facility's operating record. The owner or operator of the facility shall submit a copy of the annual report to the Executive Secretary by March 1 of each year for the most recent calendar year or fiscal year of facility operation. The annual report shall cover facility activities during the previous year and must include, at a minimum, the following information:

(a) name and address of the facility;

(b) calendar year covered by the report;

(c) annual quantity, in tons or volume, in cubic yards, and estimated in-place density in pounds per cubic yard of solid waste handled for each type of treatment, storage, or disposal facility, including applicable recycling facilities;

(d) the annual update of the required financial assurances mechanism pursuant to Subsection R315-309-2(2);

(e) results of ground water monitoring and gas monitoring; and

(f) training programs or procedures completed.

(5) Inspections.

(a) The owner or operator shall inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of wastes to the environment or to a threat to human health. The owner or operator must conduct these inspections with sufficient frequency, no less than quarterly, to identify problems in time to correct them before they harm human health or the environment. The owner or operator shall keep an inspection log or summary including at least the date and time of inspection, the printed name and handwritten signature of the inspector, a notation of observations made, and the date and nature of any repairs or corrective action. The log or summary must be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least three years from the date of inspection. Inspection records shall be available to the Executive Secretary or his authorized representative upon request.

(b) The Executive Secretary or any duly authorized officer, employee, or representative of the Board may, at any reasonable time and upon presentation of appropriate credentials, enter any solid waste facility and inspect the property, records, monitoring systems, activities and practices, or solid waste being handled for the purpose of ascertaining compliance with Rules R315-301 through 320 and the approved plan of operation for the facility.

(i) The inspector may conduct monitoring or testing, or collect samples for testing, to verify the accuracy of information submitted by the owner or operator or to ensure that the owner or operator is in compliance. The owner or operator may request split samples and analysis parameters on any samples collected by the inspector.

(ii) The inspector may use photographic equipment, video camera, electronic recording device, or any other reasonable means to record information during any inspection.

(iii) The results of any inspection shall be furnished promptly to the owner or operator of the facility.

(6) Recording with the County Recorder.

(a) Not later than 60 days after certification of closure, the owner or operator of a solid waste disposal facility shall:

(i) submit plats and a statement of fact concerning the location of any disposal site to the county recorder to be recorded as part of the record of title; and

(ii) submit proof of record of title filing to the Executive Secretary.

(b) Records and plans specifying solid waste amounts, location, and periods of operation may be required by the local zoning authority with jurisdiction over land use and be made available for public inspection.

R315-302-3. General Closure and Post Closure Requirements.

(1) Applicability.

(a) An existing facility, a new facility, or an existing facility seeking lateral expansion shall meet the applicable standards of Section R315-302-3 and shall provide financial assurance for closure and post-closure care costs that meets the requirements of Rule R315-309.

(b) The requirements of Subsections (2), (3), and (4) of this section apply to any solid waste management facility as defined by Subsection 19-6-502(9). The requirements of Subsections (5), (6), and (7) of this section apply to:

(i) Class I, II, IV,[~~and~~] V, and VI Landfills;

(ii) Class III Landfills as specified in Rule R315-304: and

(iii) any landtreatment disposal facility.

(2) Closure Performance Standard. Each owner or operator shall close its facility or unit in a manner that:

(a) minimizes the need for further maintenance;

(b) minimizes or eliminates threats to human health and the environment from post-closure escape of solid waste constituents, leachate, landfill gases, contaminated run-off or waste decomposition products to the ground, ground water, surface water, or the atmosphere; and

(c) prepares the facility or unit for the post-closure period.

(3) Closure Plan and Amendment.

(a) Closure may include covering, grading, seeding, landscaping, contouring, and screening. For a transfer station or a drop box facility, closure includes waste removal and decontamination of the site, including soil analysis, ground water analysis, or other procedures as required by the Executive Secretary.

(b) Each owner or operator shall develop, keep on file and abide by a plan of closure required by Subsection R315-302-2(2)(l) which, when approved by the Executive Secretary, will become part of the permit.

(c) The closure plan shall project time intervals at which sequential partial closure, if applicable, is to be implemented and identify closure cost estimates and projected fund withdrawal intervals for the associated closure costs from the approved financial assurance instrument required by Rule R315-309.

(d) The closure plan may be amended if conditions and circumstances justify such amendment. If it is determined that amendment of a facility closure plan is required, the Executive Secretary may direct facility closure activities, in part or whole, to cease until the closure plan amendment has been reviewed and approved by the Executive Secretary.

(e) Each owner and operator shall close the facility or unit in accordance with the approved closure plan and all approved amendments.

(4) Closure Procedures.

(a) Each owner and operator shall notify the Executive Secretary of the intent to implement the closure plan in whole or

part, 60 days prior to the projected final receipt of waste at the unit or facility unless otherwise specified in the approved closure plan.

(b) The owner or operator shall commence implementation of the closure plan, in part or whole, within 30 days after receipt of the final volume of waste, or for landfills, when the final elevation is attained in part or all of the facility cell or unit as identified in the approved facility closure plan unless otherwise specified in the approved closure plan. Closure activities shall be completed within 180 days from their starting time. Extensions of the closure period may be granted by the Executive Secretary if justification for the extension is documented by the owner or operator.

(c) When facility closure is completed, each owner [~~and~~]or operator shall, within 90 days or as required by the Executive Secretary, submit to the Executive Secretary:

(i) facility or unit closure plans[~~sheets~~], except for Class IIIb,[~~and~~] IVb, and VI Landfills, signed by a professional engineer registered in the state of Utah, and modified as necessary to represent as-built changes to final closure construction as approved in the closure plan; and

(ii) certification by the owner or operator, and, except for Class IIIb,[~~and~~] IVb, and VI Landfills, a professional engineer registered in the state of Utah, that the site or unit has been closed in accordance with the approved closure plan.

(5) Post-Closure Performance Standard. Each owner or operator shall provide post-closure activities for continued facility maintenance and monitoring of gases, land, and water for 30 years or as long as the Executive Secretary determines is necessary for the facility or unit to become stabilized and to protect human health and the environment.

(6) Post-Closure Plan and Amendment.

(a) For any disposal facility, except an energy recovery or incinerator facility, post-closure care may include:

(i) ground water and surface water monitoring;

(ii) leachate collection and treatment;

(iii) gas monitoring;

(iv) maintenance of the facility, the facility structures that remain after closure, and monitoring systems for their intended use as required by the approved permit;

(v) a description of the planned use of the property; and

(vi) any other activity required by the Executive Secretary to protect human health and the environment for a period of 30 years or a period established by the Executive Secretary.

(b) Each owner or operator shall develop, keep on file, and abide by a post-closure plan as required by Subsection R315-302-2(2)(l) and as approved by the Executive Secretary as part of the permit. The post-closure plan shall address facility or unit maintenance and monitoring activities until the site becomes stabilized (i.e., little or no settlement, gas production or leachate generation) and monitoring and maintenance activities can be safely discontinued.

(c) The post-closure plan shall project time intervals at which post-closure activities are to be implemented and identify post-closure cost estimates and projected fund withdrawal intervals from the selected financial assurance instrument, where applicable, for the associated post-closure costs.

(d) The post-closure plan may be amended if conditions and circumstances justify such amendment. If it is determined that amendment of a facility or unit post-closure plan is required, the Executive Secretary may direct facility post-closure activities, in part or whole, to cease until the post-closure plan amendment has been reviewed and approved.

(7) Post-Closure Procedures.

(a) Each owner or operator shall commence post-closure activities after closure activities have been completed. The Executive Secretary may direct that post-closure activities cease until the owner or operator receives a notice from the Executive Secretary to proceed with post-closure activities.

(b) When post-closure activities are complete, as determined by the Executive Secretary, the owner or operator shall submit a certification to the Executive Secretary, signed by the owner or operator, and, except for Class [~~IV~~]IIIb, IVb, and VI Landfills, a professional engineer registered in the state of Utah stating why post-closure activities are no longer necessary (i.e., little or no settlement, gas production, or leachate generation).

(c) If the Executive Secretary finds that post-closure monitoring has established that the facility or unit is stabilized (i.e., little or no settlement, gas production, or leachate generation) the Executive Secretary may authorize the owner or operator to discontinue any portion or all of the post-closure maintenance and monitoring activities.

KEY: solid waste management, waste disposal
[~~July 1, 2001~~]2002
Notice of Continuation April 2, 1998
19-6-104
19-6-105
19-6-108
19-6-109
40 CFR 258

Environmental Quality, Solid and Hazardous Waste
R315-303
Landfilling Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24706
FILED: 04/11/2002, 15:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to specify the requirements for the new Class VI Landfill category and to clarify requirements for the use of an alternative daily cover for landfills at which daily cover of the waste is required.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to specify that a Class VI Landfill will be subject to the same landfilling standards imposed on a noncommercial construction/demolition landfill and to clarify the use of an approved alternative daily cover for landfills at which daily cover of the waste is required.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108; and 40 CFR 258

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no current or planned state-owned or operated landfills, therefore, the requirements specified for commercial landfills (Class V and VI Landfills) do not apply to state agencies; the actual requirements for the use of alternate daily cover are not changed, only clarified; and the state oversight and enforcement of the rule will not change. Therefore, no cost or savings impact is anticipated for the state budget.

❖ LOCAL GOVERNMENTS: There is currently one existing commercial landfill that is owned by a local government and since this is an existing facility, the operating costs are expected to be unaffected by the proposed rule changes. Also, there are no other commercial landfills planned by local governments. Therefore, no cost or savings impact is anticipated for landfills owned or operated by local governments as a result of the proposed changes to the rule relating to commercial landfills. The actual requirements for the use of alternate daily cover are not changed; and the local government oversight and enforcement of the rule will not change. Therefore, no cost or savings impact is anticipated for local governments.

❖ OTHER PERSONS: The requirements for the use of alternate daily cover are clarified and not changed, therefore, no cost or savings impact is anticipated for other persons who own or operate landfills at which daily cover of the waste is required. The rule specifies that a commercial construction/demolition landfill (Class VI Landfill) must meet the same requirements with respect to design, construction, operation, closure, and post-closure care as a noncommercial construction/demolition landfill (Class IVb Landfill). Since these requirements are less stringent than those imposed upon a commercial landfill that may accept wastes other than construction/demolition waste (Class V Landfills), it is anticipated that other persons who own or operate a Class VI Landfill will experience a significant decrease in costs. Because of the various technical standards related to landfills, the anticipated aggregate cost savings to other people cannot be estimated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements for the use of an alternate daily cover at a landfill are clarified, not changed, it is anticipated that compliance costs for affected persons will not change. Owners or operators of Class VI Landfills will experience a significant decrease in compliance costs. The decreased costs will be a direct result of less stringent requirements for the design, construction, operation, closure, and post-closure care costs for a commercial landfill that may only accept construction/demolition waste. Due to the wide differences in location, size, design, and operation at individual Class VI Landfills, it is impossible to estimate the reduction in compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact beyond that required by current rule is expected for a business that owns or operates a landfill which is required to provide daily cover since the requirements for the use of an alternate daily cover are clarified and not actually changed. The new landfill category for commercial construction/demolition landfills (Class VI Landfills) will allow a significant decrease in costs for businesses that own or operate these landfills. Due to the wide differences in location, size, design, and operation at individual Class VI Landfills, it is impossible to estimate the reduction in compliance costs for affected persons. Dianne R. Neilson, Ph.D.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl Wadsworth at the above address, by phone at 801-538-6769, by FAX at 801-538-6715, or by Internet E-mail at cwadswor@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2002

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-303. Landfilling Standards.
R315-303-1. Applicability.

(1) These standards apply to:
(a) Class I, II, and V Landfills;
(b) Class III Landfills as specified in Rule R315-304; and
(c) Class IV, and VI Landfills as specified in Rule R315-305.
(2) An owner or operator of an existing landfill unit shall not be required to install liners or leachate collection systems in that unit.

R315-303-4. Standards for Maintenance and Operation.

(1) Plan of Operation. An owner or operator of a landfill shall maintain and operate the facility to conform to the approved plan of operation.
(2) Operating Details. An owner or operator of a landfill shall operate the facility to:
(a) control fugitive dust generated from roads, construction, general operations, and covering the waste;
(b) allow no open burning;
(c) collect scattered litter as necessary to avoid a fire hazard or an aesthetic nuisance;
(d) prohibit scavenging;
(e) conduct on-site reclamation in an orderly sanitary manner and in a way that does not interfere with the disposal site operation;
(f) ensure that landfill personnel, trained in landfill operations, are on-site when the site is open to the public;
(i) at least one person on-site for landfills that receive, on an average annual basis, less than 15,000 tons per year; and
(ii) at least two persons on-site, with one person at the active face, for each landfill that receives, on an average annual basis, more than 15,000 tons per year.

(g) control insects, rodents, and other vectors; and

(h) ensure that reserve operational equipment will be available to maintain and meet these standards.

(3) Boundary Posts. An owner or operator of a landfill shall clearly mark the active area boundaries authorized in the permit with permanent posts or using an equivalent method clearly visible for inspection purposes.

(4) Daily and Intermediate Cover.

(a) An owner or operator of a landfill shall, at the close of each day of operation, completely cover the waste with at least six inches of soil or other suitable material approved by the Executive Secretary[~~ that will control vectors, fires, odor, blowing litter, and scavenging without presenting a threat to human health or the environment~~]. The use of an approved alternative daily cover:

(i) may not present a threat to human health or the environment; and

(ii) may be used only on a schedule as established by the Executive Secretary.

(iii) The schedule for use of the approved alternative cover shall be established based on the alternative cover's performance in controlling vectors, fires, odors, blowing liter, and scavenging.

(b) The Executive Secretary may, on a site specific basis, waive the requirement for daily cover of the waste at a landfill that accepts no municipal waste if the owner or operator demonstrates that an alternative schedule for covering the waste does not present a threat to human health or the environment. The demonstration from the owner or operator of the landfill must include at least the following:

(i) certification that the landfill accepts no municipal waste;

(ii) a detailed list of the waste types accepted by the landfill;

(iii) the alternative schedule on which the waste will be covered; and

(iv) any other operational practices that may reduce the threat to human health or the environment if an alternative schedule for covering the waste is followed.

(v) In granting any wavier from the daily cover requirement, the Executive Secretary may place conditions on the owner or operator of the landfill as to the frequency of covering, depth of the cover, or type of material used as cover that will minimize the threat to human health or the environment.

(vi) The Executive Secretary may revoke any waiver from the daily cover requirement if any condition is not met or if the alternative schedule for covering the waste presents a threat to human health or the environment.

(c) If an area of the working face of a landfill that accepts municipal waste will not receive waste for a period longer than 30 days, the owner or operator shall cover the area with a minimum of 12 inches of soil as an intermediate cover or an alternative intermediate cover as approved by the Executive Secretary.

(i) No alternative intermediate cover will be approved by the Executive Secretary without application from the owner or operator.

(ii) Approval for an alternative intermediate cover may be granted after:

(A) considering the design of the landfill, waste stream accepted, and waste handling practices; and

(B) taking into account climatic, hydrogeologic, and soil conditions of the site.

(iii) In granting approval for an alternative intermediate cover, the Executive Secretary may place conditions on the owner or operator of the landfill as to the depth or type of material used and maintenance of the integrity of the cover that will minimize the threat to human health or the environment.

(iv) The Executive Secretary may revoke the approval of an alternative intermediate cover if any condition is not met or if the alternative intermediate cover is determined to present a threat to human health or the environment.

(5) Monitoring Systems. An owner or operator of a landfill shall maintain the monitoring systems required in Subsection R315-303-3(6)(b).

(6) Recycling Required.

(a) An owner or operator of a landfill at which the general public delivers household solid waste shall provide containers in which the general public may place recyclable materials for which a market exists that are brought to the site:

(i) during the normal hours of operation; and

(ii) at a location convenient to the public, i.e., near the entrance gate.

(b) An owner or operator may demonstrate alternative means to providing an opportunity for the general public to recycle household solid waste.

(7) Disposal of Hazardous Waste and Waste Containing PCBs.

(a) An owner or operator of a solid waste disposal facility shall not knowingly dispose, treat, store, or otherwise handle hazardous waste or waste containing PCBs except under the following conditions:

(i) hazardous waste:

(A) the waste meets the conditions specified in Subsections R315-2-4; or

(B) the waste meets the conditions specified in 40 CFR 261.5 (1996) as incorporated by reference in Section R315-2-5; or

(ii) waste containing PCB's:

(A) the facility meets the requirements specified in Subsection R315-315-7(3)(a); or

(B) the waste meets the requirements specified in Subsections R315-315-7(2) or (3)(b).

(b) An owner or operator of a solid waste disposal facility shall include and implement, as part of the plan of operation, a plan that will inspect loads or take other steps, as approved by the Executive Secretary, that will prevent the disposal of prohibited hazardous waste and prohibited waste containing PCBs, including:

(i) inspection frequency and inspection of loads suspected of containing prohibited hazardous waste or prohibited waste containing PCBs;

(ii) inspection in a designated area or at a designated point in the disposal process;

(iii) a training program for the facility employees in identification of prohibited hazardous waste and prohibited waste containing PCBs; and

(iv) maintaining written records of all inspections, signed by the inspector.

(c) If the receipt of prohibited hazardous waste or prohibited waste containing PCBs is discovered, the owner or operator of the facility shall:

(i) notify the Executive Secretary, the hauler, and the generator within 24 hours;

(ii) restrict the inspection area from public access and from facility personnel; and

(iii) assure proper cleanup, transport, and disposal of the waste.

KEY: solid waste management, waste disposal
[~~July 1, 2001~~]2002

Notice of Continuation April 2, 1998
19-6-104
19-6-105
19-6-108
40 CFR 258

Environmental Quality, Solid and Hazardous Waste
R315-305
Class IV Landfill Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24707
FILED: 04/11/2002, 15:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to specify the requirements for the new category of commercial landfills that may accept only construction/demolition and other related wastes (Class VI Landfill) and to remove two effective dates that are now past and are no longer needed.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to specify that the new Class VI Landfill category must meet the same technical requirements as a Class IV Landfill with respect to location, design, construction, operation, closure, and post-closure care. Also, the effective dates of January 1, 1998, and July 1, 1998, for certain Class IV Landfill requirements are removed from the rule since the dates have passed and are no longer needed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, 19-6-108, and 19-6-109, and 40 CFR 257.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no current or planned state-owned or operated landfills, therefore, the requirements specified for commercial construction/demolition landfills (Class VI Landfills) do not apply to state agencies and the state oversight and enforcement of the rule will not change. Therefore, no cost or savings impact is anticipated for the state budget.

❖ LOCAL GOVERNMENTS: There is currently one existing commercial landfill that is owned by a local government and since it is an existing facility, the operation costs are expected to be unaffected by the proposed rule changes. There are no other commercial landfills planned by local governments. Also, the local government oversight and enforcement of the rule will not change. Therefore, no cost or savings impact is anticipated for local governments.

❖ OTHER PERSONS: The rule specifies that a commercial construction/demolition landfill (Class VI Landfill) must meet the same requirements with respect to location, design, construction, operation, closure, and post-closure care as a noncommercial construction/demolition landfill (Class IV Landfill). Since these requirements are less stringent than those imposed on the other category of commercial landfill (Class V Landfill), it is anticipated that other persons who own or operate a Class VI Landfill will experience a significant decrease in costs. Because of the various technical standards related to landfills, the aggregate cost savings to other persons cannot be estimated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Owners or operators of Class VI Landfills will experience a significant decrease in compliance costs. The Decreased costs will be a direct result of less stringent requirements for the location, design, construction, operation, closure, and post-closure care for a commercial landfill that may accept only construction/demolition and other related wastes. Due to the wide differences in location, size, design, and operation at individual Class VI Landfills, it is impossible to estimate the reduction in compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new landfill category for commercial construction/demolition landfills (Class VI Landfills) will allow a significant decrease in costs for businesses that own or operate these landfills. Due to the wide differences in location, size, design, and operation at individual Class VI Landfills, it is impossible to estimate the reduction in compliance costs for affected businesses. Dianne R. Neilson, Ph. D.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl Wadsworth at the above address, by phone at 801-538-6769, by FAX at 801-538-6715, or by Internet E-mail at cwadswor@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2002

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-305. Class IV and VI Landfill Requirements.
R315-305-1. Applicability.

(1) These standards apply to each facility that landfills only:

(a) inert waste, construction/demolition waste, yard waste, dead animals; or

(b) upon meeting the requirements of Section 19-6-804 and Subsections R315-320-3(1) or (2), waste tires and material derived from waste tires.

(2) Inert waste used as road building material and fill material are excluded from the requirements of Rule R315-305.[

~~(3) The location, design, and operation standards of Rule R315-305 become effective January 1, 1998 on each Class IV Landfill.~~

~~(4) The ground water monitoring standards of Rule R315-305 become effective July 1, 1998 on each Class IV Landfill that is required to monitor the ground water.~~]

R315-305-2. Class IV and VI Landfill Standards for Performance.

Each Class IV and VI Landfill shall meet the landfill standards for performance as specified in Section R315-303-2.

R315-305-3. Definitions.

Terms used in Rule R315-305 are defined in Section R315-301-2. In addition, for the purpose of Rule R315-305, the following definitions apply.

(1) "Class IVa Landfill" means a Class IV Landfill that receives, based on an annual average, over 20 tons of waste per day and may receive, as a component of construction/demolition waste, conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5.

(2) "Class IVb Landfill" means a Class IV Landfill that receives, based on an annual average, 20 tons, or less, of waste per day or demonstrates that no conditionally exempt small quantity generator hazardous waste is accepted.

(3) "Existing Class IV Landfill" means a Class IV Landfill that was receiving waste on or before January 1, 1998.

(4) "New Class IV Landfill" means a Class IV Landfill that begins receiving waste after January 1, 1998.

R315-305-4. General Requirements.

(1) Location Standards.

(a) A new Class IV or VI Landfill or a lateral expansion of an existing Class IV or VI Landfill shall be subject to the following location standards:

(i) the standards with respect to floodplains as specified in Subsection R315-302-1(2)(c)(ii);

(ii) the standards with respect to wetlands as specified in Subsection R315-302-1(2)(d); and

(iii) the landfill shall be located so that the lowest level of waste is at least five feet above the historical high level of ground water.

(b) An existing Class IV or VI Landfill shall not be subject to the location standards of Subsection R315-305-4(1)(a).

(2) An owner or operator of a Class IV or VI Landfill shall obtain a permit, as set forth in Rule R315-310.

(3) An owner or operator of a Class IV or VI Landfill shall design and operate the landfill to:

(a) prevent the run-on of all surface waters resulting from a maximum flow of a 25-year storm into the active area of the landfill; and

(b) collect and treat, if necessary, the run-off of surface waters and other liquids resulting from a 25-year storm from the active area of the landfill.

(4) An owner or operator of a Class IVa Landfill shall monitor the ground water beneath the landfill as specified in Rule R315-308.

(5) An owner or operator of a Class IV or VI Landfill shall erect a sign at the facility entrance as specified in Subsection R315-303-3(6)(d).

(6) An owner or operator of a Class IV or VI Landfill shall maintain the applicable records as specified in Subsection R315-302-2(3).

(7) An owner or operator of a Class IV or VI Landfill shall meet the requirements of Subsection R315-302-2(6) and make the required recording with the county recorder.

R315-305-5. Requirements for Operation.

(1) The owner or operator of a Class IV or VI Landfill shall not accept any other form of waste except construction/demolition waste, yard waste, inert waste, dead animals, or upon meeting the requirements of Section 19-6-804 and Subsections R315-320-3(1) or (2), waste tires and material derived from waste tires.

(2) The owner or operator of a Class IV or VI Landfill shall prevent the disposal of unauthorized waste by ensuring that at least one person is on site during hours of operation and shall prevent unauthorized disposal during off-hours by controlling entry, i.e., lockable gate or barrier, when the facility is not open.

(3) The owner or operator of a Class IV or VI Landfill shall:

(a) minimize the size of the working face as required by Subsection R315-303-3(7)(g);

(b) employ measures to prevent emission of fugitive dusts, when weather conditions or climate indicate that transport of dust off-site is liable to create a nuisance;

(c) meet the requirements of Subsection R315-303-3(1)(a) and (b) to minimize liquids admitted to the landfill;

(d) collect scattered litter as necessary to avoid a fire hazard or an aesthetic nuisance; and

(e) prohibit scavenging.

(4) The owner or operator of a Class IV or VI Landfill shall cover timbers, wood, and other combustible waste with a minimum of six inches of soil, or equivalent, as needed to avoid a fire hazard.

(5) The owner or operator of a Class IV or VI Landfill shall meet the applicable general requirements of closure and post-closure care of Section R315-302-3 as determined by the Executive Secretary.

(a) The owner or operator of a Class IVa Landfill shall meet the specific closure requirements of Subsection R315-303-3(4).

(b) The owner or operator of a Class IVb or VI Landfill shall close the facility by:

(i) leveling the waste to the extent practicable;

(ii) covering the waste with a minimum of two feet of soil, including six inches of topsoil;

(iii) contouring the cover as specified in Subsection R315-303-3(4)(a)(iii); and

(iv) seeding the cover with grass, other shallow rooted vegetation, or other native vegetation or covering in another manner approved by the Executive Secretary to minimize erosion.

(v) The Executive Secretary may approve an alternative final cover design for a Class IVb or VI Landfill if it is documented that the alternative final cover provides equivalent protection from infiltration and erosion as the cover specified in Subsection R315-305-5(5)(b).

KEY: solid waste management, waste disposal
[~~July 1, 2001~~]2002
Notice of Continuation April 2, 1998
19-6-104
19-6-105
19-6-108
19-6-109
40 CFR 257

Environmental Quality, Solid and Hazardous Waste
R315-308
Ground Water Monitoring Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24708
FILED: 04/11/2002, 15:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify the requirement for state certification of a laboratory used to analyze groundwater samples collected at a landfill. Also, the currently available groundwater protection standards are established for constituents that may be detected during assessment monitoring at a landfill as specified in Subsection R315-308-2(5).

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify what is meant by the term "state certified laboratory." The rule now specifies that the laboratory utilized to analyze groundwater samples must be certified for each test method used. Also, a table is added to the rule that establishes the groundwater quality protection standards that are currently available for constituents that may be encountered during assessment monitoring at landfills. The groundwater quality protection standards that are added in the table proposed at Section R315-308-5 are equivalent to those that have been established by the U.S. Environmental Protection Agency (EPA) as Maximum Contaminant Levels (MCL). The protection standards for constituents that have had no MCL established were calculated using reference dose concentrations established by EPA and found in the Integrated Risk Information System Database. The reference dose was used as the input to standard equations use to establish the maximum allowable concentration of the constituent in drinking water.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105; and 40 CFR 258

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 258, 2001

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The actual requirements of groundwater monitoring at a landfill are not changed by the clarification of the term "state certified laboratory" or the establishing of groundwater quality protection standards for assessment monitoring. Therefore, there is no anticipated cost or savings to the state budget.
❖ LOCAL GOVERNMENTS: The actual requirements of groundwater monitoring at a landfill are not changed by the clarification of the term "state certified laboratory" or the establishing of groundwater quality protection standards for assessment monitoring. Therefore, there is no anticipated cost or savings to local governments.
❖ OTHER PERSONS: The actual requirements of groundwater monitoring at a landfill are not changed by the clarification of the term "state certified laboratory" or the establishing of groundwater quality protection standards for assessment monitoring. Therefore, there is no anticipated cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the actual requirements of the rule are not changed, it is anticipated that compliance costs for affected persons will not change beyond those that are required by current statute or rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The actual requirements of the rule are not changed. Therefore, it is anticipated that there will be no fiscal impact to businesses that own or operate landfills, which are required to monitor groundwater, beyond that required by current statute or rule. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl Wadsworth at the above address, by phone at 801-538-6769, by FAX at 801-538-6715, or by Internet E-mail at cwadswor@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2002

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-308. Ground Water Monitoring Requirements.
R315-308-2. Ground Water Monitoring Requirements.

(1) The ground water monitoring system must consist of at least one background or upgradient well and two downgradient wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer and all hydraulically connected aquifers below the facility, cell, or unit. The downgradient wells shall be designated as the point of compliance and must be installed at the closest practicable distance hydraulically down gradient from the unit boundary not to exceed 150 meters (500 feet) and must also be on the property of the owner or operator:

(a) the upgradient well must represent the quality of background water that has not been affected by leakage from the active area; and

(b) the downgradient wells must represent the quality of ground water passing the point of compliance. Additional wells may be required by the Executive Secretary in complicated hydrogeological settings or to define the extent of contamination detected.

(2) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. All monitoring wells and all other devices and equipment used in the monitoring program must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

(3) The ground water monitoring program must include at a minimum, procedures and techniques for:

(a) well construction and completion;

(b) decontamination of drilling and sampling equipment;

(c) sample collection;

(d) sample preservation and shipment;

(e) analytical procedures and quality assurance;

(f) chain of custody control or sample tracking, as approved by the Executive Secretary; and

(g) procedures to ensure employee health and safety during well installation and monitoring.

(4) Each facility shall [~~have~~]utilize a [~~state certified laboratory complete tests~~]laboratory, that is certified by the state for the test methods used, to complete tests, using methods with appropriate detection levels,[~~as specified in the approved ground water monitoring plan,~~] on samples for the following:

(a) during the first year of facility operation after wells are installed or an alternative schedule as approved by the Executive Secretary, a minimum of eight independent samples from the upgradient and four independent samples from each downgradient well for all parameters listed in Section R315-308-4 to establish background concentrations;

(b) after background levels have been established, a minimum of one sample, semiannually, from each well, background and downgradient, for all parameters listed in Section R315-308-4 as a detection monitoring program;

(i) In the detection monitoring program, the owner or operator must determine ground water quality at each monitoring well on a semiannual basis during the life of an active area, including the closure period, and the post-closure care period.

(ii) The owner or operator must express the ground water quality at each monitoring well in a form appropriate for the determination of statistically significant changes;

(c) field measured pH, water temperature, and water conductivity must accompany each sample collected;

(d) analysis for the heavy metals and the organic constituents from Section R315-308-4 shall be completed on unfiltered samples; and

(e) the Executive Secretary may specify additional or fewer constituents depending upon the nature of the ground water or the waste on a site specific basis considering:

(i) the types, quantities, and concentrations of constituents in wastes managed at the landfill;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the landfill;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the ground water; and

(iv) the background concentration or values and coefficients of variation of monitoring parameters or constituents in the ground water.

(f) The following information shall be placed in the facility's operating record and a copy submitted to the Executive Secretary as the ground water monitoring results to be included in the annual report required by Subsection R315-302-2(4)(e):

(i) a report on the procedures, including the quality control/quality assurance, followed during the collection of the ground water samples;

(ii) the results of the field measured parameters required by Subsections R315-308-2(4)(c) and R315-308-2(6);

(iii) a report of the chain of custody and quality control/quality assurance procedures of the laboratory;

(iv) the results of the laboratory analysis of the constituents specified in Section R315-308-4 or an alternative list of constituents approved by the Executive Secretary:

(A) the results of the laboratory analysis shall list the constituents by name and CAS number; and

(B) a list of the detection limits and the test methods used; and

(v) the statistical analysis of the results of the ground water monitoring as required by Subsection R315-308-2(7).

(vi) The results of the ground water monitoring may be submitted in electronic format.

(5) After background constituent levels have been established, a ground water quality protection standard shall be set by the Executive Secretary which shall become part of the ground water monitoring plan. The ground water quality protection standard will be set as follows.

(a) For constituents with background levels below the standards listed in Section R315-308-4 or as listed in Section R315-308-5, which presents the ground water protection standards that are available for the constituents listed as Appendix II in 40 CFR 258, the ground water quality standards of Sections R315-308-4 and R315-308-5 shall be the ground water quality protection standard.

(b) If a constituent is detected and a background level is established but the ground water quality standard for the constituent is not included in Section R315-308-4 or Section R315-308-5 or the constituent has a background level that is higher than the value listed in Section R315-308-4 or Section R315-308-5 for that constituent, the ground water quality protection standard for that constituent shall be set according to health risk standards.

(6) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(7) The owner or operator shall use a statistical method for determining whether a significant change has occurred as compared to background. The Executive Secretary will approve such a method as part of the ground water monitoring plan. Possible statistical methods include:

(a) a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent;

(b) an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent;

(c) a tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit;

(d) a control chart approach that gives control limits for each constituent; or

(e) another statistical test method approved by the Executive Secretary.

(8) For both detection monitoring, as described in Subsection R315-308-2(4), and assessment monitoring, as described in Subsection R315-308-2(11), the Executive Secretary may specify additional or fewer sampling and analysis events, no less than annually, depending upon the nature of the ground water or the waste on a site specific basis considering:

(a) lithology of the aquifer and unsaturated zone;

(b) hydraulic conductivity of the aquifer and unsaturated zone;

(c) ground water flow rates;

(d) minimum distance between upgradient edge of the landfill unit and downgradient monitoring well screen (minimum distance of travel); and

(e) resource value of the aquifer.

(9) The owner or operator must determine and report the ground water flow rate and direction in the upper most aquifer each time the ground water is sampled.

(10) If the owner or operator determines that there is a statistically significant increase over background in any parameter or constituent at any monitoring well at the compliance point, the owner or operator must:

(a) within 14 days of the completion of the statistical analysis of the sample results and within 30 days of the receipt of the sample results, enter the information in the operating record and notify the Executive Secretary of this finding in writing. The notification must indicate what parameters or constituents have shown statistically significant changes; and

(b) immediately resample the ground water in all monitoring wells, both background and downgradient, or in a subset of wells specified by the Executive Secretary, and determine:

(i) the concentration of all constituents listed in Section R315-308-4, including additional constituents that may have been identified in the approved ground water monitoring plan;

(ii) if there is a statistically significant increase over background of any parameter or constituent in any monitoring well at the compliance point; and

(iii) notify the Executive Secretary in writing within seven days of the completion of the statistical analysis of the sample results.

(c) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary and entered in the operating record. If a successful demonstration is made and documented, the owner or operator may continue monitoring as specified in Subsection R315-308-2(4)(b).

(11) If, after 90 days, a successful demonstration as stipulated in Subsection R315-308-2(10)(c) is not made, the owner or operator must initiate the assessment monitoring program required as follows:

(a) within 14 days of the determination that a successful demonstration is not made, take one sample from each downgradient well and analyze for all constituents listed as Appendix II in 40 CFR Part 258, [~~2000~~]2001 ed., which is adopted and incorporated by reference.

(b) for any constituent detected from Appendix II, 40 CFR Part 258, in the downgradient wells a minimum of four independent samples from the upgradient and four independent samples from each downgradient well must be collected, analyzed, and statistically evaluated to establish background concentration levels for the constituents; and

(c) within 14 days of the completion of the statistical analysis of the sample results and within 30 days of the receipt of the sample results, place a notice in the operation record and notify the Executive Secretary in writing identifying the Appendix II, 40 CFR Part 258, constituents and their concentrations that have been detected as well as background levels. The Executive Secretary shall establish a ground water quality protection standard pursuant to Subsection R315-308-2(5) for any Appendix II, 40 CFR Part 258, constituent detected in the downgradient wells.

(d) The owner or operator shall thereafter resample:

(i) at a minimum, all downgradient wells on a quarterly basis for all constituents in Section R315-308-4, or the alternative list that may have been approved as part of the permit, and for those constituents detected from Appendix II, 40 CFR Part 258;

(ii) the downgradient wells on an annual basis for all constituents in Appendix II, 40 CFR Part 258; and

(iii) statistically analyze the results of all ground water monitoring samples.

(e) The Executive Secretary may specify additional or fewer constituents depending upon the nature of the ground water or the waste on a site specific basis considering:

(i) the types, quantities, and concentrations of constituents in wastes managed at the landfill;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the landfill;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the ground water; and

(iv) the background concentration or values and coefficients of variation of monitoring parameters or constituents in the ground water.

(f) If after two consecutive sampling events, the concentrations of all constituents being analyzed in Subsection R315-308-2(11)(d)(i) are shown to be at or below established background values, the owner or operator must notify the Executive Secretary of this finding and may, upon the approval of the Executive Secretary, return to the monitoring schedule and constituents as specified in Subsection R315-308-2(4)(b).

(12) If one or more constituents from Section R315-308-4 or the approved alternative list, or from those detected from Appendix II, 40 CFR Part 258, are detected at statistically significant levels above the ground water quality protection standard as established pursuant to Subsection R315-308-2(5) in any sampling event, the owner or operator must:

(a) within 14 days of the receipt of this finding, place a notice in the operating record identifying the constituents and concentrations that have exceeded the ground water quality standard. Within the same time period, the owner or operator must also notify the Executive Secretary and all appropriate local governmental and local health officials that the ground water quality standard has been exceeded;

(b) characterize the nature and extent of the release by installing additional monitoring wells as necessary;

(c) install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well and analyze the sample for the constituents in Section R315-308-4 or the approved alternative list and the detected constituents from Appendix II, 40 CFR Part 258; and

(d) notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site as indicated by sampling of wells in accordance with Subsections R315-308-2(12)(b) and (12)(c).

(e) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary and entered in the operating record. If a successful demonstration is made, documented and approved, the owner or operator may continue monitoring as specified in Subsection R315-308-2(11)(d) or Subsection R315-308-2(11)(e) when applicable.

R315-308-4. Constituents for Detection Monitoring.

[~~(1)~~]The table lists the constituents for detection monitoring as specified by Subsection R315-308-2(4), the CAS number for the constituents, and the ground water quality standard for the constituents for any facility that is required to monitor ground water under Rule R315-308.

. . . . . .

R315-308-5. Solid Waste Ground Water Quality Protection Standards for 40 CFR 258 Appendix II Constituents.

The table lists the CAS number for each constituent and the ground water quality protection standards which are currently available for the 40 CFR 258 Appendix II constituents required for assessment monitoring of ground water at a solid waste facility as specified by Subsection R315-308-2(11).

TABLE

Appendix II Protection Standards

Appendix II Constituent	CAS	Ground Water Protection Standard (mg/l)
2,4-D	94-75-7	0.07
2,4,5-T	93-76-5	36.5
2,4,5-TP	93-72-1	0.05
Benzo(a)pyrene	50-32-8	0.0002
bis(2-Ethylhexy)phthalate	117-81-7	0.006
Chlordane	57-74-9	0.002
Cyanide	57-12-5	0.2
Dinoseb	88-85-7	0.007
Endrin	72-20-8	0.002
Heptachlor	76-44-8	0.0004
Heptachlor epoxide	1024-57-3	0.0002
Hexachlorobenzene	118-74-1	0.001
Hexachlorocyclopentadiene	77-47-4	0.05
Lindane	58-89-9	0.0002
Methoxychlor	72-43-5	0.04
Pentachlorophenol	87-86-5	0.001
Polychlorinated biphenyls(PCBs)	1336-36-3	0.0005
Tin	7440-31-5	21.9
Toxaphene	8001-35-2	0.003
1,2,4-Trichlorobenzene	120-82-1	0.07

KEY: solid waste management, waste disposal
[~~July 1, 2001~~]2002
Notice of Continuation April 20, 1998
19-6-105
40 CFR 258

Environmental Quality, Solid and Hazardous Waste
R315-310
Permit Requirements for Solid Waste Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24709
FILED: 04/11/2002, 15:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to specify and clarify the permitting requirements for commercial landfills.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify the special permitting requirements for a commercial nonhazardous solid waste disposal facility. These requirements include that, prior to the construction of a commercial nonhazardous solid waste disposal facility, the owner or operator must receive a permit from the Executive Secretary; receive approval from the local government; and be approved by the Legislature and the governor in accordance with Subsection 19-6-108(3)(c). Also, the rule is changed to specify the technical permitting requirements for the new class of commercial landfills. A Class VI Landfill must meet the same technical requirements as a noncommercial

construction/demolition landfill. Also, the rule is changed to prohibit a landfill from changing from its current class to any other class without obtaining a new permit for the desired new landfill class.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-108, and 19-6-109; and 40 CFR 258

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There are no current or planned state-owned or operated landfills, therefore, the requirements specified for commercial landfills do not apply to state agencies and the state enforcement and oversight of the rule will not change. Therefore, no cost or savings impact is anticipated for the state budget.
❖ LOCAL GOVERNMENTS: There is currently one existing commercial landfill that is owned by a local government and since it is an existing facility, the operation costs are expected to be unaffected by the proposed rule changes. There are no other commercial landfills planned by local governments. Also, the local enforcement and oversight of the rule will not change. Therefore, no cost or savings impact is anticipated for the local governments.
❖ OTHER PERSONS: A Class VI Landfill must meet the same technical permitting requirements as a noncommercial construction/demolition landfill (Class IV Landfill). Since these requirements are less stringent than the requirements imposed on the other class of commercial landfills (Class V Landfills), it is anticipated that other persons who own or operate a Class VI Landfill will experience a significant decrease in costs. Because of the various technical standards related to landfills, the aggregate cost savings to other persons cannot be estimated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Owners or operators of Class VI Landfills will experience a significant decrease in permitting and other compliance costs. The decrease in costs will be a direct result of less stringent requirements for the location, design, construction, operation, closure, and post-closure care at these commercial construction/demolition landfills. Due to the wide differences in location, size design, and operation at individual Class VI Landfills, it is impossible to estimate the reduction in compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new landfill category for commercial construction/demolition landfills (Class VI Landfills) will allow a significant decrease in permitting and other costs for businesses that own or operate these landfills. Due to the wide differences in location, size, design, and operation at individual Class VI Landfills, it is impossible to estimate the reduction in compliance costs for affected businesses. Dianne R. Neilson, Ph. D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl Wadsworth at the above address, by phone at 801-538-6769, by FAX at 801-538-6715, or by Internet E-mail at cwadswor@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2002

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-310. Permit Requirements for Solid Waste Facilities.
R315-310-1. Applicability.

(1) The following solid waste facilities require a permit:

(a) Class I, II, III, IV,[~~and~~] V, and VI Landfills;[

~~(b) Class III Landfills, except as specified by Subsection R315-304-1(3);~~]

[~~(c)~~](b) energy recovery and incinerator facilities that are regulated by Rule R315-306;

[~~(d)~~](c) landtreatment disposal facilities that are regulated by Rule R315-307; and

[~~(e)~~](d) waste tire storage facilities.

(2) Permits are not required for corrective actions at solid waste facilities performed by the state or in conjunction with the United States Environmental Protection Agency or in conjunction with actions to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or corrective actions taken by others to comply with a state or federal cleanup order.

(3) The permit requirements of Rule R315-310 apply to each existing solid waste facility, for which a permit is required.

(a) The Executive Secretary may incorporate a compliance schedule for each existing facility to ensure that each existing facility meet the requirements of Rule R315-310.

(b) Each new disposal facility or lateral expansion at an existing disposal facility, for which a permit is required, shall:

(i) apply for a permit according to the requirements of Rule R315-310; and

(ii) not begin construction of the facility, lateral expansion, or unit until a permit has been granted.

(4) A landfill may not change from its current class, or subclass, to any other class, or subclass, of landfill except by meeting all requirements for the desired class, or subclass, to include obtaining a new permit from the Executive Secretary for the desired class, or subclass, of landfill.

R315-310-3. General Contents of a Permit Application for a New Facility or a Facility Seeking Expansion.

(1) Each permit application shall contain the following:

(a) the name and address of the applicant, property owner, and responsible party for the site operation;

(b) a general description of the facility accompanied by facility plans and drawings and, except for Class[~~II,~~] IIIb,[~~and~~] IVb, and

Class VI Landfills and waste tire storage facilities, unless required by the Executive Secretary, the facility plans and drawings shall be signed and sealed by a professional engineer registered in the State of Utah;

(c) a legal description and proof of ownership, lease agreement, or other mechanism approved by the Executive Secretary of the proposed site, latitude and longitude map coordinates of the facility's front gate, and maps of the proposed facility site including land use and zoning of the surrounding area;

(d) the types of waste to be handled at the facility and area served by the facility;

(e) the plan of operation required by Subsection R315-302-2(2);

(f) the form used to record weights or volumes of wastes received required by Subsection R315-302-2(3)(a)(i);

(g) an inspection schedule and inspection log required by Subsection R315-302-2(5)(a);

(h) the closure and post-closure plans required by Section R315-302-3;

(i) documentation to show that any waste water treatment facility, such as a run-off or a leachate treatment system, is being reviewed or has been reviewed by the Division of Water Quality; and

(j) a financial assurance plan that meets the requirements of Rule R315-309.

(2) Special Requirements for a Commercial Solid Waste Disposal Facility.[

~~(a) The Executive Secretary will require and review the information set forth in Subsections 19-6-108(9) and 19-6-108(10) as part of the permitting process.~~

~~(b) Subsection 19-6-108(3)(c) requires that after receiving a permit from the Executive Secretary, commercial solid waste disposal facilities must be approved by the local government, the governor, and the Legislature.~~]

(a) The permit application for a commercial nonhazardous solid waste disposal facility shall contain the information required by Subsections 19-6-108(9) and (10).

(b) Subsequent to the issuance of a solid waste permit by the Executive Secretary, a commercial nonhazardous solid waste disposal facility shall meet the requirements of Subsection 19-6-108(3)(c) and provide documentation to the Executive Secretary that the solid waste disposal facility is approved by the local government, the Legislature, and the governor.

(c) Construction of the solid waste disposal facility may not begin until the requirements of Subsections R315-310-(2)(b) are met and approval to begin construction has been granted by the Executive Secretary.

[~~(c)~~](d) Commercial solid waste disposal facilities solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government are not subject to Subsections R315-310-3(2)(a),[~~and~~] (b), and (c).

R315-310-4. Contents of a Permit Application for a New or Expanded Class I, II, III, IV,[~~and~~] V, and VI Landfill Facility as Specified.

(1) Each application for a new or expanded landfill shall contain the information required by Section R315-310-3.

(2) Each application shall also contain:

(a) the following maps shall be included in a permit application for a Class I, II, III, IV,[~~and~~] V, and VI Landfill:

(i) topographic map of the landfill unit drawn to a scale of 200 feet to the inch containing five foot contour intervals where the relief exceeds 20 feet and two foot contour intervals where the relief is less than 20 feet, showing the boundaries of the landfill unit, ground water monitoring wells, landfill gas monitoring points, and borrow and fill areas; and

(ii) the most recent full size U.S. Geological Survey topographic map, 7-1/2 minute series, if printed, or other recent topographic survey of equivalent detail of the area, showing the waste facility boundary, the property boundary, surface drainage channels, existing utilities, and structures within one-fourth mile of the facility site, and the direction of the prevailing winds.

(b) a permit application for a Class I, II, IIIa, IVa, and V Landfill shall contain a geohydrological assessment of the facility that addresses:

(i) local and regional geology and hydrology, including faults, unstable slopes and subsidence areas on site;

(ii) evaluation of bedrock and soil types and properties, including permeability rates;

(iii) depths to ground water or aquifers;

(iv) direction and flow rate of ground water;

(v) quantity, location, and construction of any private and public wells on the site and within 2,000 feet of the facility boundary;

(vi) tabulation of all water rights for ground water and surface water on the site and within 2,000 feet of the facility boundary;

(vii) identification and description of all surface waters on the site and within one mile of the facility boundary;

(viii) background ground and surface water quality assessment and identification of impacts of the existing facility upon ground and surface waters from landfill leachate discharges;

(ix) calculation of a site water balance; and

(x) conceptual design of a ground water and surface water monitoring system, including proposed installation methods for these devices and where applicable, a vadose zone monitoring plan;

(c) a permit application for a Class I, II, IIIa, IVa, and V Landfill shall contain an engineering report, plans, specifications, and calculations that address:

(i) how the facility will meet the location standards pursuant to Section R315-302-1 including documentation of any demonstration made with respect to any location standard;

(ii) the basis for calculating the facility's life;

(iii) cell design to include liner design, cover design, fill methods, elevation of final cover and bottom liner, and equipment requirements and availability;

(iv) identification of borrow sources for daily and final cover, and for soil liners;

(v) interim and final leachate collection, treatment, and disposal;

(vi) ground water monitoring that meet the requirements of Rule R315-308;

(vii) landfill gas monitoring and control that meet the requirements of Subsection R315-303-3(5);

(viii) design and location of run-on and run-off control systems;

(ix) closure and post-closure design, construction, maintenance, and land use; and

(x) quality control and quality assurance for the construction of any engineered structure or feature, excluding buildings at landfills, at the solid waste disposal facility and for any applicable activity such as ground water monitoring.

(d) a permit application for a Class I, II, III, IV,[~~and~~] V, and VI Landfill shall contain a closure plan to address:

(i) closure schedule;

(ii) capacity of site in volume and tonnage;

(iii) final inspection by regulatory agencies; and

(iv) identification of closure costs including cost calculations and the funding mechanism.

(e) a permit application for a Class I, II, III, IV,[~~and~~] V, and VI Landfill shall contain a post-closure plan to address, as appropriate for the specific landfill:

(i) site monitoring of:

(A) landfill gas on a quarterly basis until the conditions of either Subsection R315-302-3(7)(b) or Subsection R315-302-3(7)(c) are met;

(B) ground water on a semiannual basis, or other schedule as determined by the Executive Secretary, until the conditions of either Subsection R315-302-3(7)(b) or Subsection R315-302-3(7)(c) are met; and

(C) surface water, if required, on the schedule specified by the Executive Secretary and until the Executive Secretary determines that the monitoring of surface water may be discontinued;

(ii) inspections of the landfill by the owner or operator:

(A) for landfills that are required to monitor landfill gas, on a quarterly basis; and

(B) for landfills that are not required to monitor landfill gas, on a semiannual basis;

(iii) maintenance activities to maintain cover and run-on and run-off systems;

(iv) identification of post-closure costs including cost calculations and the funding mechanism;

(v) changes to record of title as specified by Subsection R315-302-2(6); and

(vi) list the name, address, and telephone number of the person or office to contact about the facility during the post-closure period.

R315-310-5. Contents of a Permit Application for a New or Expanded Class IV or VI Landfill.

(1) Each application for a Class IV or VI Landfill permit shall contain the information required in Section R315-310-3.

(2) Each application shall also contain an engineering report, plans, specifications, and calculations that address:

(a) the information and maps required by Subsections R315-310-4(2)(a)(i) and (ii);

(b) the design and location of the run-on and run-off control systems;

(c) the information required by Subsections R315-310-4(2)(d) and (e);

(d) the area to be served by the facility; and

(e) how the facility will meet the requirements of Rule R315-305.

(3) Each application for a Class IVa Landfill permit shall also contain the applicable information required in Subsections R315-310-4(2)(b)and (c).

KEY: solid waste management, waste disposal
[~~July 1, 2001~~]2002
Notice of Continuation April 20, 1998
19-6-105
19-6-108
19-6-109
40 CFR 258

Environmental Quality, Solid and Hazardous Waste
R315-315
Special Waste Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24710
FILED: 04/11/2002, 15:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify the categories of landfill that may accept ash and to clarify that if a permitted landfill accepts certain PCB-containing wastes for disposal, these wastes must be disposed in an approved unit of the facility that has modified its groundwater monitoring plan to include the testing for PCB-containing constituents. Also, the rule is changed to allow petroleum contaminated soils to be accepted at a Class VI Landfill under the same conditions for acceptance at a Class IV Landfill.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to specify that, if ash is to be disposed, it may be disposed at a permitted Class I, II, III, or V Landfill. The rule is changed to clarify that if a permitted landfill accepts certain PCB-containing wastes for disposal, these wastes must be disposed in an approved unit of the facility and the operator will be required to monitor the groundwater for PCB-containing constituents. Also, the rule is changed to allow petroleum-contaminated soils to be accepted at a Class VI Landfill under the same conditions for acceptance at a Class IV Landfill.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 761, 2001

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The proposed changes in the rule do not affect state entities and the oversight and enforcement of the rule will not change. Therefore, no cost or savings impact is anticipated for the state budget.

❖ LOCAL GOVERNMENTS: The actual requirements of the rule with respect to the disposal of ash or petroleum-contaminated soils are not changed, therefore, no cost or savings impact is anticipated for local governments due to these changes. An increase in the costs of groundwater monitoring of $50 to $100 per sample for each well will be expected for landfills that become approved to accept certain PCB-containing wastes. Also, the increased groundwater monitoring costs will be required for each sampling event during the active life of the landfill as well as during the required post-closure care period. The anticipated aggregate cost increase to local governments cannot be estimated.

❖ OTHER PERSONS: The actual requirements of the rule with respect to the disposal of ash or petroleum-contaminated soils are not changed, therefore, no cost or savings impact is anticipated for other persons due to these changes. An increase in the costs of groundwater monitoring of $50 to $100 per sample for each well will be expected for landfills that become approved to accept certain PCB-containing wastes. Also, the increased groundwater monitoring costs will be required for each sampling event during the active life of the landfill as well as during the required post-closure care period. The anticipated aggregate cost increase to other persons cannot be estimated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: With respect to the disposal of ash and petroleum-contaminated soils, the requirements of the rule are clarified and not changed. Therefore, no additional compliance costs for the disposal of these items are expected for affected persons beyond that required by current statute or rule. The addition of the test for PCB-containing constituents on water samples collected at a landfill will cause an estimated increase of $50 to $100 per sample in the groundwater monitoring costs for affected persons that own or operate landfills approved to accept the specified PCB-containing wastes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: With respect to the disposal of ash and petroleum-contaminated soils, the requirements of the rule are clarified and not changed. Therefore, no additional compliance costs for the disposal of these items are expected for affected persons beyond that required by current statute or rule. The addition of the test for PCB-containing constituents on water samples collected at a landfill will cause an estimated increase of $50 to $100 per sample in the groundwater monitoring costs for businesses that own or operate landfills approved to accept the specified PCB-containing wastes. Dianne R. Neilson, Ph. D.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl Wadsworth at the above address, by phone at 801-538-6769, by FAX at 801-538-6715, or by Internet E-mail at cwadswor@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2002

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-315. Special Waste Requirements.
R315-315-3. Ash.

(1) Ash Management.

(a) Ash may be recycled.

(b) If ash is disposed, the preferred method is in a permitted[~~Class III~~] ash monofill, but ash may be disposed in a permitted Class I, II, III, or V landfill.

(2) Ash shall be transported in a manner to prevent leakage or the release of fugitive dust.

(3) Ash shall be handled and disposed at the landfill in a manner to prevent fugitive dust emissions.

R315-315-7. PCB Containing Waste.

(1) Any facility that disposes of nonhazardous waste, hazardous waste, or radioactive waste containing PCBs is regulated by Rules R315-301 through 320.

(2) The following waste containing PCBs may be disposed in a permitted Class I, II, III, IV,[~~or~~] V, or VI Landfill;[~~or in a~~] permitted incinerator;[~~or~~] energy recovery facility; or a facility permitted by rule under Rule R315-318:

(a) waste containing PCBs at concentrations less than 50 ppm as found in situ at the original remediation site as specified by 40 CFR 761.61 (2001);

(b) PCB household waste as defined by 40 CFR 761.3 [~~(1998)~~](2001); and

(c) small quantities, 10 or fewer, of intact, non-leaking small PCB capacitors from fluorescent lights.

(3) Waste containing PCBs at concentrations of 50 ppm, or higher, are prohibited from disposal in a landfill, incinerator, or energy recovery facility that is regulated by Rules R315-301 through 320 except:

(a) the following facilities may receive waste containing PCBs at concentrations of 50 ppm or higher for treatment or disposal:

(i) an existing facility, as defined by Subsection R315-301-2(21), that is permitted under 40 CFR 761.70, [~~or~~].75 or .77 [~~(1998)~~](2001) to accept waste containing PCBs; or

(ii) a new facility, as defined by Subsection R315-301-2(47), that is permitted under 40 CFR 761.70, .71, .72,[~~or~~] .75, or .77 [~~(1998)~~](2001) to accept waste containing PCBs, which facility must also receive approval under Rules R315-301 through 320; or

(b) when approved by the Executive Secretary, the following wastes may be disposed at an approved unit of a permitted landfill or may be disposed at an incinerator that meets the requirements of Subsection R315-315-7(3)(a)(i) or (ii):

(i) PCB bulk products regulated by 40 CFR 761.62(b) [~~(1998)~~](2001);

(ii) drained PCB contaminated equipment as defined by 40 CFR 761.3 [~~(1998)~~](2001);

(iii) drained PCB articles, including drained PCB transformers, as defined by 40 CFR 761.3 [~~(1998)~~](2001);

(iv) non-liquid cleaning materials remediation wastes containing PCB's regulated by 40 CFR 761.61(a)(5)(v)(A) [~~(1998)~~](2001);

(v) PCB containing manufactured products regulated by 40 CFR 761.62(b)(1)(i) and (ii) [~~(1998)~~](2001); or

(vi) non-liquid PCB containing waste, initially generated as a non-liquid waste, generated as a result of research and development regulated by 40 CFR 761.64(b)(2) [~~(1998)~~](2001).

(c) If a unit of a permitted landfill is approved to receive PCB containing wastes under Subsection R315-315-7(3)(b), the owner or operator of the landfill:

(i) shall modify the approved Ground Water Monitoring Plan to include the testing of the ground water samples for PCB containing constituents at appropriate detection levels; and

(ii) may be required to test the leachate generated at the unit of the landfill under 40 CFR 761.62(b)(2).

R315-315-8. Petroleum Contaminated Soils.

(1) Terms used in Section R315-315-8 are defined in Section R315-301-2. In addition, for the purpose of Section R315-315-8, the following definition applies: "Petroleum contaminated soils" means soils that have been contaminated with either diesel or gasoline or both.

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

(a) Class I Landfill;

(b) Class II Landfill;

(c) Class III Landfill; or

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

(3) Petroleum contaminated soils containing the following constituents at or below the following levels and are otherwise not a hazardous waste, may be accepted for disposal at a Class IV or VI Landfill:

(a) Benzene, 0.03 mg/kg;

(b) Ethylbenzene, 13 mg/kg;

(c) Toluene, 12 mg/kg; and

(d) Xylenes, 200 mg/kg.

KEY: solid waste management, waste disposal
[~~January 5, 2001~~]2002
Notice of Continuation April 28, 1998
19-6-105

Health, Epidemiology and Laboratory Services, Environmental Services
R392-100
Food Service Sanitation

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 24728
FILED: 04/15/2002, 19:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rulemaking is necessary to make Utah food safety regulations consistent with the national food safety standards as documented in the 1999 FDA Model Food Code . The intent of these changes is to protect Utah's citizens and visitors through the application of existing food safety science by updating the existing rule, dated October 15, 1996, now being enforced by local jurisdictions.

SUMMARY OF THE RULE OR CHANGE: This rule will adopt by reference the 1999 U. S. Food and Drug Administration (FDA) Food Code with Utah amendments. There are several changes. First, we propose allowing four or more eggs to be pooled if they are immediately cooked. The current rule prohibits pooling. Second, we propose giving a three-year extension on equipment upgrades that were originally required to be accomplished in October 2001 in the existing rule. Third, we propose requiring consumer advisory language directly on menus, as opposed to simply posting the language on the wall as is currently required. This advisory language educates the consumer about the risks of eating undercooked animal foods. Fourth, we propose that equipment be certified by third party certification experts. Equipment is too complicated for health inspectors to do this anymore. Mistakes have been made. Fifth, we propose a 30-day interval before an inspection record can become a public record.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-15-2 and Subsection 26-1-30(2)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Utah Department of Health will have costs related to printing of the rule. These costs are the same as for printing the existing rule, so no additional burden is realized.

❖ LOCAL GOVERNMENTS: Local governments will have some costs related to printing of the new requirements. These are the same as for printing the existing requirements. They may also experience some costs training their staff to the new rule; however, most of that training has already been accomplished.

❖ OTHER PERSONS: Other persons: Industry will bear some costs associated with training staff to some of the new requirements. These costs will vary depending on the size of the operation. Linked to the five categories of change listed in the summary above, the following costs or savings are predicted: 1) allowing four or more eggs to be pooled if immediately cooked will result in a definite savings to the food industry. Establishments at the present time are not allowed to pool eggs; instead they are required to use pasteurized liquid, frozen, or dry eggs or egg products. Use of shell eggs to create pools will be less expensive than the current use of pasteurized egg products. An example: a carton of liquid pasteurized eggs cost $36 while an equal amount of shell

eggs costs $15. This is a significant savings for food service facilities; 2) extending the requirement for equipment to maintain temperatures at 41 degrees F for another three years should not adversely affect the food industry. The current rule requires equipment in food service facilities to maintain temperature at 41 degrees F. We are backing off that requirement until October 15, 2004, and allowing refrigeration units to be at 45 degrees F. This is as a result of a compromise we have worked out with the Utah Restaurant Association. The compromise allows the food industry more time to comply, thereby not requiring immediate investment in new equipment; 3) most restaurants routinely update their menus. Identifying the food items that present a risk if not thoroughly cooked on the menu could help to save lives. The current code already specifies the language that is required. Printing the consumer advisory on the menu is only required from the food service facilities that serve food in an undercooked form. Minimal if any cost for most food service facilities; 4) regulated businesses that purchase equipment from national suppliers will receive equipment that has already been certified as safe by a recognized third party and will be in compliance with this rule requirement. If a business chooses to buy or construct non-certified equipment it is reasonable to require review by a third party. At this time we cannot anticipate what the additional cost is of having all equipment certified by a third party, such as Underwriters Lab., and NSF or ETL; and 5) there is no cost to the food service industry in having a 30-day interval before inspection records become a public record.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For most regulated businesses that purchase certified equipment and do not serve undercooked food, this rule will save costs by postponing the more stringent refrigeration requirement and allowing for the use of pooled eggs if they are immediately cooked.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: DOH personnel have worked closely with local health departments and regulated businesses to minimize the cost of these new requirements, while still guarding the public health. Food safety is critical to the regulated industries and some exceptions to more strict national standards have been made as a result of feedback from regulated industries. Public comment received before the rule may take effect will be carefully evaluated before deciding whether to allow the rule to go into effect. Rod L. Betit

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Tim Lane at the above address, by phone at 801-538-6755, by FAX at 801-538-6036, or by Internet E-mail at tlane@doh.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2002

AUTHORIZED BY: Rod Betit, Executive Director

R392. Health, Epidemiology and Laboratory Services, Environmental Services.

[~~R392-100. Food Service Sanitation.~~

~~R392-100-1. Authority and Purpose.~~

~~(1) This rule is authorized by Sections 26-1-30(2), and 26-15-2.~~

~~(2) This rule establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, employee restriction, and permit suspension to safeguard public health and provide consumers food that is safe, unadulterated, and honestly presented.~~

~~R392-100-2. Incorporation by Reference.~~

~~(1) The requirements as found in Chapters 1 to 8 of the U.S. Public Health Service, Food and Drug Administration, Food Code 1995 are adopted and incorporated by reference, with the exclusion of definitions 1-201.10(B)(31)(c)(v), and (vi), and sections 2-301.13(B), 6-301.11(B), 4-301.12(C)(5), 4-301.12(D), 4-501.115, 4-603.16(B)(1), 4-603.16(C),, 8-302.14(C)(2),(D) and (E), and Annex 1 to 8; and~~

~~(2) with the following additions or amendments:~~

~~(a) Amend definition 1-201.10(B)(23) to read: "Employee" means the permit holder, person in charge, supervisor or manager, inventory person, or person with responsibilities to serve guests, cook or prepare food, wash utensils, or who has cleaning responsibilities.~~

~~(b) Amend definition 1-201.10(B)(31)(c)(iv) to read: A private home where food is prepared or served for private family, religious, or charitable functions where the public is not invited.~~

~~(c) Amend section 1-201.10(B)(31)(c)(v) to read: The premises of a church, temple or synagogue where food is normally prepared or served only for private family, religious or charitable functions to which the public (other than members of the church, temple, or synagogue) is not invited.~~

~~(d) Amend definition 1-201.10(B)(79)(b) to read: "Single-use articles" include items such as: wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, bread wrappers, ketchup bottles, and number 10 cans.~~

~~(e) Amend section 2-102.11(C) to read: Describe the symptoms associated with the diseases that are transmissible through food.~~

~~(f) Amend section 2-201.11(D)(1)to read: Is suspected of causing, or being exposed to, a confirmed disease outbreak caused by S. typhi, Shigella spp., E. coli O157:H7, or hepatitis A virus~~

illness including an outbreak at an event such as a family meal, church supper, or festival because the food employee or applicant:

(g) Amend section 2-201.11(D)(4) to read: Traveled outside of the United States within the last 50 calendar days and is a country identified where typhoid fever, shigellosis, and infection with Escherichia coli O157:H7, and hepatitis A are epidemic or endemic as reported by the Centers for Disease Control and Prevention in the 1994 edition of "Health Information for International Travel".

(h) Amend section 2-301.15 to read: Food employees shall clean their hands in a handwashing lavatory and may not clean their hands in a sink used for food preparation, or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

(i) Amend section 3-301.11(B) to read: Food employees shall minimize contact with exposed ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissues, spatulas, tongs, single-use gloves, or hand sanitizer, except when washing fruits and vegetables as specified by 3-302.15.

(j) Amend section 3-302.13 to read: 3-302.13 Pasteurized Eggs, Substitute for Shell Eggs for Certain Recipes.

Pasteurized liquid, frozen, or dry eggs or egg products shall be substituted for shell eggs in the preparation of:

(A) Foods such as Caesar salad, hollandaise or bernaise sauce, noncommercial mayonnaise, eggnog, ice cream, and egg-fortified beverages that are not cooked as specified in Subparagraphs 3-401.11(A)(1) or (2), or

(B) Foods where four or more eggs are pooled for use as an ingredient or to be cooked separately.

(k) Add section 3-304.12(F) to read: Utensils used for dispensing frozen desserts shall be stored using methods specified in sections 3-304.12(A), or (D).

(l) Amend section 3-603.11 to read: 3-603.11 Consumption of Raw or Undercooked Animal Foods.

(A) If a raw or undercooked animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another ready-to-eat food, the permit holder shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form.

(B) The consumer notification shall read: "Thoroughly cooking foods of animal origin such as beef, eggs, fish, lamb, pork, poultry, or shellfish reduces the risk of foodborne illness. Consult your physician or public health official for further information".

(m) Amend section 4-101.16(B) to read: Linens and napkins may be used to line containers used for the service of dry foods such as: breads and rolls, if the linens and napkins are replaced each time the container is refilled for a new consumer.

(n) Amend section 4-201.11 to read: Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions. Equipment shall meet the National Sanitation Foundation (NSF) Standards or be of equivalent construction.

(o) Add section 4-204.123 to read: Carbon dioxide, helium or other similar pressurized containers must be restrained or secured to prevent the tanks from falling over.

(p) Amend 4-301.14 to read: 4-301.14 Ventilation Hood Systems, Adequacy.

(A) Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

(B) Ventilation hood systems shall be installed at or above commercial type deep fat fryers, broilers, grills, steam jacketed kettles, hot top ranges, ovens, barbecues, rotisseries, dishwashing machines, and similar equipment which produces comparable amount of steam, smoke, grease, or heat. All ventilation hood systems shall comply with Section 508, 1994 Uniform Mechanical Code.

(q) Amend section 5-101.11(A) to read: "Community water systems" means a public drinking water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(r) Amend section 5-101.11(B) to read: "Non-transient, non-community water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over a six months per year.

(s) Add section 5-101.11(C) to read: "Non-community water system" means a public drinking water system that is not a community water system or a non-transient, non-community water system.

(t) Amend section 5-102.11(A) to read: Water from a public water system meets 40 CFR 141 - National Primary Drinking Water Regulations; and

(u) Amend section 5-102.11(B) to read: R309 Rules for Public Drinking Water Systems.

(v) Amend section 5-102.13 to read: Water from a non-community water system, or a non-transient, non-community water system shall be sampled as required by R309-103 Drinking Water: Water Quality Maximum Contamination Levels (MCLs) and R309-104 Drinking Water: Monitoring, Reporting, and Public Notification and local drinking water quality regulations.

(w) Amend section 5-102.14 to read: The most recent sample report of the non-community water system or non-transient, non-community water system shall be retained on file in the food establishment and the report shall be maintained as specified by state drinking water quality rules.

(x) Amend section 5-103.13 to read: (A) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment, and

(y) Add section 5-103.13(B) to read: Hot and cold water shall be provided through tempered mixing faucets at all handwashing lavatories, food preparation sinks, warewashing sinks, service sinks, or curbed cleaning facilities.

(z) Add section 5-202.12(D) to read: A handwashing sign or poster must be displayed at all handsinks used by employees in the food preparation, utensil washing areas, and employee toilet facilities.

(aa) Add section 5-203.14(C) to read: (C) Water heater drains and clothes washers are exempt from the requirements of this section.

(ab) Amend section 5-205.13 to read: 5-205.13 Scheduling Inspection and Service for a Water System Device.

(A) Water treatment devices shall be scheduled for inspection and service, in accordance with manufacturer's recommendations and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.

~~(B) The premise owner or responsible person shall have the backflow prevention assembly tested by a certified backflow assembly tester at the time of installation, repair, or relocation and at least on a annual schedule or more often when required by the regulatory authority.~~

~~(ac) Amend section 5-203.11(B) to read: An adequate number of handwashing stations shall be provided for each temporary food establishment to include: a minimum of one handwashing station equipped with one enclosed container with a spigot, soap, paper towels, and a collection container for waste water.~~

~~(ad) Amend section 5-302.16 to read: A hose used for conveying drinking water from a water tank shall have a smooth interior surface, be of a food grade material, and if not permanently attached, shall be clearly and durably identified as to its sole use.~~

~~(ae) Amend section 5-402.12(B) to read:~~

~~(B) Warewashing machines may be drained by indirect waste pipes discharged into an approved type open receptor.~~

~~(af) Amend section 5-402.12(C) to read:~~

~~(C) Equipment which is used for the storage or holding of food or drink, shall not have a drain in direct connection to a sewage line.~~

~~(ag) Add section 5-402.12(D) to read:~~

~~(D) Warewashing or culinary sinks in any food preparation room which is used for soaking, washing, or preparing food shall not have a drain in direct connection to a sewage line.~~

~~(ah) Amend section 6-201.14(A) to read: Carpeting may not be installed as a floor covering in food preparation areas, walk-in refrigerator, warewashing areas, food storage, and toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas subject to moisture.~~

~~(ai) Amend section 6-301.14 to read: A sink used for food preparation or utensil washing, or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing lavatory as specified in sections 6-301.11, 6-301.12, and 6-301.13.~~

~~(aj) Add section 7-203.12 to read: A food container may not be used to store, transport, or dispense poisonous or toxic materials.~~

~~(ak) Amend section 8-304.10(A) to read: Upon request, the regulatory authority shall provide a copy of the food service sanitation rule at it's cost.~~

~~(al) Amend section 8-401.10(A) to read: Except as specified in paragraphs (B) and (C) of this section, the regulatory authority shall inspect a food establishment at least once every six months and seasonal operations shall be inspected twice in a season.~~

~~(am) Amend section 8-501.10(B) to read: Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees, and~~

~~(an) Add section 8-501.10(C) to read: Meeting reporting requirements under Communicable Disease Rule R386-702 and Injury Reporting Rule R386-703.~~

~~R392-100-3. Impoundment and Destruction of Adulterated Food Products Authorized.~~

~~(1) The impoundment of adulterated food products is authorized under section 26-15-9.~~

~~(a) According to time limits imposed by law, the regulatory authority may place a hold order on food found to be adulterated and unfit for human consumption.~~

~~(b) If the regulatory authority has reasonable cause to believe that the hold order will be violated, or finds that the order is violated, the regulatory authority may remove the food that is subject to the order to a place of safekeeping.~~

~~(2) The regulatory authority may issue a hold order to a permit holder or to a person who owns or controls the food, without prior warning, notice of a hearing, or a hearing on the hold order.~~

~~(3) If a hold order is sustained upon appeal or if a timely request for an appeal hearing is not filed, the regulatory authority may order the permit holder or other person who owns or has custody of the food to bring the food into compliance with this rule or to destroy or denature the food under the regulatory authority's supervision.~~

~~R392-100-4. Summary Suspension, Warning or Hearing Not Required.~~

~~(1) The regulatory authority may summarily suspend a permit to operate a food establishment if it determines through inspection, or examination of employees, food, records, or other means as specified in this rule, that an imminent health hazard exists and~~

~~(2) By providing written notice of the summary suspension to the permit holder or person in charge, without prior warning, notice of a hearing, or a hearing.~~

~~(3) After receiving a written request from the permit holder stating that the conditions cited in the summary suspension order no longer exist, the regulatory authority shall conduct a reinspection of the food establishment for which the permit was summarily suspended within 2 business days, which means 2 days during which the regulatory authority's office is open to the public.~~

~~(4) A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the regulatory authority through reinspection and other means as appropriate.~~

~~(5) The suspended permit shall be reinstated immediately if the regulatory authority determines that the public health hazard no longer exists. A notice of reinstatement shall be provided to the permit holder or person in charge.~~

~~R392-100-5. Continuing Violations.~~

~~Each day on which a violation occurs is a separate violation under this rule.~~

~~KEY: public health, food service~~
~~October 15, 1996~~
~~Notice of Continuation June 5, 1997~~
~~26-1-30(2)~~
~~26-15-2~~
~~26-15-5~~
~~26-15-7~~
~~26-15-9~~]

R392-100. Food Service Sanitation.

R392-100-1. Authority and Purpose.

(1) This rule is authorized by Subsections 26-1-30(2), and 26-15-2.

(2) This rule establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, employee restriction, and permit suspension to safeguard public health and provide consumers food that is safe, unadulterated, and honestly presented.

R392-100-2. Incorporation by Reference.

(1) The requirements as found in the U.S. Public Health Service, Food and Drug Administration, Food Code 1999, Chapters 1 through 8 and Annex 1, are adopted and incorporated by reference, with the exclusion of Sections 3-201.17(A)(4),4-301.12(C)(5), 4-301.12(D) and (E), 4-501.115, 4-603.16(B)(1), 4-603.16(C), 8-302.14(C)(2),(D) and (E), 8-805.40, and 8-809.20; and

(2) with the following additions or amendments:

(a) Add definition 1-201.10(B)(8.5) to read:

"(8.5) "Certified Food Safety Manager" means the same as defined under subsection 26-15a-102(2) and R392-101 Food Safety Manager Certification rule."

(b) Add definition 1-201.10(B)(10.5) to read:

"(10.5) "Code" means R392-100 Utah Food Service Sanitation Rule and related rules."

(c) Amend definition 1-201.10(B)(23) to read:

"(23) "Employee" means the permit holder, person in charge, supervisor or manager, inventory person, or person with responsibilities to serve guests, cook or prepare food, wash utensils, or who has cleaning responsibilities."

(d) Add definition 1-201.10(B)(25.5) to read:

"(25.5) "FDA" means the U.S. Food and Drug Administration."

(e) Amend definition 1-201.10(B)(30) to read:

"(30) "Food employee" means the same as "food handler" under subsection 26-15-1(1)."

(f) Amend definition 1-201.10(B)(31)(a) to read:

"(a) For the purposes of this rule, "Food Establishment" shall mean "Food Service Establishment" and refers to any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off premises and regardless of whether there is a charge for the food."

(g) Amend definition 1-201.10(B)(31)(b) to read:

"(b) "Food Establishment" includes but is not limited to:

(i) bars, bed and breakfasts, breweries, cafeterias, camps, caterers, child care facilities, coffee shops, commissaries, day cares, fairs, group residences, hospitals, hotels, motels, nursing homes, penal institutions, private clubs, restaurants, satellite sites, schools, senior citizen centers, shelters, snack bars, taverns or similar food facilities;

(ii) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location;

(iii) the area of a bakery, convenience store, delicatessen, or grocery store where food is prepared and intended for individual portion service and includes areas used for storing food used in this portion of the food establishment, warewashing, utility and waste disposal facilities; and

(iv) except as exempted in subsection 1-201.10(B)(30)(c)(v), the premises of a church, temple, and synagogue where food is prepared for the public or may include both members and the public."

(h) Amend definition 1-201.10(B)(31)(c)(iv) to read:

"(iv) A private home where food is prepared or served for private family, religious, or charitable functions where the public is not invited;"

(i) Amend section 1-201.10(B)(31)(c)(v) to read:

"(v) The premises of a church, temple or synagogue where food is normally prepared or served only for private family, religious or charitable functions to which the public (other than members of the church, temple, or synagogue) is not invited;"

(j) Amend section 1-201.10(B)(31)(c)(vi) to read:

"(vi) The portion of a bakery, convenience store, delicatessen, or grocery store not covered under subsection 1-201.10(B)(30)(b)(iii); and food or water vending machines. Any portion of 1-201.10(B)(30)(c)(vi) may be amended by a Memorandum of Understanding between the local health department and the Utah Department of Agriculture and Food to allow for a more cost effective use of local and state inspection resources;"

(k) Add section 1-201.10(B)(31)(c)(viii) to read:

"(viii) A home used to provide adult or child care for four or fewer persons."

(l) Amend definition 1-201.10(B)(33) to read:

"(33) "Game Animal" means an animal, the product of which is food, that is not classified as cattle, sheep, swine, or goat in 9 CFR Subchapter A- Mandatory Meat Inspection, part 301, as poultry in 9 CFR Subchapter C - Mandatory Poultry Products Inspection, part 381, or as fish."

(m) Amend definition 1-201.10 (B)(41) to read:

"(41) "Imminent Health Hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on:

(i) the number of potential injuries or illnesses; and

(ii) the nature, severity, and duration of the anticipated injury or illness."

(n) Amend definition 1-201.10(B)(47) to read:

"(47) "Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under Subparagraph 3-201.17(A)(3)."

(o) Amend definition 1-201.10(B)(61)(c)(v) to read:

"(v) A food for which a variance granted by FDA or USDA is based upon laboratory evidence which demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of S. Enteritidis in eggs or C. botulinum can not occur, such as a food that has an a_w and a pH that are above the levels specified under Subparagraphs (c)(ii) and (iii) of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or"

(p) Amend definition 1-201.10(B)(87) to read:

"(87) "Temporary food establishment" means:

(a) From January 15, 2002 through March 15, 2002 a food establishment that operates for a period of no more than 45 consecutive days in conjunction with a single event or celebration.

(b) At all other times, it is a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

(c) "temporary food establishment" does not include:

(i) A food establishment that offers only commercially prepared and packaged foods that are not potentially hazardous and require no preparation or handling; or

(ii) A produce stand that offers only whole, uncut fresh fruit and vegetables."

(q) Amend the introduction to section 2-102.11 to read:

"Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request the person in charge or the certified food safety manager shall demonstrate to the

regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this code. The person in charge or the certified food safety manager shall demonstrate this knowledge by compliance with this code and by responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:"

(r) Adopt subsections 2-102.11(A) through (O) without changes.

(s) Add a new number/catchline and section to read:

"2-102.12 Food Employee Training.

Food employees shall be trained in food safety as required under 26-15-5 and shall hold a valid food safety permit."

(t) Amend section 2-301.12(A) to read:

"(A) Food employees shall clean their hands and exposed portions of their arms with a cleaning compound in a lavatory that is equipped as specified under section 5-202.12 by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers."

(u) Amend section 2-301.15 to read:

"Food employees shall clean their hands in a handwashing lavatory or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation, or a curbed cleaning facility used for the disposal of mop water and similar liquid waste."

(v) Amend section 2-401.11(B) to read:

"(B) A food employee may drink from a closed unbreakable beverage container if the container is handled to prevent contamination of:"

(w) Adopt subsections 2-401.11(B)(1) through (3) without changes.

(x) Amend section 2-403.11(B) to read:

"(B) Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as specified under sections 2-301.12, 2-301.13, and section 2-301.14(C)."

(y) Add section 3-201.11(G) to read:

"(G) Except for food establishments that prepare fruit juices at point-of-sale, the use of unpasteurized fruit juices in food establishments is prohibited."

(z) Amend section 3-201.13 to read:

"Fluid milk and milk products shall be obtained from sources that comply with Grade A Pasteurized Standards as specified in law."

(aa) Amend section 3-201.16 to read:

"Wild mushroom species shall be obtained from an approved cultivated source under inspection by a regulatory authority."

(ab) Amend section 3-201.17(A)(1) to read:

"(1) Commercially raised for food and raised, slaughtered, and processed under a voluntary meat inspection program by the Utah Department of Agriculture and Food, Division of Animal Industry;"

(ac) Amend section 3-201.17(A)(2) to read:

"(2) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352, Voluntary Exotic Animal Program; or"

(ad) Amend the introduction to section 3-201.17(A)(3) and subsections (a) and (b) to read:

"(3) Raised, slaughtered, and processed under a routine inspection program conducted by the Utah Department of Agriculture and Food, Division of Regulatory Services. Game meat under this program shall be:

(a) Slaughtered in a facility approved by the Utah Department of Agriculture and Food and with consideration of an antemortem and postmortem examination done by a veterinarian or a trained veterinarian designee, or as approved by the regulatory authority, and

(b) Processed under a HACCP plan according to laws governing meat and poultry products; or"

(ae) Amend section 3-301.11(B) to read:

"(B) Except when washing fruits and vegetables as specified under section 3-302.15, food employees shall minimize contact with exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissues, spatulas, tongs, single-use gloves, or dispensing equipment."

(af) Amend section 3-302.13 to read:

" 3-302.13 Pasteurized Eggs, Substitute for Raw Shell Eggs for Certain Recipes.*

(A) Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages that are not cooked as specified in Subparagraphs 3-401.11(A)(1) or (2).

(B) Four or more eggs may not be pooled for use as an ingredient unless they are combined and cooked immediately."

(ag) Add section 3-304.12.5 to read:

"Utensils used for dispensing frozen desserts shall be stored using methods specified in sections 3-304.12(A), or (D)."

(ah) Amend section 3-304.13 to read:

"Linens or napkins may be used in contact with dry foods, such as breads and rolls, if the linens or napkins are replaced each time the container is refilled for a new consumer."

(ai) Amend section 3-401.11(A)(3) to read:

"74 degrees C (165 degrees F) or above for 15 seconds for poultry, wild game animals as specified under Subparagraph 3-201.17(A)(3), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites."

(aj) Add section 3-501.14 (E) to read:

"(E) Whenever the temperature of a cooling potentially hazardous food is found to be out of the temperature ranges specified in section 3-501.14 (A)-(D), it shall be the responsibility of the person in charge to demonstrate to the regulatory authority that the facility has cooling procedures which are effective in meeting those requirements and that the procedures are followed."

(ak) Amend Section 3-501.16(C)(2)to read:

"(2) By October 15, 2004 the equipment is upgraded or replaced to maintain food at a temperature of 5 degrees C (41degrees F) or less."

(al) Add section 3-501.17(G) to read:

"(G) In a child care center, baby food, infant formula, and breast milk for infants that are brought from home for the individual child's use shall be:

(1) Marked with the name of the child and the date of bottling in the case of breast milk or opening of the container, such as a jar of baby food;

(2) Open containers of baby food, infant formula, and breast milk shall be refrigerated and stored for no more than 24 hours; and

(3) Infant formula shall be discarded after feeding or within two hours of initiating a feeding."

(am) Amend section 3-603.11 to read:

"3-603.11 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.*

(A) Except as specified in section 3-401.11(C) and subparagraph 3-401.11(D)(3), and under section 3-801.11(D), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another ready-to-eat food, the permit holder shall inform consumers by identifying on the menu the foods that have significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form. There are two components to satisfactory compliance with the consumer advisory:

Disclosure is satisfied when:

Items are asterisked to a footnote that states that the items:

(a) Are served raw or undercooked, or

(b) Contain (or may contain) raw or undercooked ingredients.

Reminder is satisfied when the items requiring disclosure are asterisked to a footnote that states:

"Thoroughly cooking foods of animal origin such as beef, eggs, fish, lamb, pork, poultry, or shellfish reduces the risk of foodborne illness. Consult your physician or public health official for further information.""

(an) Amend section 3-801.11(D) to read:

"(D) Except when a resident or legal guardian has been informed of the hazards of eating raw or undercooked animal food per section 3-603.11(B) and signed a waiver requesting raw or undercooked animal foods, the following foods may not be served or offered for sale in a ready-to-eat form:"

(ao) Adopt subsections 3-801.11(D)(1) through(3) without changes.

(ap) Add section 4-204.124 to read:

"4-204.124 Restraint of Pressurized Containers.

Carbon dioxide, helium or other similar pressurized containers must be restrained or secured to prevent the tanks from falling over."

(aq) Amend section 4-205.10 to read:

"4-205.10 Food Equipment, Certification and Classification.

Food equipment installed after the effective date of this rule must be certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program in order to comply with Parts 4-1 and 4-2 of this chapter."

(ar) Amend section 4-301.12 (C) to read:

"(C) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. Alternative manual warewashing equipment may include:

(1) High-pressure detergent sprayers;

(2) Low- or line-pressure spray detergent foamers;

(3) Other task-specific cleaning equipment;

(4) Brushes or other implements; or

(5) Receptacles that substitute for the compartments of a multi-compartment sink."

(as) Amend section 4-301.14 to read:

"4-301.14 Ventilation Hood Systems, Adequacy.

(A) Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

(B) A Type I or Type II hood shall be installed at or above all commercial heat-producing appliances according to the provisions of R156-56-701(d) International Mechanical Code, and amendments adopted under R156-56-708."

(at) Amend the introduction to section 5-101.11 to read:

"Drinking water shall be obtained from an approved water system as defined under R309-101 through R309-113 that is either:"

(au) Amend section 5-101.11(A) to read:

"(A) "Community water systems"

(av) Amend section 5-101.11(B) to read:

"(B) "Non-transient, non-community water system; or""

(aw) Add section 5-101.11(C) to read:

"(C) "Non-community water system."

(ax) Amend section 5-101.12 to read:

"A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system by:

(A) The pipe system shall be flushed with clean, potable water until dirty water does not appear at the point of outlet.

(B) The system shall be filled with a water/chlorine solution containing:

(1) At least 50 parts per million (50mg/L) of chlorine and the system shall be valved off and allowed to stand at least 24 hours; or

(2) The system shall be filled with a water/chlorine solution containing at least 200 parts per million (200 mg/L) of chlorine and allowed to stand for three hours.

(C) Following the required standing time, the system shall be flushed with clean potable water until the chlorine is purged from the system.

(D) The procedure shall be repeated where shown by bacteriological examination that contamination remains present in the system."

(ay) Amend section 5-102.11(A) to read:

"(A) Water from a public water system shall meet 40 CFR 141 - National Primary Drinking Water Regulations; and"

(az) Amend section 5-102.11(B) to read:

"(B) R309-101 through R309-113 Rules for Public Drinking Water Systems."

(ba) Amend section 5-102.13 to read:

"Water from a non-community water system, or a non-transient, non-community water system shall be sampled as required by R309-103 Drinking Water: Water Quality Maximum Contamination Levels (MCLs) and R309-104 Drinking Water: Monitoring, Reporting, and Public Notification and local drinking water quality regulations."

(bb) Amend section 5-102.14 to read:

"The most recent sample report of the non-community water system or non-transient, non-community water system shall be retained on file in the food establishment and the report shall be maintained as required by R309-104-8."

(bc) Amend section 5-103.11(B) to read:

"(B) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment, and"

(bd) Add section 5-103.11(C) to read:

"(C) Hot and cold water shall be provided through tempered mixing faucets at all handwashing lavatories, food preparation sinks, warewashing sinks, service sinks, or curbed cleaning facilities."

(be) Amend section 5-202.11(A) to read:

"(A) A plumbing system shall be designed, constructed, and installed as required by R156-56-701(c) International Plumbing Code and R156-56-707 amendments to the International Plumbing Code."

(bf) Amend section 5-202.12(A) to read:

"(A) A handwashing lavatory shall be equipped to provide water at a temperature of at least 95°F within 30 seconds of opening the mixing valve."

(bg) Amend section 5-203.11(C) to read:

"(C) An adequate number of handwashing stations shall be provided for each temporary food establishment to include: a minimum of one handwashing station equipped with one enclosed container with a spigot, soap, water, paper towels, and a collection container for waste water."

(bh) Amend section 5-203.14 to read:

"Except for water heater drains and clothes washers a plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

(A) Providing an air gap as specified under section 5-202.13; or

(B) Installing an approved backflow prevention device as specified under section 5-202.14."

(bi) Amend section 5-203.15 to read:

"The water supply to carbonators shall be installed according to the requirements of R156-56-701(c) International Plumbing Code and R156-56-707 Amendments to the International Plumbing Code."

(bj) Amend section 5-205.13 to read:

"5-205.13 Scheduling Inspection and Service for a Water System Device.

(A) A device such as a water treatment devices shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.

(B) The premise owner or responsible person shall have the backflow prevention assembly tested by a certified backflow assembly tester at the time of installation, repair, or relocation and at least on an annual schedule or more often when required by the regulatory authority."

(bk) Amend section 6-201.14(A) to read:

"(A) A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerator, warewashing areas, food storage, and toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas subject to moisture, flushing, or spray cleaning methods."

(bl) Amend section 6-301.11 to read:

"6-301.11 Handwashing Cleaners and Hand Sanitizers, Availability.

(A) Each handwashing lavatory or group of 2 adjacent lavatories shall be provided with a supply of hand cleaning liquid, powder, bar soap; and

(B) When a hand sanitizer is used, each handwashing lavatory or group of 2 adjacent lavatories shall be provided with a hand sanitizer or a chemical hand sanitizing solution used as a hand dip.

(C) When a hand sanitizer is used, the dispenser for the hand sanitizer or the chemical hand sanitizing solution used as a hand dip shall be located at the handwashing lavatory and may not be located anywhere else."

(bm) Amend section 6-301.13 to read:

"Except for a combination sink approved by the regulatory authority, a sink used for food preparation or utensil washing, or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing lavatory as specified in sections 6-301.11, 6-301.12, and section 5-501.16(C)."

(bn) Amend section 6-501.111 to read:

"The presence of insects, rodents, and other pests shall be controlled by:

(A) Routinely inspecting incoming shipments of food and supplies;

(B) Routinely inspecting the premises for evidence of pests;

(C) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under sections 7-202.12, 7-206.12, and 7-206.13; and

(D) Eliminating harborage conditions."

(bo) Add section 7-203.12 number/catchline to read:

"7-203.12 Food Containers Prohibited from Storing Toxic Materials."

(bp) Add section 7-203.12 to read:

"A food container may not be used to store, transport, or dispense poisonous or toxic materials.

(bq) Amend section 8-103.10 to read:

"8-103.10 Modifications and Waivers.

(A) The regulatory authority may grant a variance by modifying or waiving the requirements of this Code if in the opinion of the regulatory authority a health hazard or nuisance will not result from the variance. If a variance is granted, the regulatory authority shall retain the information specified under section 8-103.11 in its records for the food establishment.

(B) A variance or waiver issued by the regulatory authority and the documentation required in section 8-103.11 must be copied to the Utah Department of Health, Bureau of Food Safety and Environmental Health within 5 working days of issuance.

(C) A variance or waiver intended for a food establishment which is of a chain with stores in more than one local health jurisdiction in the State must be approved by the Utah Department of Health prior to issuance."

(br) Amend section 8-103.11 to add:

"(D) In addition, a variance from section 3-301.11 may be issued only when:

(1) the variance is limited to a specific task or work station;

(2) the applicant has demonstrated good cause why section 3-301.11 cannot be met;

(3) suitable utensils are used to the fullest extent possible with ready-to-eat foods in the rest of the establishment; and

(4) the applicant can demonstrate active management control of this risk factor at all times."

(bs) Amend Section 8-302.14 (C) to read:

"A statement specifying whether the food establishment is mobile or stationary and temporary or permanent."

(bt) Delete subsections D and E.

(bu) Amend section 8-302.14 to renumber (F) to (D), (G) to (E), and (H) to (F).

(bv) Amend section 8-304.10(A) to read:

"(A) Upon request, the regulatory authority shall provide a copy of the food service sanitation rule according to the policy of the local regulatory agency."

(bw) Amend section 8-304.11(H) to read:

"(H) Upgrade or replace refrigeration equipment as specified under section 3-501.16(C), if the circumstances specified under Subparagraphs (G)(1)-(3) of this section do not occur first, and by no later than October 15, 2004;"

(bx) Amend section 8-304.11(J) to read "Accept notices issued and served by the REGULATORY AUTHORITY according to LAW:"

(by) Amend section 8-304.11(K) to read "Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Code or a directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and".

(bz) Add section 8-304.11(L) to read:

"(L) Post the most recent copy of the inspection report in the employee work area."

(ca) Amend section 8-401.10(A) to read:

"(A) Except as specified in paragraphs (B) and (C) of this section, the regulatory authority shall inspect a food establishment at least once every 6 months and twice in a season for seasonal operations."

(cb) Amend section 8-403.50 to read:

"Except as specified in section 8-202.10, the regulatory authority shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in law, but no sooner than 30 days following the inspection."

(cc) Amend section 8-501.10(B) to read:

"(B) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees; and"

(cd) Add section 8-501.10(C) to read:

"(C) Meeting reporting requirements under Communicable Disease Rule R386-702 and Injury Reporting Rule R386-703."

(ce) Amend section 8-601.10 to read:

"Due process and equal protection shall be afforded as required by law in all enforcement and regulatory actions."

(cf) Amend section 8-701.30 to read:

"Service is effective at the time the notice is served or when service is made as specified in section 8-701.20(B)."

(cg) Amend section 8-803.10 to read:

"8-803.10 Impoundment of Adulterated Food Products Authorized.

(A) The impoundment of adulterated food is authorized under Section 26-15-9, UCA.

(B) The regulatory authority may impound, by use of a hold order, any food product found in places where food or drink is handled, sold, or served to the public, but is found or is suspected of being adulterated and unfit for human consumption,

(C) Upon five days notice and a reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health and

(D) If the regulatory authority has reasonable cause to believe that the hold order will be violated, or finds that the order is violated, the regulatory authority may remove the food that is subject to the hold order to a place of safekeeping."

(ch) Amend section 8-803.60 to read:

"The regulatory authority may examine, sample, and test food in order to determine its compliance with this Code in section 8-402.11."

(ci) Amend section 8-803.90 to read:

"The regulatory authority shall issue a notice of release from a hold order and shall physically remove the hold tags, labels, or other identification from the food if the hold order is vacated."

(cj) Amend section 8-804.30 number/catchline to read:

"8-804.30 Contents of the Summary Suspension Notice."

(ck) Amend section 8-805.10(A) to read:

"(A) A person who receives a notice of hearing shall file a response within 10 calendar days from the date of service. Failure to respond may result in license suspension, license revocation, or other administrative penalties."

(cl) Amend section 8-805.20 to read:

"A response to a hearing notice or a request for a hearing as specified in section 8-805.10 shall be in written form and contain the following:

(A) Response to a notice of hearing must include:

(1) An admission or denial of each allegation of fact;

(2) A statement as to whether the respondent waives the right to a hearing;

(3) A statement of defense, mitigation, or explanation concerning all claims; and

(4) A statement as to whether the respondent wishes to settle some or all of the claims made by the regulatory authority.

(B) A request for hearing must include:

(1) A statement of the issues of fact specified in section 8-805.30(B) for which a hearing is requested; and

(2) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact.

(C) Witnesses - In addition to the above requirements, if witnesses are requested, the response to a notice of hearing and a request for hearing must include the name, address, telephone number, and a brief statement of the expected testimony for each witness.

(D) Legal Representation - Legal counsel is allowed, but not required. All documents filed by the respondent must include the name, address, and telephone number of the respondent's legal counsel, if any."

(cm) Amend the introduction to section 8-805.50(A)(1) to read:

"(1) Except as provided in paragraph (B) of this section, within 5 calendar days after receiving a written request for an appeal hearing from:"

(cn) Adopt subsections 8-805.50(A)(1)(a) through (c) without changes.

(co) Amend subsection 8-805.50(A)(2) to read:

"(2) Within 30 calendar days after the service of a hearing notice to consider administrative remedies for other matters as specified in section 8-805.10(C) or for matters as determined necessary by the regulatory authority."

(cp) Amend section 8-805.60 number/catchline to read:

"8-805.60 Notice of Hearing Contents."

(cq) Amend section 8-805.80 number/catchline to read:

"8-805.80 Expeditious and Impartial Hearing."

(cr) Amend section 8-805.90 number/catchline to read:

"8-805.90 Confidentially of Hearing and Proceedings."

(cs) Amend section 8-805.90(A) to read:

"(A) Hearings will be open to the public unless compelling circumstances, such as the need to discuss a person's medical or mental health condition, a food establishment's trade secrets, or any other matter private or protected under federal or state law."

(ct) Amend the introduction to section 8-806.30(B) to read:
"(B) Unless a party appeals to the head of the regulatory authority within 10 calendar days of the hearing or a lesser number of days specified by the hearing officer "
(cu) Adopt subsections 8-806.30(B)(1) through (2) without changes.
(cv) Amend section 8-807.60 to read:
"Documentary evidence may be received in the form of a copy or excerpt if provided to the hearing officer and opposing party prior to the hearing as ordered by the hearing officer."
(cw) Amend section 8-808.20 to read:
"Respondents accepting a consent agreement waive their rights to a hearing on the matter, including judicial review."
(cx) Amend section 8-811.10(B) to read:
"(B) Any person who violates any provision of this rule may be assessed a civil penalty not to exceed the sum of $5,000.00 or be punished for violation of a class B misdemeanor for the first violation. For any subsequent similar violation within two years, the person may be punished for violation of a class A misdemeanor as provided in section 26-23-6."
(cy) Amend section 8-813.10 number/catchline to read:
"8-813.10 Petitions, Penalties, Contempt, and Continuing Violations."
(cz) Amend section 8-813.10(B) to replace the phrase "(designate amount)" with the phrase "$5,000".
(da) Add paragraph 8-813.10(D) to read:
"(D) The adjudicative body, upon proper findings, shall assess violators a fee for each day the violation remains in contempt of the its order."

KEY: public health, food services
2002
Notice of Continuation June 5, 1997
26-1-30(2)
26-15-2

▼ ▼

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-1-6

Services Available

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24700
FILED: 04/10/2002, 14:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is required to balance the FY 2003 Medicaid budget. By going into effect as early as June 1, 2002, services which are provided prior to June 30, 2002, but billed after July 1, 2002, will not expend FY 2003 dollars in excess of Legislative appropriations.

SUMMARY OF THE RULE OR CHANGE: This rulemaking eliminates the optional Medicaid podiatry, dental, speech-language pathology, and audiology-hearing services for non-pregnant adults ages 21 and older. This rulemaking supersedes previous definitions of coverage for these four categories of services made in R414-11, R414-49, R414-50, R414-54, R414-59.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5, 26-18-2.1, and 26-18-2.3; and Title XIX of the Federal Social Security Act

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: For FY 2002, the estimated savings will be $98,900 in state dollars. For FY 2003 the estimated savings will be $1,927,000 in state dollars. For FY 2002 up to $234,800 in federal matching dollars will be lost. For FY 2003, up to $4,702,000 in federal matching dollars will be lost.
❖ LOCAL GOVERNMENTS: The TriCounty Local Health Department (Uintah Basin) operates a dental clinic whose clients could lose up to $55,000 in adult dental reimbursements.
❖ OTHER PERSONS: There is no way to accurately gauge the aggregate impact on Medicaid clients. By eliminating categories of optional services, saving state dollars and not expending the federal matching dollars, Medicaid clients will receive fewer services and may have to pay for these services from their already very meager income. It is anticipated that charity care will pick up at least some of these lost services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Based on the estimated $55,000 in lost adult dental reimbursements, the TriCounty Local Health Department clinic may have to close. That would result in low-income clients in the Uintah Basin either going without dental care, having to travel to the Wasatch Front, or receiving charity care. There is no way to estimate the financial impacts statewide to clients based on these choices. However, as an example, adult Medicaid clients average $200 in dental claims per year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Hearings in the 2002 General Legislative session disclosed that these changes would be necessary given the level of funding proposed and later approved by the Legislature. These cuts were deemed to be the least destructive available in order to keep the Medicaid program within budget. Rod L. Betit

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at lrmartin@doh.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2002

AUTHORIZED BY: Rod Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-1. Utah Medicaid Program.
R414-1-6. Services Available.

(1) Medical or hospital services available under the Medical Assistance Program are generally limited by federal guidelines as set forth under Title XIX of the federal Social Security Act and Title 42 of the Code of Federal Regulations (CFR).

(2) The following services provided in the State Plan are available to both the categorically needy and medically needy:

(a) inpatient hospital services, with the exception of those services provided in an institution for mental diseases;

(i) The Department shall conduct an annual open enrollment period for Medicaid recipients residing in Intermediate Care Facilities for the Mentally Retarded to allow each person the opportunity, on a yearly basis, to move to Medicaid Home and Community-Based Waiver covered services and supports that the Department has deemed appropriate for the identified needs of the individual.

(ii) The Department shall designate a three-month open enrollment period each fiscal year. The Department relocates individuals whom it determines to be eligible through the open enrollment process at the time appropriate services and supports are available, and the Department has completed the required Home and Community-Based Services Waiver procedures.

(b) outpatient hospital services and rural health clinic services;

(c) other laboratory and x-ray services;

(d) skilled nursing facility services, other than services in an institution for mental diseases, for individuals 21 years of age or older;

(e) early and periodic screening and diagnoses of individuals under 21 years of age, and treatment of conditions found, are provided in accordance with federal requirements;

(f) family planning services and supplies for individuals of child-bearing age;

(g) physician's services, whether furnished in the office, the patient's home, a hospital, a skilled nursing facility, or elsewhere;

(h) podiatrist's services;

(i) optometrist's services;

(j) psychologist's services;

(k) interpreter's services;

(l) home health services:

(i) intermittent or part-time nursing services provided by a home health agency;

(ii) home health aide services by a home health agency; and

(iii) medical supplies, equipment, and appliances suitable for use in the home;

(m) private duty nursing services for children under age 21;

(n) clinic services;

(o) dental services;

(p) physical therapy and related services;

(q) services for individuals with speech, hearing, and language disorders furnished by or under the supervision of a speech pathologist or audiologist;

(r) prescribed drugs, dentures, and prosthetic devices and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;

(s) other diagnostic, screening, preventive, and rehabilitative services other than those provided elsewhere in the State Plan;

(t) services for individuals age 65 or older in institutions for mental diseases:

(i) inpatient hospital services for individuals age 65 or older in institutions for mental diseases;

(ii) skilled nursing services for individuals age 65 or older in institutions for mental diseases; and

(iii) intermediate care facility services for individuals age 65 or older in institutions for mental diseases;

(u) intermediate care facility services, other than services in an institution for mental diseases. These services are for individuals determined, in accordance with section 1902(a)(31)(A) of the Social Security Act, to be in need of this care, including those services furnished in a public institution for the mentally retarded or for individuals with related conditions;

(v) inpatient psychiatric facility services for individuals under 22 years of age;

(w) nurse-midwife services;

(x) family or pediatric nurse practitioner services;

(y) hospice care in accordance with section 1905(o) of the Social Security Act;

(z) case management services in accordance with section 1905(a)(19) or section 1915(g) of the Social Security Act;

(aa) extended services to pregnant women, pregnancy-related services, postpartum services for 60 days, and additional services for any other medical conditions that may complicate pregnancy;

(bb) ambulatory prenatal care for pregnant women furnished during a presumptive eligibility period by a qualified provider in accordance with section 1920 of the Social Security Act; and

(cc) other medical care and other types of remedial care recognized under state law, specified by the Secretary of the United States Department of Health and Human Services, pursuant to 42 CFR 440.60 and 440.170, including:

(i) medical or remedial services provided by licensed practitioners, other than physician's services, within the scope of practice as defined by state law;

(ii) transportation services;

(iii) skilled nursing facility services for patients under 21 years of age;

(iv) emergency hospital services; and

(v) personal care services in the recipient's home, prescribed in a plan of treatment and provided by a qualified person, under the supervision of a registered nurse.

(dd) other medical care, medical supplies, and medical equipment not otherwise a Medicaid service if the Division determines that it meets both of the following criteria:

(i) it is medically necessary and more appropriate than any Medicaid covered service; and

(ii) it is more cost effective than any Medicaid covered service.

(3) Effective June 1, 2002, dental services are not covered for non-pregnant adult recipients ages 21 and older except for dental emergency services for the relief of pain and infection which is limited to an emergency examination, emergency x-ray and emergency extraction only. Effective July 1, 2002, podiatry, speech-

language pathology, and audiology-hearing services are not covered for non-pregnant adult recipients ages 21 and older. This supercedes previous definitions of coverage for these three categories of services made in R414-11, R414-49, R414-50, R414-54, and R414-59.

KEY: [~~m~~]Medicaid
[~~January 26, 2000~~]2002
Notice of Continuation May 1, 1997
26-1-5
26-18-1

Insurance, Administration
R590-102
Insurance Department Fee Payment Deadlines

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 24712
FILED: 04/12/2002, 10:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There are two main reasons for this rule change: 1) to announce new fee payment requirements; and 2) to indicate fee payment changes.

SUMMARY OF THE RULE OR CHANGE: The fee schedule approved by the legislature changed the types of fees charged. Because this change was so extensive, the department elected to file a repeal and reenact of the current rule rather than just change the old rule. Extensive changes were necessary in dates payments would be due. In the old rule, the following insurer/organization fees were due when service was rendered: filing annual statement, form B filing, Form D Filing, Stock solicitation Permit (not SEC), Stock Solicitation Permit (private/SEC) individual license to solicit with stock permit, annual statement and renewal for fraternal, registered agent, affixing commissioner seal, authorization to appoint and remove, agent appointment/termination/renewal, life illustration certification filing, filing policy forms/rates/rules, workers' compensation schedule - all of these fees have been aggregated into either the certificate of authority initial/renewal/reinstatement fee or the annual service fee in the new rule. The new rule incorporates the following new fees which were not in the old rule: health insurance purchasing alliance, electronic commerce and internet technology services fee, electronic transaction fee and non-electronic payment fee.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-3-103

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: This rule will not create any new cost or savings to the state budget beyond what the legislature has already approved. The rule simply sets requirements for the payment of these fees.
❖ LOCAL GOVERNMENTS: This rule change will not specifically affect local government cost or savings. The rule applies to insurance licensees or those obtaining a license from the department and anyone using the department's services.
❖ OTHER PERSONS: This rule will not create any new cost or saving to the state budget beyond what the legislature has already approved. The rule simply sets requirements for the payment of these fees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will not create any new cost or saving to the state budget beyond what the legislature has already approved. The rule simply sets requirements for the payment of these fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not create additional cost or savings to businesses aside from the changes made to the department's filing fees by the 2002 Legislature in the Appropriations Bill, SB1. (DAR NOTE: S.B. 1 is found at UT L 2002 ch 277, and will be effective July 1, 2002.)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, 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 jwhitby@insurance.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 PM on 05/31/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/22/2002 at 9:00 AM, Room 3112 of the State Office Building, Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
[~~R590-102. Insurance Department Fee Payment Deadlines.~~
~~R590-102-1. Authority.~~
~~This rule is adopted pursuant to the following sections:~~
~~A. 31A-3-103(3), which requires the commissioner to include, in a compilation of rules, the fee schedule set by the legislature;~~
~~B. 31A-3-103(5), which requires the commissioner, by rule, to establish the deadlines for each fee payment.~~

~~**R590-102-2. Purpose and Scope.**~~

~~A. The purpose of this rule is to comply with the statutory requirement to establish fee deadlines and to provide for the disclosure of this information to licensees and the public.~~

~~B. The rule applies to all persons engaged in the business of insurance in Utah, to all licensees, to applicants for licenses or certificates, and to all transactions with the Insurance Department which require the payment of a fee.~~

~~**R590-102-3. Definitions.**~~

~~For the purposes of this rule the following definitions will apply:~~

~~A. "Fee" is an amount set by the Legislature for services provided by the Insurance Department.~~

~~B. "Deadline" is the final date or time by which timely payment must be made.~~

~~C. "Filed" means the receipt by the Insurance Department of a complete document, including the required fees.~~

~~D. Mailed renewal documents of any type are accepted as received the day they are postmarked.~~

~~**R590-102-4. Rule.**~~

~~A. Fees are due and payable when service is requested unless specified in B, C, D, and E below.~~

~~B. Insurer fees:~~

~~1. Certificate of authority:~~

~~a. Initial application for certificate of authority, due with application: $500~~

~~b. Continuation of certificate of authority, due March 1, annually: $50~~

~~c. Reinstatement of certificate of authority, due with application for reinstatement: $500~~

~~d. Filing of amendments to certificate of authority, due with request for amendment: $100~~

~~e. Bail Bond Surety Certificate of Authority: $500~~

~~2. Redomestication filing by foreign company, due with application: $750~~

~~3. Filing of amendments to articles of incorporation, charter, or by laws, per filing: $25~~

~~4. Filing annual statement and report of Utah business, due annually on March 1: $250~~

~~5. Application for merger, acquisition of change of control, Form A, due with application: $1,500~~

~~6. Application for material transactions between affiliated companies, Form D, due with application: $100~~

~~7. Holding company registration statement,Form B, due with statement: $25~~

~~8. Application for stock solicitation permit, due with application:~~

~~a. Public offering, but not an SEC filing: $1,000~~

~~b. Private placement and/or SEC filing: $250~~

~~9. Application for Accredited Reinsurer:~~

~~a. Initial application, due with application: $500~~

~~b. Renewal application, due with application: $250~~

~~10. Application for Trusteed Reinsurer, due with application:~~

~~a. Initial application, due with application: $500~~

~~b. Renewal application, due with application: $250~~

~~11. Individual license to solicit in accordance with the stock solicitation permit: $50~~

~~12. Filing annual statement and renewal of fraternals, due annually on March 1: $50~~

~~13. Organizational permit for mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes, due with application: $500~~

~~14. Filing of registered agent: $10~~

~~15. Risk Retention Group annual statement filing: $250~~

~~16. Application for surplus lines insurer approval: $500~~

~~17. Surplus Lines annual statement filing. U.S. companies due annually on May 1. Alien companies due within 60 days of the annual statement's filing with the insurance regulatory authority where the company is domiciled: $250~~

~~18. Initial rate service organization license: $250~~

~~19. Annual renewal of rate service organization license, due with renewal: $50~~

~~20. Risk Purchasing Group initial filing and annual renewal, due with filing and renewal: $100~~

~~21. Power of Attorney fee: $10~~

~~22. Authorization to appoint and remove agents: $10~~

~~C. Individual Producer and Agency fees:~~

~~1. Individual Producer:~~

~~a. Resident and non-resident full line producer license or renewal per two year license period, agent, broker, consultant, surplus lines broker, independent adjuster, public adjuster, reinsurance intermediary broker, third party administrator, title search, title escrow, title search and escrow, title marketing only, workers compensation:~~

~~(1) Initial license, due with application: $60~~

~~(2) Renewal license, due with application: $60 Effective January 1, 2000.~~

~~b. Resident and non-resident limited line producer license or renewal per two year license period, credit life and credit disability, motor club, travel, credit involuntary unemployment and credit property, rental car related, bail bond:~~

~~(1) Initial license, due with application: $45~~

~~(2) Renewal license, due with application: $45 Effective January 1, 2000.~~

~~c. Third Party Administrator license renewal: $40 until January 1, 2000.~~

~~d. Resident agent's license renewal: $30 until January 1, 2000.~~

~~e. Nonresident agent's license renewal: $30 until January 1, 2000.~~

~~f. Consultant's license, resident or nonresident renewal: $40 until January 1, 2000.~~

~~g. Broker's license, resident or nonresident renewal: $40 until January 1, 2000.~~

~~h. Adjuster's license renewal: $40 until January 1, 2000.~~

~~i. Surplus line broker's license renewal: $40~~

~~j. Managing General Agent license renewal: $40~~

~~k. Agent's certificate of appointment: initial appointment, termination of appointment or renewal of appointment: per two-year period or fraction of it, $12 initial and termination due when requested; renewal due not later than June 30 of odd numbered years.~~

~~1. Addition of producer classification or line of authority to individual producer license or agency license, due with request for additional classification or line of authority: $25~~

~~2. Agency fees:~~

~~a. Resident and non-resident agency license or renewal per two year license period:~~

~~(1) Initial license, due with application: $60~~

~~(2) Renewal license, due with application: $60 effective January 1, 2000.~~

~~(3) The initial and renewal agency license fees include the first twenty designees to that license. Each designee beyond twenty must be paid for as described in 2.c. below.~~

~~b. Agency license, resident or nonresident renewal: $30 until January 1, 2000.~~

~~c. Agency designee additions or terminations during the license period, due with request for addition or termination: $12~~

~~3. Continuing Education fees:~~

~~a. Filing certificate or other proof of completion of continuing education, per individual licensee required to complete continuing education, due with license renewal: $10~~

~~b. Continuing education provider initial application and annual renewal, due with application or renewal: $100~~

~~c. Continuing education course post-approval, due with request for approval: $5 per credit hour, minimum fee $25~~

~~D. Rate and Form filing fees:~~

~~1. Filing policy forms, rates, rules, and related documents, due with filing: $20~~

~~2. Life insurance illustration certification filing: $30~~

~~3. Workers compensation loss cost multiplier list: $5~~

~~E. Other fees:~~

~~1. Photocopy, per page: $.25~~

~~2. Copy complete annual statement, per book: $40~~

~~3. Affixing commissioner's seal and certifying any paper, due within ten days of request: $10~~

~~4. Accepting service of legal process: $10~~

~~5. Copy of department's annual Report to the Governor: $10~~

~~6. Issuance of mailing lists, or computer print-outs, per page: $1~~

~~7. Electronic format list, company, agency, individual, up to 500 records: minimum fee of $50; over 500 records, $.10 per record up to a maximum of $500~~

~~8. Returned check charge: $15~~

~~9. Relative Value Study book: $10~~

~~F. Any fee which shall be payable to the Insurance Department and is not included in Subsection R590-102-4(A), (B), (C), (D) and (E) shall be due upon application or filing, if applicable; otherwise within ten days of notice.~~

~~R590-102-5. Conditions or Exceptions.~~

~~A. Mailing. A fee payment which is delivered by mail will be considered to have been made as of the date of the postmark.~~

~~B. Payment by check.~~

~~1. Checks shall be made payable to the Utah Insurance Department.~~

~~2. A check which is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken pursuant to the fee payment will be negated. Any late fees or penalties will apply until proper payment is made. Tender of a check to the department, that is subsequently dishonored, is a violation of this rule.~~

~~C. Cash payment. All payment in cash should be made in person, by exact change, if possible. The Insurance Department will not be responsible for unreceipted cash which is lost or misdelivered.~~

~~D. Payment by Credit Card.~~

~~1. Any fee due may be paid with a credit card. Credit card payments shall be made to the Utah Insurance Department.~~

~~2. Credit card payments that are disallowed will not constitute payment of the fee for which it was used and any action taken pursuant to the fee payment will be negated. Any late fees or penalties will apply until proper payment is made. Credit card payments that are disallowed are violations of this rule.~~

~~E. Retaliation. All fees, except individual producer and agency fees, are subject to retaliation, in accordance with Section 31A-3-401 if higher fees are imposed by other states or countries.~~

~~R590-102-6. Separability.~~

~~If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of this provision to other persons or circumstances may not be affected.~~

~~KEY: insurance~~
~~July 28, 1999~~
~~Notice of Continuation February 21, 2002~~
~~31A-2-201~~
~~31A-2-211~~
~~31A-3-103~~|

R590-102. Insurance Department Fee Payment Rule.

R590-102-1. Authority.

This rule is adopted pursuant to Subsections 31A-3-103(2) and (4) which require the commissioner to publish the schedule of fees approved by the Legislature and to establish deadlines for payment of each of the various fees.

R590-102-2. Purpose and Scope.

(1) The purpose of this rule is to publish the schedule of fees approved by the legislature, to establish fee deadlines, and to disclose this information to licensees and the public.

(2) The rule applies to all persons engaged in the business of insurance in Utah, to all licensees, to applicants for licenses, registrations, certificates, or other similar filings and for services provided by the department for which a fee is required.

R590-102-3. Definitions.

For the purposes of this rule the following definitions will apply.

(1) "Admitted insurers" include: fraternal, health, health maintenance organization, life, limited health plan, motor club, non-profit health service, property-casualty, and title insurers.

(2) "Agency" means:

(a) a person, other than an individual, including a sole proprietorship by which a natural person does business under an assumed name; and

(b) an insurance organization required to be licensed under Subsection 31A-23-212(3).

(3) "Deadline" means the date or time imposed by statute, order, or rule by which:

(a) a payment must be received by the department without incurring penalties for late payment or non-payment; or

(b) a filing must be received by the department without incurring penalties for late receipt or non-receipt.

(4) "Fee" means an amount set by the legislature for licenses, registrations, certificates, and other filings and services provided by the Insurance Department.

(5) "Full-line agency" includes producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(6) "Full-line individual" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(7) "Limited-line agency" includes bail bond and limited-line producer.

(8) "Limited-line individual" includes bail bond agent, limited-lines producer and customer service representative.

(9) "Other organizations" include: home warranty, joint underwriter, purchasing group, rate service organization, risk retention group, service contract provider, and any other entity considered not an admitted insurer.

(10) "Paper filing" means each item of a filing that must be manually entered into the department's database because it was submitted by some method such as paper or facsimile rather than submitted electronically when the department has an electronic filing method available.

(11) "Received by the department" means:

(a) except as provided in Subsection R590-102-3(11)(b), the date delivered to and stamped received by the department, whether delivered in person or electronically;

(b) if delivered to the department by a delivery service, the delivery service's postmark date or pick-up date unless a statute, rule, or order related to a specific filing or payment provides otherwise.

R590-102-4. General Instructions.

(1) Any fee payable to the department not included in Subsections R590-102-5 through 13, shall be due when service is requested, if applicable, otherwise by the due date on the invoice. A non-electronic payment fee will be added to the fee due the department when a payment that can be made electronically is done through a non-electronic method.

(2) Payment.

(a) Checks shall be made payable to the Utah Insurance Department. A check that is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken pursuant to the fee payment will be negated. Any late fees or penalties will apply until proper payment is made. Tender of a check to the department, that is subsequently dishonored, is a violation of this rule.

(b) Cash payments. The department is not responsible for un-receipted cash that is lost or misdelivered.

(c) Electronic payments.

(i) Credit Card. Credit cards may be used to pay any fee due to the department. Credit card payments that are dishonored will not constitute payment of the fee and any action taken based on the payment will be voided. Late fees and other penalties, resulting from the voided action, will apply until proper payment is made. A credit card payment that is dishonored is a violation of this rule.

(ii) Automated clearinghouse (ACH). Payers or purchasers desiring to use this method must contact the department for the proper routing and transit information. Payments that are made in error to another agency or that are not deposited into the department's account will not constitute payment of the fee and any action taken based on the payment will be voided. Late fees and other penalties resulting from the voided action will apply until proper payment is made. An ACH payment that is dishonored is a violation of this rule.

(3) Retaliation. The fees enumerated in this rule are not subject to retaliation in accordance with Section 31A-3-401 if other states or countries impose higher fees.

R590-102-5. Admitted Insurer Annual License and Annual Service Fees.

(1) Annual license fees.

(a) certificate of authority, initial license application - due with license application: $1,000, effective July 1, 2002;

(b) certificate of authority - renewal - due by the due date on the invoice: $300, effective with renewal invoices issued after November 30, 2002;

(c) certificate of authority - reinstatement - due with application for reinstatement: $1,000, effective July 1, 2002;

(d) certificate of authority - amendments - due with request for amendment: $250, effective July 1, 2002;

(e) application for merger, acquisition, or change of control - Form A, due with filing: $2,000, effective July 1, 2002. Expenses incurred for consultant(s) services necessary to evaluate the Form A will be charged to the applicant and due when billed by the consultant(s);

(f) redomestication filing - due with filing: $2,000, effective July 1, 2002; and

(g) application for organizational permit for mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes - due with application: $1,000, effective July 1, 2002.

(h) The annual initial or annual renewal license fee includes the following licensing services for which no additional fee is required, effective with renewal invoices issued after November 30, 2002:

(i) filing annual statement and report of Utah business, due annually on March 1;

(ii) filing holding company registration statement - Form B;

(iii) filing application for material transactions between affiliated companies - Form D;

(iv) application for: stock solicitation permit, public offering filing, but not an SEC filing; an SEC filing; private placement offering; and

(v) application for individual license to solicit in accordance with the stock solicitation permit.

(2) Annual service fee:

(a) Due annually by the due date on the invoice, effective with renewal invoices issued after November 30, 2002. The fee is based on the Utah premium as shown in the latest annual statement on file with the National Association of Insurance Commissioners (NAIC) and the department. Fee calculation example: the 2002 annual service fee calculation will use the Utah premium shown in the December 31, 2001 annual statement:

(i) $0 premium volume: no service fee;

(ii) more than $zero but less than $1 million in premium volume: $700;

(iii) $1 million but less than $3 million in premium volume: $1,100;

(iv) $3 million but less than $6 million in premium volume: $1,550;

(v) $6 million but less than $11 million in premium volume: $2,100;

(vi) $11 million but less than $15 million in premium volume: $2,750;

(vii) $15 million but less than $20 million in premium volume: $3,500; and

(viii) $20 million or more in premium volume: $4,350.

(b) The annual service fee includes the following services for which no additional fee is required, effective with renewal invoices issued after November 30, 2002:

(i) filing of amendments to articles of incorporation, charter, or bylaws;

(ii) filing of power of attorney;

(iii) filing of registered agent;

(iv) affixing commissioner's seal and certifying any paper;

(v) filing of authorization to appoint and remove agents;

(vi) agent/agency appointment with an insurer - initial;

(vii) agent/agency appointment with an insurer - termination;

(viii) agent/agency appointment with an insurer - biennial renewal;

(ix) report filing, all lines of insurance;

(x) rate filing, all lines of insurance;

(xi) form filing, all lines of insurance; and

(xii) workers' compensation loss cost schedule.

(c) The annual service fee is for services that the department will provide for an admitted insurer during the year. The fee is paid in advance of providing the services.

(d) The annual service fee EXCLUDES services related to paper filings when the department has an electronic filing method available.

R590-102-6. Surplus Lines Insurer, Accredited Reinsurer, Trusteed Reinsurer, Other Organizations Annual License and Annual Service Fees.

(1) Annual license fee.

(a) surplus lines insurer, accredited reinsurer, and trusteed reinsurer - initial - due with application: $1,000, effective July 1, 2002;

(b) surplus lines insurer, accredited reinsurer, and trusteed reinsurer - renewal - due annually by the due date on the invoice: $300, effective with renewal invoices issued after November 30, 2002;

(c) surplus lines insurer, accredited reinsurer, and trusteed reinsurer - reinstatement - due with application for reinstatement: $1,000, effective July 1, 2002;

(d) other organizations - initial - due with application: $250;

(e) other organizations - renewal - due annually by the due date on the invoice: $200, effective with renewal invoices issued after November 30, 2002; and

(f) other organizations - reinstatement - due with application for reinstatement: $250.

(g) The annual initial or renewal surplus line license fee includes the surplus lines annual statement filing and filing fee due for:

(i) U.S. companies - due annually on May 1; and

(ii) foreign companies - due within 60 days of the annual statement's filing with the insurance regulatory authority where the company is domiciled.

(h) The annual initial or renewal risk retention group - other organizations - fee includes the annual statement filing and filing fee due annually on May 1.

(i) The annual initial or renewal accredited reinsurer and trusteed reinsurer license fee includes the annual statement filing and filing fee - due annually on March 1.

(2) Annual service fee:

(a) surplus lines insurer, accredited reinsurer, trusteed reinsurer, and other organizations - due annually by the due date on the invoice: $200, effective with renewal invoices issued after November 30, 2002.

(b) The annual service fee includes the following services for which no additional fee is required:

(i) filing of power of attorney;

(ii) filing of registered agent;

(iii) form filing, service contract; and

(iv) any other services provided to the licensee.

(c) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.

(d) The annual service fee EXCLUDES services related to paper filings when the department has an electronic filing method available.

R590-102-7. Individual Resident and Non-Resident Biennial License Fees.

(1) Resident and non-resident full-line individual initial license or renewal fee for two-year period:

(a) initial license fee - due with application: $70, effective July 1, 2002;

(b) express initial license fee - due with application: $70, effective July 1, 2002;

(c) renewal license fee if renewed prior to renewal deadline - due with renewal application: $70, effective with renewal invoices beginning with the October 2002 renewals;

(d) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: $140, effective with renewal invoices beginning with the October 2002 renewals; and

(e) lapsed license reinstatement fee if reinstated 31 days through 365 days after renewal deadline - due with application for reinstatement: $190, effective with renewal invoices beginning with the October 2002 renewals.

(2) Resident and non-resident limited-line individual initial or renewal license fee, for two-year period:

(a) initial license fee - due with application: $45;

(b) renewal license fee if renewed prior to renewal deadline - due with renewal application: $45;

(c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: $90; and

(d) lapsed license reinstatement fee if reinstated 31 days through 365 days after renewal deadline - due with application for reinstatement: $140.

(3) Fee for addition of producer classification or line of authority to individual producer license - due with request for additional classification or line of authority: $25.

(4) The initial and renewal full-line producer and limited-line producer fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) individual continuing education services; and

(e) other services provided to the licensee.

(5) The initial and renewal individual license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.

(6) The initial and renewal individual license fee EXCLUDES services related to paper filings when the department has an electronic filing method available.

R590-102-8. Biennial Agency License Fees.

(1) Resident and non-resident agency initial or renewal license per two-year license period for a full-line agency and for a limited-line agency:

(a) initial license fee - due with application: $75, effective July 1, 2002;

(b) renewal license fee if renewed prior to renewal deadline - due with renewal application: $75, effective with renewal invoices beginning with the October 2002 renewals;

(c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: $150, effective with renewal invoices beginning with the October 2002 renewals; and

(d) lapsed license reinstatement fee if reinstated 31 days through 365 days after renewal deadline - due with application for reinstatement: $200, effective with renewal invoices beginning with the October 2002 renewals.

(2) Fee for addition of producer classification or line of authority to agency license - due with request for additional classification or line of authority: $25.

(3) Bail bond agency per annual license period:

(a) initial license fee - due with application: $250, effective July 1, 2002;

(b) renewal license fee if renewed prior to renewal deadline - due with renewal application: $250, effective with renewal invoices issued for 2002 renewals;

(c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: $500, effective with renewal invoices issued for 2002 renewals; and

(d) lapsed license reinstatement fee if reinstated 31 days through 365 days after renewal deadline - due with application for reinstatement: $600, effective with renewal invoices issued for 2002 renewals.

(4) Health insurance purchasing alliance annual license:

(a) initial license fee - due with application: $500, effective July 1, 2002;

(b) renewal license fee if renewed prior to renewal deadline - due with renewal application: $500, effective with renewal invoices issued for 2002 renewals;

(c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: $750, effective with renewal invoices issued for 2002 renewals; and

(d) lapsed license reinstatement fee if reinstated 31 days through 365 days after renewal deadline - due with application for reinstatement: $800, effective with renewal invoices issued for 2002 renewals.

(5) The initial and renewal agency license fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) agent designation to agency license - initial, effective October 2002;

(e) agent designation to agency license - termination, effective October 2002;

(f) agent designation to agency license - biennial renewal, effective October 2002;

(g) amendment to agency license; and

(h) any other services provided to the licensee.

(6) The initial and renewal agency license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.

(7) The initial and renewal agency license fee EXCLUDES services related to paper filings when the department has an electronic filing method available.

R590-102-9. Continuing Education Fees.

(1) Continuing education provider approval fees:

(a) initial approval fee - due with application: $250, effective July 1, 2002;

(b) renewal approval fee if renewed prior to renewal deadline - due with renewal application: $250, effective with renewal invoices beginning with the October 2002 renewals;

(c) renewal approval fee if renewed 1 through 60-days after renewal deadline and prior to approval lapse - due with renewal application: $300, effective with renewal invoices beginning with the October 2002 renewals; and

(d) Lapsed approval reinstatement fee if reinstated 61 days through 365 days after renewal deadline - due with application for reinstatement: $350, effective with renewal invoices beginning with the October 2002 renewals.

(2) Continuing education course post-approval fee - due with request for approval: $5 per credit hour, minimum fee $25.

R590-102-10. Dedicated Fees.

The following are fees dedicated to specific uses:

(1) annual fraud assessment fee - due by the due date on the invoice, effective July 1, 2002;

(2) annual title assessment fee - due by the due date on the invoice, effective July 1, 2002;

(3) relative value study book fee - due when book purchased or by invoice due date: $10;

(4) Utah insurance codebook fee - due when book purchased or by invoice due date: $25; and

(5) mailing fee for books - due if book is to be mailed to purchaser: $3.

R590-102-11. Electronic Commerce Dedicated Fees.

(1) E-commerce and internet technology services fee:

(a) insurer, admitted and non-admitted insurer, accredited reinsurer, trusteed reinsurer - due with the annual initial and annual renewal, or reinstatement application: $75, effective for initial licenses, July 1, 2002; effective for renewal licenses issued after November 30, 2002;

(b) other organization - due with the annual initial, annual renewal, or reinstatement application: $50, effective for initial licenses, July 1, 2002; effective for renewal licenses issued after November 30, 2002;

(c) agency - due with the biennial initial, biennial renewal, or reinstatement application: $10, effective for initial licenses, July 1, 2002; effective for renewal licenses issued beginning October 2002; and

(d) individual - due with the biennial initial, biennial renewal, or reinstatement application: $5 effective for initial licenses, July 1, 2002; effective for renewal licenses issued beginning October 2002.

(2) Electronic transaction fee - due when the department's database is accessed to input or acquire data: $3 per transaction, effective July 1, 2002.
(3) Non-electronic transaction fee - added to fees due the department when a payment that can be made electronically is done through some other method: $5 per payment, effective July 1, 2002.
(4) The fees in this section are authorized until July 1, 2006.

R590-102-12. Other Fees.
(1) photocopy fee - per page: $.50, effective July 1, 2002.
(2) complete annual statement copy fee - per statement: $40.
(3) fee for accepting service of legal process: $10.
(4) fees for production of information lists regarding individuals; agencies; companies:
(a) Printed list: $1 per page;
(b) Electronic list:
(i) 1 to 500 records: $50; and
(ii) 501 or more records: $.10 per record.
(c) Returned check fee: $20.

R590-102-13. Separability.
If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of this provision to other persons or circumstances shall not be affected.

KEY: insurance
2002
Notice of Continuation February 21, 2002
31A-3-103

Natural Resources, Wildlife Resources
R657-27
License Agent Procedures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24714
FILED: 04/12/2002, 13:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To add provisions that will allow the Division of Wildlife Resources to collect proceeds from the sale of licenses, permits, and tags from license agents who have become delinquent on reporting or remission of proceeds.

SUMMARY OF THE RULE OR CHANGE: Subsection R657-27-7(2) is being added to provide the procedures and standards for when a license agent becomes delinquent on reporting or remission of proceeds. The agent must submit all reports due immediately along with the remission of required proceeds. If the license sales report has been reported, but funds are not submitted with the report, then a repayment may be structured in an agreement that will allow repayment in equal monthly installments for up to six months at a payment level that will provide repayment of the principal along with an annual percentage interest rate (APR) of 12%. This APR will be calculated back to the date that the payment should have been received. If the ongoing monthly report and proceed submissions are not received for the future months, from the month of the agreement, then that agreement may be terminated and all outstanding balances and accrued interest shall become due immediately, along with a penalty of 20% of the unpaid balance. Interest shall continue to accumulate on any unpaid balance, including the penalty, at the APR, including activating and collecting all available funds under the agent surety bond and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the agent. If the agent enters into an agreement with the division, and then violates the terms of that agreement, the division may terminate the license agent agreement without further cause. If the agent does not submit a monthly report, or if the agent does not immediately pay the delinquent funds and refuses to enter into a repayment agreement, then the division may: (1) terminate the agent contract without further cause; (2) collect the agent inventory of documents and determine the amount due to the division based on unaccountable inventory; (3) create a receivable from the agent that equals the amount due and charge a 20% late penalty on the entire balance, and accumulate the unpaid balance, included penalties, at a 12% APR from the due date of the earliest date in which an agent failed to submit a report; and (4) activate and collect all available funds under the agent surety bond and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the agent.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-19-15

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The Division of Wildlife Resources (DWR) estimates that this amendment would create a savings to the state budget on average of $200,000 annually. The $200,000 annually would incur interest charges. At 12% APR, the savings via interest earned, would be $24,000. The penalties are estimated at $10,000 annually.
❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
❖ OTHER PERSONS: No impact--This amendment does not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The anticipated compliance costs to affected persons is estimated at $34,000 for interest and penalties. However, if the license agent reports their sales on a timely basis and submit the funds collected on behalf of the DWR on a timely basis, the license agent will not incur any compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment provides a process for bringing license agents in compliance with the terms of their contracts made between the state and the license agent. Section 23-19-15 authorizes the interest

charges and penalties, and collection of such are within the intent of the statute and Legislature.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2002

AUTHORIZED BY: Kevin Conway, Director

R657. Natural Resources, Wildlife Resources.
R657-27. License Agent Procedures.
R657-27-1. Purpose and Authority.

Under Section 23-19-15, this rule provides the application procedures, standards, and requirements for wildlife license agents.

R657-27-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Application" means a written request to be authorized by the division to sell wildlife documents.

(b) "Conditional Big Game Permit Sales Agreement" means a supplemental agreement to the License Agent Authorization allowing a license agent to sell big game hunting permits that are held under a quota.

(c) "License agent" means a person authorized by the division to sell wildlife documents.

(d) "License Agent Authorization" means an agreement between the division and a license agent, allowing a license agent to sell wildlife documents.

(e) "Presiding officer" means the director of the division or the director's designee.

(f) "Remuneration" means money that a license agent receives for each wildlife document sold as provided in Section 23-19-15.

(g) "Wildlife documents" means licenses, permits, tags and Heritage Certificates.

R657-27-3. Application.

(1) License agent applications may be obtained from the Licensing Section in the Salt Lake Office.

(2) License agent applications shall be accepted from any person located within Utah or in close proximity to Utah.

(3) Applications shall be processed within 30 days.

(4) The applicant must:

(a) complete and return the application to the Licensing Section in the Salt Lake Office; and

(b) pay a non refundable application fee.

(5) A separate application and application fee must be submitted for each location where wildlife documents will be sold.

R657-27-4. License Agent Eligibility - Reasons for Application Denial - Term of Authorization.

(1) The division may deny a license agent application for any of the following reasons:

(a) A sufficient number of license agents already exist in the area;

(b) The applicant does not have adequate security including a safe or locking cabinet in which to store wildlife documents;

(c) The applicant has previously been authorized to sell wildlife documents and the applicant:

(i) failed to comply with the license agent authorization or any provision of statute or rule governing license agents; or

(ii) was terminated by the division as a license agent;

(d) The applicant provided false information on the license agent application;

(e) The applicant has been convicted of a wildlife related violation.

(2) The division shall send the applicant a written notice stating the reason for denial.

(3) If the division approves the license agent application a license agent authorization shall be sent to the applicant.

(4) The license agent authorization is not effective until:

(a) it is signed and notarized by the applicant; and

(b) signed by the director.

(5) The license agent authorization must be returned to the Licensing Section in the Salt Lake Office within 30 days of being received.

(6) Each license agent authorization shall be established for a term of five years.

R657-27-5. Surety Bond Requirement.

(1) After approval, but before the license agent authorization is executed, the division may require the applicant to post a reasonable surety bond in an amount determined by the division.

(2) The division may require any existing license agent to obtain a reasonable surety bond in an amount determined by the division after providing the license agent with 30 days written notice.

(3) The division may require a reasonable increase in the amount of the bond after providing the license agent with 30 days written notice.

R657-27-6. License Agent Big Game Permit Sales Agreement.

(1) Upon approval of license agent authorization, a license agent may only sell any big game permits held under a quota by entering into a Conditional Big Game Permit Sales Agreement with the division.

(2) The division shall, prior to May 1 annually, send a Conditional Big Game Permit Sales Agreement form to each authorized license agent eligible to sell wildlife documents.

(3)(a) The license agent shall:

(i) complete all information indicated in the agreement; and

(ii) sign and date the agreement.

(b) The license agent signature must be notarized.

(c) The agreement must be returned by mail or hand-delivery to any division office and must be received no later than the date indicated under the terms on the agreement form. Facsimiles will not be accepted.

(d) Agreements received after the date as indicated on the agreement form may be returned.

(4)(a) The division may not enter into an agreement with any license agent who was given reasonable notice of the time period for entering into the agreement and fails to return a complete agreement to the division.

(b) The division may notify a license agent who has made an error in completing the agreement form and may afford an opportunity for correction. However, if the division is unable to contact the license agent within two weeks following the filing date indicated on the agreement and correct the error, the agreement shall be void and the license agent may not receive authorization to sell big game permits held under a quota.

(5) By signing the agreement, the license agent agrees to abide by the terms of the agreement.

R657-27-7. License Agent Obligations.

(1) Each license agent shall:

(a) report all wildlife document sales to the division on or before the 10th day of each month;

(b) remit all proceeds from wildlife document sales, minus remuneration, to the division on or before the 10th day of each month;

(c) retain all money obtained from wildlife document sales separate from the private funds of the license agent except remuneration;

(d) keep wildlife documents out of the public view during business hours;

(e) keep wildlife documents in a safe or locked cabinet after business hours;

(f) display all signs and distribute proclamations provided by the division;

(g) have all sales clerks and management staff available for sales training; and

(h) maintain a License Agent Manual provided by the division and make it available to the license agent's staff.

(2) If an agent becomes delinquent on reporting or remission of proceeds Subsection (2)(a), (2)(b) or (2)(c) shall apply.

(a) The agent shall submit all reports due immediately along with the remission of required proceeds.

(b) If the license sales report has been reported in accordance with Subsection (1)(b) but funds are not submitted with the report then:

(i) A repayment may be structured in an agreement that will allow repayment in equal monthly installments for up to six months at a payment level that will provide repayment of the principal along with an annual percentage interest rate (APR) of 12%. This APR shall be calculated back to the date that the payment should have been received in accordance with Subsection (1)(b).

(ii) If the ongoing monthly report and proceed submissions are not received for the future months, from the month of the agreement in accordance with Subsections (1)(a) and (1)(b), then any agreement made in Subsection (2)(b)(i) may be terminated and all outstanding balances and accrued interest shall become due immediately, along with a penalty of 20% of the unpaid balance. Interest shall continue to accumulate on any unpaid balance, including the penalty, at the APR.

(iii) Activate and collect all available funds under the agent surety bond in accordance with Section R657-27-5 and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the agent.

(iv) If the agent enters into an agreement with the division as provided in Subsection (2)(b)(i), and then violates the terms of that agreement, the division may terminate the license agent agreement without further cause.

(c) If the agent does not submit a monthly report as provided in Subsection (1)(a), or if the agent does not immediately pay the delinquent funds and refuses to enter into a repayment agreement as provided in Subsection (2)(b), then the division may:

(i) terminate the agent contract without further cause;

(ii) collect the agent inventory of documents and determine the amount due to the division based on unaccountable inventory;

(iii) create a receivable from the agent that equals the amount due as determined in Subsection (1)(a) and charge a 20% late penalty on the entire balance, and accumulate the unpaid balance, included penalties, at a 12% APR from the due date of the earliest date in which an agent failed to submit a report in accordance with Subsection (1)(a); and

(iv) activate and collect all available funds under the agent surety bond in accordance with Section R657-27-5 and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the agent.

R657-27-8. Lost or Stolen Wildlife Documents.

(1) The license agent shall act as bailee for purposes of safeguarding all wildlife documents issued to the agent by the division.

(2)(a) The license agent shall remit full payment to the division for any wildlife documents lost, stolen, or unaccounted for unless otherwise relieved for good cause by the director.

(b) Payments made to the division for any wildlife documents that are lost or unaccounted for may be refunded if the wildlife documents are returned to the Licensing Section in the Salt Lake office by June 30 of the current state fiscal year.

R657-27-9. Audits.

(1) License agents are subject to an audit without prior notification anytime during normal business hours to assess financial and procedural compliance with statute, rule, and the terms of the license agent authorization.

(2) The division shall provide a written report to the license agent of any finding of noncompliance within five days of the completion of the audit.

R657-27-10. Checks Returned for Non-sufficient Funds.

(1) The division may require a license agent to remit payment for wildlife documents in the form of a cashiers check or money order if any check from a license agent is returned to the division for non sufficient funds.

(2) The presiding officer may revoke a license agent authorization pursuant to Section 63-46b-20 if payment is not made to the division within five business days after the license agent receives written notification of the returned check.

R657-27-11. Change of Business Ownership.

(1) License agent authorizations are nontransferable.

(2) The license agent shall notify the division of any anticipated change of ownership of the license agent's business at least 30 days prior to the change of ownership.

(3) Prior to change of ownership the license agent shall:

(a) remit payment for all wildlife documents sold minus remuneration; and

(b) return all unsold wildlife documents to the division.

R657-27-12. Revocation of License Agent Authorization.

(1) The presiding officer may revoke a license agent authorization pursuant to Chapter 46b, Title 63, Utah Administrative Procedures Act, if the presiding officer determines that the agent or the agent's employee violated:

(a) the terms of the license agent authorization;

(b) the terms of the Big Game Permit Sales Agreement;

(c) any provision of Title 23, Wildlife Resources Code; or

(d) any rule promulgated under Title 23, Wildlife Resources Code.

(2) The presiding officer may hold a hearing to determine matters relating to the license agent revocation if the license agent makes a written request for a hearing within 10 days after the notice of agency action is issued.

R657-27-13. Termination of Authorization by the License Agent.

(1) A license agent may terminate a license agent authorization by submitting a written request to the Licensing Section in the Salt Lake Office.

(2) Any request for termination shall state the requested date of termination.

(3) On or before the effective date of termination the license agent shall:

(a) discontinue selling wildlife documents;

(b) return all unsold wildlife documents to the division; and

(c) return to the division any signs, proclamations or other information provided by the division.

(4) On or before the 10th day of the month following the date of termination the license agent shall remit payment for all wildlife documents minus remuneration to the division.

R657-27-14. Reapplying for a License Agent Authorization.

(1) The division may not renew a license agent authorization.

(2) At the end of the five-year term of authorization to sell wildlife documents, a license agent may reapply for a license agent authorization by following the application procedures prescribed in this rule.

R657-27-15. Violation.

(1) It is unlawful for a license agent to sell:

(a) any wildlife documents in violation of the License Agent Authorization; or

(b) any big game permits in violation of the Big Game Permit Sales Agreement.

KEY: licensing, wildlife, wildlife law, rules and procedures
[~~March 26, 2001~~]2002
Notice of Continuation April 10, 2002
23-19-15

▼ ▼

Public Service Commission, Administration
R746-210-2
Exemptions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24727
FILED: 04/15/2002, 17:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To establish a specific kWh threshold to define the existing phrase "...to be near minimum bill requirements of the tariff."

SUMMARY OF THE RULE OR CHANGE: New wording in Subsection R746-210-2(A)(2) "...250 kWh or less per month and where the utility has been provided reasonable substantiation of the load projection." replaces the old language "...to be near minimum bill requirements of the tariff."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-3-1 states that all charges by public utilities must be just and reasonable. Section 54-4-1 states that the commission is vested with power and jurisdiction to supervise and regulate public utilities in Utah and to do all things necessary or convenient in the exercise of that power. Sections 113 and 115 PURPA 16 USCA standards for Master Metered Multiple Tenancy Dwellings make it necessary for the Commission to set the standards and exemptions in this rule.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No additional costs are anticipated for state agencies. There are no changes affecting those agencies currently involved in addressing master-metering. There could be some savings to the Division of Public Utilities with this language clarification because it could reduce the need for dispute resolution in cases of the construction of new multiple occupancy dwellings.

❖ LOCAL GOVERNMENTS: No additional costs are anticipated for local governments as the proposed changes do not require any activity or modification of activity by local government entities.

❖ OTHER PERSONS: Builders of multiple tenancy dwellings who are attempting to provide master-metered utilities for their prospective occupants could realize savings to the extent that the proposed amendment clarifies qualifying exemption criteria making the rule less difficult to apply.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Electric utility corporations could save administration costs (undetermined amount) because multiple occupancy dwelling applicants would have to provide some basis for their load projection for the prospective units and the utility would have documentation and logic to back up the claims of the applicant and could determine, before construction, whether the applicant does qualify for exemption under this rule. The proposed amendment clarifies qualifying exemption criteria making the rule less difficult to interpret and administer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Two fairly recent multiple occupancy dwelling projects have been constructed in Salt Lake County where developers have met the master-meter exemption criteria relative to low electric usage per living unit. This proposed rule change is a result of the lessons learned from the negotiations and implementation of these recent projects.

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

PUBLIC SERVICE COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Barbara Stroud at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at bstroud.pupsc@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2002

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.
R746-210. Utility Service Rules Applicable Only to Electric Utilities.
R746-210-2. Exemptions.

A. Automatic Exemptions -- Separate individual metering is not required for:

1. Those portions of transient multiple occupancy buildings and transient mobile home parks normally used as temporary domiciles in such buildings as hotels, motels, dormitories, rooming houses, hospitals, nursing homes and those mobile home park sections designated for travel trailers;

2. Residential unit space in multiple occupancy buildings where all space heating, water heating, ventilation and cooling are provided through central systems and where the electric load within each unit that is controlled by the tenant is projected to be[~~near minimum bill requirements of the tariff~~] 250 kWh or less per month and where the utility has been provided reasonable substantiation of the load projection;

3. Common building areas such as hallways, elevators, reception and/or washroom, security lighting areas.

4. Commercial unit space which is:

a. Subject to alternation with change in tenants as evidenced by temporary as distinguished from permanent type of load bearing wall and floor construction separating the commercial unit spaces, and

b. Non-energy intensive as evidenced by connected loads other than space heating, water heating, and air-conditioning of five watts or less per square foot of occupied space.

KEY: electric utility industries, rules, procedure
1988
Notice of Continuation June 26, 1998
54-4-1

▼ ▼

Transportation, Preconstruction, Right-of-Way Acquisition
R933-5
Utah--Federal Agreement for the Control of Outdoor Advertising

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 24687
FILED: 04/03/2002, 20:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Although the Utah-Federal Agreement has been in effect since 1968, having been signed by the governor, the secretary of the U.S. Department of Transportation, and ratified by the Utah Legislature, the actual text of the agreement does not appear either in the Utah Code or UDOT's rules. This new rule adds the agreement so that it can be more easily found and obtained by the public. However, the existence and validity of the rule has already been set forth by the legislature in Utah Code Ann. Section 72-7-501.

SUMMARY OF THE RULE OR CHANGE: The rule adds the text of a pre-existing federal-state agreement that sets parameters regarding UDOT's ability to grant permits for outdoor advertising along federal interstate or the federal highway system.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-7-501

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There will be no cost or savings to the State since the agreement has been in effect and enforced already.
❖ LOCAL GOVERNMENTS: This rule does not apply to local governments.
❖ OTHER PERSONS: There should be no cost or savings to others since the agreement has already been in place. It is merely being codified.

COMPLIANCE COSTS FOR AFFECTED PERSONS: there will be no cost to comply with this rule. It is essentially for information and to make the rule put the rule in a readily accessible public document.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no impact on business.

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

TRANSPORTATION
PRECONSTRUCTION, RIGHT-OF-WAY ACQUISITION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@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 PM on 05/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2002

AUTHORIZED BY: John R. Njord, Executive Director

R933. Transportation, Preconstruction, Right-of-Way Acquisition.

R933-5. Utah-Federal Agreement for the Control of Outdoor Advertising.

R933-5-1. Introduction.

The Utah-Federal Agreement was executed by the governor of Utah and the secretary of the United States Department of Transportation's Federal Highway Administrator on January 18, 1968. It sets out the parameters by which Utah agrees to manage and regulate outdoor advertising along the federal highway system. Though never placed in the Utah Code, the legislature has ratified the governor's execution of the agreement under Section 72-7-501 (Supp. 2001).

R933-5-2. Utah-Federal Agreement.

FOR CARRYING OUT NATIONAL POLICY RELATIVE TO CONTROL OF OUTDOOR ADVERTISING IN AREAS ADJACENT TO THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS AND THE FEDERAL-AID PRIMARY SYSTEM.

THIS AGREEMENT made and entered into this 18th day of January, 1968, by and between the United states of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator, hereinafter referred to as the Administrator, and the state of Utah, acting by and through its Governor, hereinafter referred to as the State.

Witnesseth:

WHEREAS, the governor is authorized by Senate Bill No. 94, enacted by the Thirty-seventh Utah State Legislature, to enter into agreements with the Secretary of Commerce, whose functions, powers and duties in regard to highway matters have been transferred to the Secretary of Transportation by Public Law 89-760, 89th Congress, on behalf of the State of Utah to comply with Title I of the Highway Beautification Act of 1965; and

WHEREAS, Section 131(d) of Title 23, United states Code provides for agreement between the Secretary of Transportation and the several states to determine the size, lighting, and spacing of signs, displays, and devices, consistent with customary sue, which may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas adjacent to the interstate and primary systems which are zoned industrial or commercial under authority of state law or in unzoned commercial or industrial areas, which areas are also to be determined by agreement, and

WHEREAS, the purpose of said agreement is to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the national policy to protect the public investment in interstate and primary highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, the State of Utah elects to implement and carry out the provisions of Section 131 of Title 23, United states Code, and the national policy in order to remain eligible to receive the full amount of all federal-aid highway funds to be apportioned to such state on or after January1, 1968, under Section 104 of Title 23, United States Code.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. Definitions

A. The term "Act" means Section 131 of Title 23, United States Code (1965), commonly referred to as Title I of the Highway Beautification act of 1965.

B. Commercial or industrial zone means those areas which are reserved for business, commerce, or trade pursuant to comprehensive local zoning ordinance or regulation, or enabling state legislation, including Highway Service areas lawfully zoned as Highway Service Zones, in which the primary use of the land is reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.

C. Unzoned commercial or industrial area means those areas not zoned by state or local law, regulation or ordinance, which are occupied by one or more industrial or commercial activities, other than outdoor advertising signs, the lands along the highway for a distance of 600 feet immediately adjacent to the activities, and those lands directly opposite on the other side of the highway to the extent of the same dimensions provided those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the Utah Road Commission.

All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway.

D. Commercial or industrial activities, for purposes of the unzoned area definition above, mean those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

1. Agricultural, forestry, grazing, farming, and related activities, including, but not limited to wayside fresh produce stands.

2. Transient or temporary activities.

3. Activities not visible from the main-traveled way.

4. Activities conducted in a building principally used as a residence.

5. Railroad tracks and minor sidings.

Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate for a period of six continuous months, any signs located within the former unzoned area shall become non-conforming.

E. Sign means any outdoor sign, light , display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the interstate or federal-aid primary highway.

F. Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign or sign structure.

G. Center line of the highway means a line equidistant from the edges of the median separating the main-traveled way of a divided interstate or other limited-access highway, or the center line of the main-traveled way of a non-divided highway.

H. Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

I. Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

II. Scope of Agreement

This agreement shall apply to:

A. All zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of all portions of the interstate and primary systems within the State of Utah in which outdoor advertising signs, displays and devices may be visible from the main-traveled way of said system.

III. State Control

The State hereby agrees that, in all areas within the scope of this agreement, the State shall effectively control or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays, and devices erected subsequent to the effective date of this agreement other than those advertising the sale or lease of the property on which they are located, or activities conducted thereon, in accordance with the following criteria:

A. In zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply to signs, displays and devices erected subsequent to the effective date of this agreement.

General

THE FOLLOWING SIGNS SHALL NOT BE PERMITTED

1. Signs which imitate or resemble any official traffic sign, signal, or device.

2. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

3. Signs which are erected or maintained in such a ;manner as to obscure, or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic.

Size of Signs

1. No sign shall exceed the following dimensions:

(a) Maximum area - 1000 square feet

(b) Maximum height--25 feet

(c) Maximum length--60 feet

2. The area shall be measured by the outer limits of the advertising space.

3. A sign structure may contain no more than two facings visible and readable from the same direction on the main traveled way on any one sign structure. Whenever two facings are so positioned, neither shall exceed 325 square feet.

4. Back-to-back or V-type sign structures will be permitted with the maximum area being allowed for each facing; and considered as one structure and subject to spacing as herein below provided, but must be erected so that no more than two facings are visible to traffic in any one direction.

Spacing of Signs

1. Signs may not be located within 500 feet of any of the following which are adjacent to the highway:

(a) Public parks

(b) Public forests

(c) Playgrounds

(d) Cemeteries

2. Interstate Highways and Limited-Access Highways on the Primary System.

(a) Spacing between sign structures along each side of the highway shall be a minimum of 500 feet except that this spacing shall not apply to signs which are separated by a building or other obstruction in such a manner that only one sign located within the minimum spacing distance set forth above is visible from the highway at any one time.

(b) No sign may be located on an interstate highway or freeway within 500 feet of an interchange, or intersection at grade, or rest area (measured along the interstate highway or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way).

3. Non-Limited Access Primary Highways.

The location of sign structures situated between streets, roads or highway entering into or intersecting the main traveled way shall conform to the following minimum spacing criteria to be applied separately to each side of the primary highway:

(a) Where the distance between centerlines of intersecting streets or highways is less than 1000 feet, a minimum spacing between structures of 150 feet (double-faced, V-type and/or back-to-back) may be permitted between such intersecting streets or highways.

(b) Where the distance between centerlines of intersecting streets or highways is 1000 feet or more, minimum spacing between sign structures (double-faced, V-type and/or back-to-back) shall be 300 feet.

4. Explanatory Notes

(a) Alleys, undeveloped rights-of-way, private roads and driveways shall not be regarded as intersecting streets, roads or highways.

(b) Only roads, streets and highways which enter directly into the main-traveled way of the primary highway shall be regarded as intersecting.

(c) Official and "on premise" signs, as defined in Section 131 (c) of Title 23, United states Code, shall not be counted nor shall measurements be made from them for purposes of determining compliance with the above spacing requirements.

(d) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs.

Lighting

Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

2. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled

way of the highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

IV. Interpretation

The provisions contained herein shall constitute the acceptable standards for effective control of signs, displays, and devices within the scope of this agreement.

Nothing contained herein shall be construed to abrogate or prohibit a municipality from exercising a greater degree of control of outdoor advertising than that required or contemplated by the Act of from adopting standards which are more restrictive in controlling outdoor advertising than the provisions of this Agreement.

Standards and criteria contained in Section III shall apply to signs erected subsequent to the effective date of this Agreement. Existing signs in zoned and unzoned commercial or industrial areas will be considered to be conforming to said standards and criteria.

In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress, or the provisions of Chapter 51, Section 5, Laws of Utah, 1967, are amended by subsequent action of the Utah state Legislature, the parties reserve the right to re-negotiate this Agreement or to modify it to conform with any amendment.

V. Effective Date

This agreement shall become effective when signed and executed on behalf of both the State and the Untied States of America.

IN WITNESS WHEREOF, the State has caused this Agreement to be duly executed in its behalf, and the Secretary of transportation has likewise caused the same to be duly executed in his behalf, as of the dates specified below.

KEY: outdoor advertising, interstate highways
2002
72-7-501

▼ ▼

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Administrative Services, Finance
R25-14
Payment of Attorneys Fees in Death Penalty Cases

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24691
FILED: 04/05/2002, 15:01

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 78-35a-202 requires the Division of Finance to pay the cost of counsel and other reasonable litigation expenses in providing representation to indigent persons in death penalty cases. It further requires the Division of Finance to establish rules to enact the provision.

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 written comments have been received since this rule became effective.

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 required by statute. It is necessary to define both the legal services eligible for reimbursement, and the limits for amounts paid for legal services.

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

ADMINISTRATIVE SERVICES
FINANCE
Room 2110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

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

AUTHORIZED BY: Kim Thorne, Director

EFFECTIVE: 04/24/2002

Commerce, Administration
R151-2
Government Records Access and Management Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24721
FILED: 04/15/2002, 13:53

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 Government Records Access and Management Act, Utah Code Ann. Section 63-2-101 et seq., applies to executive department agencies of the state, including the Department of Commerce and requires such governmental entities to establish economical and efficient records management practices. Rule 151-2 is made pursuant to Section 63-2-204 of the Act which allows agencies to specify where and to whom requests for access to records shall be directed; Subsection 63-2-904(2) allows an agency to specify at which levels certain requirements shall be undertaken; and Section 63-2-603 concerns appeals from the denial of a request to amend a record.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any comments regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued because it ensures the efficient management of Department records, which is required under Section 63-2-101 et seq. The Department has received no comments in opposition to the rule. However, the Department intends to make some nonsubstantive changes to the rule in the near future.

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

COMMERCE
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Masuda Medcalf at the above address, by phone at 801-530-7663, by FAX at 801-530-6001, or by Internet E-mail at mmedcalf@utah.gov

AUTHORIZED BY: Klare Bachman, Deputy Director

EFFECTIVE: 04/24/2002

Commerce, Occupational and Professional Licensing
R156-24a
Physical Therapist Practice Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24719
FILED: 04/15/2002, 11:31

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: Title 58, Chapter 24a, provides for the licensure of physical therapists. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-24a-108 provides that the Physical Therapy Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 24a, with respect to physical therapists.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in May 1997, it has been amended three times. With respect to two of the amended rule filings in January 1999 and June 2001, public rule hearings were held. However, the Division has received no written comments with respect to this rule or any amended rule filings.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 24a, with respect to physical therapists.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Lynn Bernhard at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at lbernhard@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 04/24/2002

Commerce, Occupational and Professional Licensing
R156-26a
Certified Public Accountant Licensing Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24720
FILED: 04/15/2002, 11:36

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: Title 58, Chapter 26a, provides for the licensure of certified public accountants (CPA) and CPA firms. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-26a-201(3) provides that the Utah Board of Accountancy's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 26a, with respect to CPAs and CPA firms.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in May 1997, it has been amended three times. In all three amended rule filings, a public hearing was held. However, the Division has received no written comments with respect to this rule or any amended rule filings.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 26a, with respect to CPAs and CPA firms.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dsjones@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 04/24/2002

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in May 1997, it has been amended three times. With respect to all three amended rule filings, no public hearings were held. The Division has received no written comment with respect to this rule since it was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 28, with respect to veterinarians.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 04/24/2002

Commerce, Occupational and Professional Licensing

R156-28

Veterinary Practice Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24718
FILED: 04/15/2002, 10:43

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: Title 58, Chapter 28, provides for the licensure of veterinarians. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-28-3(3) provides that the Veterinary Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 28, with respect to veterinarians.

Commerce, Occupational and Professional Licensing

R156-41

Speech-Language Pathology and Audiology Licensing Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24694
FILED: 04/08/2002, 10:38

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: Title 58, Chapter 41, provides for the licensure of speech-language pathologists and audiologists. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-41-6(3) provides that the Speech-Language Pathologist and Audiology Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title

58, Chapter 41, with respect to speech-language pathologists and audiologists.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in May 1997, it has been amended once in October 1997. Amendments were made to simplify and update the rule. An October 2, 1997, hearing was held with respect to the proposed amendments. Kent Bishop submitted written comments to the Division on September 9, 1997, wherein he suggested a change in wording in Subsection R156-41-102(1) with respect to calibration. After Division and Board review of Mr. Bishop's suggested changes, it was determined that the wording would in fact not be changed to what he suggested. The Board and Division believed that the existing wording in the rule was sufficient and needed no further changes. No other written comments have been received by the Division with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 41, with respect to speech-language pathologists and audiologists.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Lynn Bernhard at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at lbernhard@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 04/24/2002

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Commerce, Occupational and Professional Licensing

R156-54

Radiology Technologist and Radiology Practical Technician Licensing Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24696
FILED: 04/08/2002, 10:52

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: Title 58, Chapter 54, provides for the licensure of radiology technologists and radiology practical technicians. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-54-3(3) provides that the Radiology Technologists Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 54, with respect to radiology technologists and radiology practical technicians.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in May 1997, it has been amended four times. In February 1998, the rule underwent a major revision wherein unnecessary items in the rule were deleted. A December 5, 1997, hearing was held and the Division received one written comment from Robert Walker wherein he identified some minor association name corrections. The corrections identified were made in a change in proposed rule filing that was made effective February 3, 1998. The other three amendments that have been filed have all dealt with changes to examinations. No hearings were held with respect to the additional three amendment filings and the Division has received no additional written comments with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 54, with respect to radiology technologists and radiology practical technicians.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Lynn Bernhard at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at lbernhard@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 04/24/2002

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Commerce, Occupational and Professional Licensing

R156-72

Acupuncture Licensing Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24695
FILED: 04/08/2002, 10:43

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: Title 58, Chapter 72, provides for the licensure of acupuncturists. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-72-201(3) provides that the Acupuncture Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 72, with respect to acupuncturists.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in May 1997, it has been amended once in July 1998. The Division filed amendments to the rule as a result of statute changes made to Title 58, Chapter 72, by the 1998 Legislature. The rule was greatly reduced as most of the information contained in the rule was now in the statute. The Division received no written comments with respect to this rule filing nor has the Division received any comments with respect to the rule in general since its last review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 72, with respect to acupuncturists.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 04/24/2002

Corrections, Administration

R251-306

Sponsors in Community Correctional Centers

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24711
FILED: 04/12/2002, 09:20

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 64-13-10 requires the Department to provide probation and parole supervision programs and community correctional centers as necessary and as required to accomplish its purposes. This section authorizes the Department to make rules to carry out the requirements of these programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The sponsor program for offenders in community correctional centers provides the offender with opportunities for experiences that may assist in his re-entry into the community. This rule is necessary to set the parameters of this program in order to ensure the safety and security of staff, offenders, and citizens of the community.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at gduncan@udc.state.ut.us

AUTHORIZED BY: Michael P. Chabries, Executive Director

EFFECTIVE: 04/24/2002

Education, Administration
R277-416
Experimental and Developmental Programs

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24722
FILED: 04/15/2002, 16:06

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-17a-132 requires the State Board of Education to develop standards for distribution of funds for experimental and developmental programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The State Board of Education continues to receive funds for experimental and developmental programs and this rule directs how the funds should be spent and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 04/24/2002

Education, Administration
R277-503
An Alternative Preparation for Teaching Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24723
FILED: 04/15/2002, 16:08

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(a) directs the State Board of Education to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because the law continues to direct the State Board of Education to develop rules. Because of significant substantive changes in the rule, a repeal and reenact was recently filed that was made effective April 22, 2002. (DAR NOTE: The repeal and reenact on R277-503 was published in the March 15, 2002, issue of the Utah State Bulletin under DAR No. 24522.)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 04/24/2002

Education, Administration
R277-507
Driver Education Endorsement

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24726
FILED: 04/15/2002, 16:19

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(a) directs the State Board of Education to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because the law continues to direct the State Board of Education to develop rules establishing standards for qualifications of ancillary personnel who provide direct student services.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 04/24/2002

Education, Administration
R277-519
Educator Inservice Procedures and Credit

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24724
FILED: 04/15/2002, 16:12

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(a) directs the State Board of Education to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because the law continues to direct the State Board of Education to develop rules on standards for the qualification and licensing of educators.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 04/24/2002

Education, Administration
R277-723
Child Care and Adult Care Food Program Sponsors of Day Care Homes

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24725
FILED: 04/15/2002, 16:15

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is continued

because the State Board of Education continues to distribute funds for child nutrition programs made available through the federal government.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 04/24/2002

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Environmental Quality, Solid and Hazardous Waste

R315-304

Industrial Solid Waste Landfill Requirements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24705
FILED: 04/11/2002, 14:55

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 Utah Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 1, establishes the structure and organization of the Utah Solid and Hazardous Waste Control Board and gives the Board the authority and responsibility to make and enforce rules to regulate the management of solid and hazardous waste. For the protection of human health and the environment, the Board may make rules establishing minimum standards for the storage, collection, transport, treatment, and disposal of solid waste (Subsection 19-6-105(1)(a)). The Board is to require all waste facilities, including those managing nonhazardous industrial waste, to submit plans, prior to construction, for review to determine if requirements of the Act and implementing rules will be met (Subsection 19-6-104(1)(j)). Also, Subsection 19-6-108(9) specifies the general contents of the Plan of Operation that must be submitted to the Board by all solid waste facilities for approval.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the last five-year review, changes in Rule R315-304 became necessary to implement changes in the corresponding EPA rule that regulates those landfills that do not accept municipal waste but do manage nonhazardous industrial waste. Comments received during the rulemaking process included support for the concept of defining two categories of industrial landfills based on the waste types accepted and suggestions for the language contained in these definitions. One commenter questioned the need to regulate industrial landfills that accept only nonhazardous industrial solid waste generated from on-site. Other comments included concerns of duplication and lack of coordination between the State and local health departments during the permitting process and concerns on the costs that may be incurred during the permitting process. The commenters also requested that a compliance schedule be established for existing industrial landfills so that they would have sufficient time to meet the permitting and operational requirements. As a result of the comments received, the proposed changes in Rule R315-304 were revised to include the suggested language in the definitions of the two categories of industrial landfills and the effective date of the rule on existing industrial landfills was extended to allow sufficient time for compliance. Also, the Division of Solid and Hazardous Waste has increased efforts and awareness to cooperate and coordinate with local health departments in the regulation of all solid waste facilities.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-304 is the only Utah Solid Waste Rule that regulates nonhazardous industrial waste landfills. Without Rule R315-304, the Utah Solid and Hazardous Waste Control Board would have no minimum standards for location, design, and operation that are effective on industrial landfills as a means to protect human health and the environment. The Division of Solid and Hazardous Waste disagrees with the comment stating that there is no need to regulate the on-site disposal of industrial waste. To protect human health and the environment, Section 19-6-105 gives the Board the authority and responsibility to establish minimum standards for the disposal of all solid waste including nonhazardous industrial waste.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl Wadsworth at the above address, by phone at 801-538-6769, by FAX at 801-538-6715, or by Internet E-mail at cwadswor@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 04/24/2002

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Human Services, Child and Family Services

R512-10

Youth Advocate Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24684

FILED: 04/02/2002, 15:10

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 Youth Advocate Program provides direct mentoring for youth that are at risk to become juvenile delinquents or ungovernable youth. This rule is need to provided guidance for the selection of mentors who work with these trouble youth identified by the Division to give them adult direction and protective services that will lead to self-sufficiency and avoid anti-social or illegal behaviors. Section 62A-4a-106

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Youth Advocate Program provides support, socialization activities and builds self-esteem of youth who are at risk, neglected, abused, or ungovernable.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradfor@hs.state.ut.us

AUTHORIZED BY: Richard Anderson, Director

EFFECTIVE: 04/25/2002

Human Services, Child and Family Services

R512-60

Children's Trust Account

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24683

FILED: 04/02/2002, 14:48

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 Children's Trust Account was established to fund program for the prevention of child abuse. The Division works closely with the Child Abuse Advisory Council to identify and select programs that will provide meaningful child abuse prevention services thoughout the state of Utah. This rule is needed to provided procedures and guidance for selecting the most effective programs for preventing child abuse as directed by the statute. Sections 62A-4a-309, 62A-4a-310 and 62A-4a-311(5)

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Children's Trust Account is required by Sections 62A-4a-309 and 62A-4a-310.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradfor@hs.state.ut.us

AUTHORIZED BY: Richard Anderson, Director

EFFECTIVE: 04/25/2002

Natural Resources, Forestry, Fire and State Lands

R652-1

Definition of Terms

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24667

FILED: 04/02/2002, 11:58

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule was promulgated under the general rulemaking authority of Subsection 65A-1-4(2). There is no rulemaking authority specific to definition of terms. The terms are commonly used in many of the division's rules so consolidation of definitions into a single rule reduces duplication.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Since other division rules will remain effective it is appropriate that a rule defining terms used in those other rules be continued.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands

R652-3

Applicant Qualifications and Application Forms

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24668

FILED: 04/02/2002, 12:06

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 65A-7-1 requires the division to establish criteria by rule for the sale, lease, exchange, or other disposition or conveyance of state land. The criteria established in rule include applicant qualifications and the form of an acceptable application.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: State law imposes minimum qualifications on mineral lease applicants. Mineral leases are not the sole land use authorization issued by the division. It is logical for minimum qualifications to be imposed on applicants for all land use authorizations. The rule achieves this purpose, and should be continued.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands

R652-4

Application Fees and Assessments

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24669

FILED: 04/02/2002, 12:11

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule was promulgated under general rulemaking authority in Subsection 65A-1-4(2). There is no statutory rulemaking authority specific to application fees. The division believes the rule to be necessary to fulfill the purposes of Title 65A.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There is no rulemaking authority specific to application fees; however, Title 65A, Chapter 6, refers to application fees, so they are a legitimate element of division business. The submission of the required application fee is an appropriate criterion for land use authorizations issued by the division.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands

R652-5

Payments, Royalties, Audits and Reinstatements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24671

FILED: 04/02/2002, 13:10

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule was promulgated under general rulemaking authority of Subsection 65A-1-4(2). There is no rulemaking authority specific to payments. The division believes the rule to be necessary to fulfill the purpose of Title 65A.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Title 65A, Chapter 6, requires that mineral leases contain requirements for prompt payment of rent in advance. Prompt payments are a legitimate requirement for other mineral lease obligations and other land use authorizations issued by the division. In the conduct of business, it is important that the division's customers understand how and when payments are to be made and how failure to make payments may affect the business relationship. This is an appropriate rulemaking purpose, and this rule should be continued.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands

R652-6

Government Records Access and Management

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24672
FILED: 04/02/2002, 13:19

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 Government Records Access and Management Act (Section 63-2-101 et seq.) specifically authorizes rulemaking for different purposes. The division chooses to exercise the statutory authority.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division is the repository for some government records dating back to early statehood, as well as records relevant to current land use authorizations issued by the division. It is appropriate that procedures for access to division records be provided through rulemaking.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands

R652-20

Mineral Resources

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24673
FILED: 04/02/2002, 13:27

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 65A-6-2 specifically requires rulemaking for the issuance of mineral leases. The legislature has recognized mineral leasing as a legitimate state land management activity for which rulemaking is required.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Opposition to an amendment regarding salt royalty was the subject of an administrative hearing and litigation. The division negotiated agreements with salt companies to settle the litigation.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division continues to issue mineral leases on state land. The rationale behind the original rulemaking requirement is still valid. With respect to the administrative hearing referenced above, the division believes application of the rule to be necessary in order for the division to fulfill its public trust responsibility.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands
R652-30
Special Use Leases

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24676
FILED: 04/02/2002, 13:51

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 65A-7-1 specifically requires rulemaking for the sale, lease, exchange, or other disposition or conveyance of state lands including procedures for determining fair market value of state lands. The legislature has recognized these activities as legitimate sovereign land management responsibilities for which rules are required.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division continues to issue land use authorizations including leases, exchanges, and other dispositions of sovereign land. The rationale behind the original statutory rulemaking authority is still valid.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands
R652-40
Easements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24675
FILED: 04/02/2002, 13:45

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 65A-7-8 specifically requires rulemaking for the issuance of easements on, through, and over state land. The legislature has recognized the issuance of easements as a legitimate sovereign land management activity for which rulemaking is required.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division continues to issue easements on sovereign land. The rationale behind the original rulemaking authority is still valid.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands
R652-50
Range Management

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24677
FILED: 04/02/2002, 13:57

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 65A-9-2(1) specifically requires rulemaking if the division issues grazing permits on sovereign land. The division considers grazing to be a legitimate component of multiple-use management and chooses to issue grazing permits; therefore, rulemaking is required.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division continues to issue grazing permits on sovereign land; the need for a rule continues.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands
R652-60
Cultural Resources

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24678
FILED: 04/02/2002, 14:03

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 65A-2-2(1) requires that the division develop planning procedures for cultural resources on sovereign land, and Section 9-8-404 requires that state agencies take into account the effect of land management actions on cultural resources. This rule specifies how the statutory requirements are implemented.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division continues to authorize or undertake land use actions which have the potential to affect cultural resources. The rule is appropriate as long as this is the case.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands
R652-70
Sovereign Lands

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24679
FILED: 04/02/2002, 14:09

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule was promulgated under general rulemaking authority in Section 65A-1-4 which

specifies that the division is the executive authority for the management of sovereign lands. In combination with other rules, this rule provides the management framework for sovereign lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Public trust management of sovereign lands is a statehood obligation that will exist in perpetuity.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands

R652-90

Sovereign Land Management Planning

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24680
FILED: 04/02/2002, 14:14

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 65A-2-2 requires that the division develop planning procedures, and Section 65A-2-4 requires that the division adopt rules for notifying and consulting with the public on sovereign land management plans. This rule was promulgated in response to statutory obligation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule will be necessary as long as the division conducts sovereign land management planning, and issues associated land use authorizations.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands

R652-100

Materials Permits

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24681
FILED: 04/02/2002, 14:19

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 65A-7-1 requires rulemaking for the sale, lease, exchange, or other disposition or conveyance of sovereign lands. The sale of common varieties of sand, gravel, cinders, and similar materials is a conveyance.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Although a relatively infrequent occurrence, materials permits continue to be issued by the division.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Forestry, Fire and State Lands

R652-130

Leaf-it-to-us, Children's Crusade for Trees Administration

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24682
FILED: 04/02/2002, 14:26

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 65A-8-1.1(4) specifically requires rulemaking for administration of the Leaf-It-To-Us Children's Crusade for Trees program. Rulemaking is appropriate for the competitive distribution of funds.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted to the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division continues to administer the program. The rational behind original rulemaking authority is still valid.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrslf@state.ut.us

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/24/2002

Natural Resources, Wildlife Resources

R657-27

License Agent Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24699
FILED: 04/10/2002, 11:28

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under the authority of Section 23-19-15. This section authorizes the director of the Division of Wildlife Resources to designate license agents to sell licenses, permits, and tags. Rule R657-27 provides the procedures, standards, and requirements for wildlife license agents.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources has not received any comments in support or opposition to Rule R657-27. The public is welcome to view the administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-27 provides the application procedures, standards, and requirements for wildlife license agents to sell licenses, permits, and tags. The provisions adopted in this rule are effective in providing the requirements, procedures, and standards for managing the wildlife license agent program. Continuation of this rule is necessary for continued success of this program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at dsundell.nrdwr@state.ut.us

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 04/24/2002

Tax Commission, Auditing
R865-6F
Franchise Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24685
FILED: 04/03/2002, 11:26

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 9-2-401 through 9-2-415 establish the enterprise zone act, which provides state assistance to businesses operating in rural parts of the state. Section 9-2-413 provides state tax credits for certain businesses operating within the enterprise zone. Sections 16-10a-1501 through 16-10a-1533 establish guidelines by which a business may receive authority to become qualified or incorporated to transact business in Utah, and the penalties for transacting business without authority; set requirements for establishing a legal place of business for foreign corporations operating in the state are addressed, as well as requirements for the withdrawal of a foreign corporation; provide guidelines for revocation; and outline procedures for a foreign company to become domesticated. Section 53B-8a-112 gives the Tax Commission permission to establish rules to implement the corporate franchise and individual income tax imposed on the Utah Educational Savings Plan Trust property and income. Section 59-7-104 requires all foreign and domestic corporations to pay an annual corporate franchise or income tax. Section 59-7-105 provides additions to unadjusted income for computing adjusted income. Section 59-7-106 provides subtractions from unadjusted income for computing adjusted income. Section 59-7-108 provides guidelines on the treatment of distributions made by corporations. Section 59-7-112 provides for the governance of installment sales. Sections 59-7-302 through 59-7-321 require allocation and apportionment of income for corporations earning income both within and without the state; and establishes three-part formula for apportionment of business income based on the property factor, payroll factor, and sales factor. Section 59-7-317 provides instructions for computing sales factor with regard to corporate franchise tax. Section 59-7-402 indicates when corporations must file a water's edge combined report and gives direction on who may elect to file the report. Section 59-7-403 provides unitary groups with the option of filing a worldwide combined report; if this report is elected, they must continue to file this report unless they have consent from the Tax Commission to file on another basis. Section 59-7-501 provides guidelines for taxable period and accounting method to be used in computing Utah taxable income. Section 59-7-502 states that if a corporation changes its taxable year for federal tax purposes or changes its accounting period, the new taxable year or accounting period shall become the corporation's taxable year for Utah corporate franchise and income tax. Section 59-7-505 establishes requirements for filing returns, including combined returns, and states when they are due. Section 59-7-601 creates a corporate franchise tax credit for certain gross interest income. Section 59-7-602 creates a corporate franchise tax credit for corporations making cash contributions to sheltered workshops. Section 59-7-603 creates a corporate franchise tax credit for corporations donating sophisticated technological equipment to schools. Section 59-7-604 creates a corporate franchise tax credit for coal sold to a vendor outside the United States. Section 59-7-605 creates a corporate franchise tax credit for corporations purchasing new vehicles powered by clean burning fuels or converting vehicles to clean burning fuels. Section 59-7-606 creates a corporate franchise tax credit for corporations that convert stoves to utilize cleaner burning fuels. Section 59-7-607 creates a corporate franchise tax credit for corporations receiving an allocation of the annual federal low-income housing tax credit. Section 59-7-608 provides a corporate franchise tax credit for corporations that hire certain individuals with a disability. Section 59-7-609 provides a corporate franchise tax credit equal to 20% of the qualified rehabilitation expenditures made in connection with the restoration of a residential certified historic building. Section 59-7-610 provides a corporate franchise tax credit for businesses operating in a recycling market development zone. Section 59-7-612 provides a corporate franchise tax credit for research activities conducted in the state. Section 59-7-613 provides a corporate franchise tax credit for machinery, equipment, or both used in conducting qualified research or basic research in the state. Section 59-7-614 provides a corporate franchise tax credit for renewable energy systems. Section 59-7-701 allows an S corporation to be taxed for state purposes the same as it is taxed for federal purposes. Section 59-7-703 requires an S corporation to pay or withhold tax for nonresident shareholders and indicates how that tax shall be calculated. Section 59-13-202 creates a corporate franchise tax credit against fuel tax for persons using stationary farm engines, and self-propelled nonhighway farm machinery.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-6F-1 clarifies franchise tax responsibilities of foreign corporations; and clarifies the manner in which a foreign corporation terminates its corporate franchise tax responsibilities. Section R865-6F-2 establishes taxable year for purposes of the corporate franchise tax and clarifies when first return period begins. Section R865-6F-6 sets forth guidelines to determine whether

nexus has been established for purposes of subjecting a corporation to the Utah corporation franchise tax. Section R865-6F-8 classifies all business income as either "business" or "nonbusiness;" provides rules to determine whether income is business or nonbusiness; defines and establishes criteria for apportionment of tax; and defines the three elements of the apportionment formula: the property factor, payroll factor, and sales factor. Section R865-6F-14 states the tax commission policy to follow federal law as closely as possible in determining net income for Utah corporate franchise tax; and lists items normally followed in conformity with federal law and items requiring different state tax treatment. Section R865-6F-15 clarifies that the installment method of reporting corporate income is a postponement of tax, not an exemption from tax; states when the privilege of installment reporting is terminated; and states that installment income is subject to the same allocation and apportionment provisions as all other corporate income. Section R865-6F-16 provides a methodology for apportioning income from long-term construction projects when a taxpayer elects to use the percentage-of-completion method of accounting or the completed contract method of accounting. Section R865-6F-18 provides that the exemption from corporate franchise tax applies only to the portion of the taxable year that the organization satisfies the exemption criteria and indicates how the organization establishes its exemption with the Tax Commission. Section R865-6F-19 provides a methodology for apportioning trucking company income to Utah. Section R865-6F-22 defines "worldwide year" and "water's edge year" in treatment of carry backs and carry forwards, and notes criteria and penalties for switching from worldwide method to water's edge or from water's edge method to worldwide method. Section R865-6F-23 defines "permitted mine" and "purchaser outside of the United States" in regard to the Utah steam coal tax credit; and establishes criteria necessary to qualify and use steam coal tax credit in state of Utah. Section R865-6F-24 provides that, in the case of a military group, nexus created by any member of the group creates nexus for the entire military group. Section R865-6F-26 provides instructions for applying for and receiving historic preservation tax credit, and any subsequent carry forwards of that credit. Section R865-6F-27 provides that the order of deducting credits against the corporate franchise tax is: (1) nonrefundable credits; (2) nonrefundable credits with a carry forward; and (3) refundable credits. Section R865-6F-28 provides guidance on what investments qualify for the enterprise zone franchise tax credits and how a business should calculate its base number of employees; and outlines the effect on tax credits if a county loses its designation as an enterprise zone. Section R865-6F-29 provides a methodology for apportioning railroad income to Utah. Section R865-6F-30 sets forth the information a trustee of the Utah Educational Savings Plan Trust must provide to the Tax Commission and the forms necessary to provide this information to the Commission. Section R865-6F-31 defines "outer-jurisdictional property," "print," "printed materials," "purchaser," "subscriber," and "terrestrial facility;" and provides a methodology for apportioning income of publishing companies to the state for franchise tax purposes. Section R865-6F-32 provides a methodology for apportioning the income of financial institutions to the state for franchise tax purposes; and defines terms related to financial institutions. Section R865-6F-33 defines terms related to telecommunications corporations; and provides a methodology for apportioning and allocating income for telecommunications corporations to the state for purposes of franchise tax. Section R865-6F-34 defines "qualified subchapter S subsidiary"; provides that an entity that meets the federal definition of a qualified subchapter S subsidiary will be treated for state corporate franchise tax purposes in the same manner it is treated for federal income tax purposes; and indicates how the S corporation parent of a qualified subchapter S subsidiary determines nexus and how the S corporation parent calculates the payroll, property, and sales tax factors for purposes of apportioning income to the state. Section R865-6F-35 clarifies calculation of tax S corporations are required to pay or withhold for nonresident shareholders; and indicates information the S corporation must provide to the Tax Commission for each nonresident shareholder.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/25/2002

Tax Commission, Auditing
R865-11Q
Sales and Use Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24702
FILED: 04/11/2002, 11:46

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 34A-2-202 requires an annual assessment of employers who are authorized to pay compensation direct; and indicates how that assessment shall be calculated.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-11Q-1 clarifies when employers need to obtain the experience modification factor, and provides direction for those who fail to obtain the factor within the specified time and should be continued.

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

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DIRECT QUESTIONS REGARDING THIS RULE TO:
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AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/24/2002

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Tax Commission, Auditing

R865-13G

Motor Fuel Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24686
FILED: 04/03/2002, 16:13

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 59-13-201 imposes a motor fuel tax on all motor fuel sold, used, or received for sale in the state; provides tax exemptions for motor fuel distilled from coal, oil shale, rock asphalt, bituminous sand, or hydrocarbons located in this state, deliveries of more than 750 gallons to government agencies, and exports; and provides instructions for the distribution of funds. Section 59-13-202 entitles any person who purchases motor fuel for the use of stationary or self-propelled machinery used for nonhighway farm operation to a refund of motor fuel tax paid, and provides methods for obtaining the refund. Section 59-13-203 requires that any individual desiring to distribute motor fuel in the state of Utah obtain a license from the Tax Commission; sets forth requirements of the form of the license application; and requires bonding as a prerequisite for a license. Section 59-13-204 states that licensed distributors who receive motor fuel are liable for motor fuel tax, and shall compute the tax on the total taxable amount of motor fuels received; and provides a method for distributors to sell motor fuel tax exempt to other distributors. Section 59-13-208 requires that every carrier delivering fuel within the state of Utah from outside the state shall report in writing all deliveries made during the past month. Section 59-13-210 allows tax commission to create rules to enforce the motor fuel laws; and requires commission to examine returns and recompute monthly reports of sales, as necessary, estimate the amount of tax due, collect delinquent tax, refund overpayments, and provide for judicial review of dissatisfied taxpayer claims.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-13G-1 defines "carrier" with regard to motor fuel deliveries; and requires that every carrier delivering motor fuels within this state submit written reports concerning all deliveries from outside Utah. Section R865-13G-3 provides criteria for determining whether a sale of motor fuel meets the export exemption from motor fuels tax; and requires that each export sale of motor fuel be supported by records. R865-13G-5 allows motor fuel dealers that sell motor fuel in wholesale quantities to become a licensed distributor; and allows licensed distributor to purchase motor fuel tax exempt if he satisfies certain conditions. Section R865-13G-6 upon Tax Commission approval, exempts from motor fuel tax volatile or inflammable liquids that qualify as motor fuels, but are not useable in their present state in internal combustion engines. Section R865-13G-8 clarifies definition of "agricultural purposes", for purposes of allowing tax refund for persons engaged in commercial agricultural work. Section R865-13G-9 clarifies exemption from motor fuel tax for motor fuels refined in Utah from solid hydrocarbons. Section R865-13G-10 defines "sale" and "delivery" with regard to motor fuel tax; provides criteria for collective purchases to qualify for the 750-gallon exemption from motor fuels tax; and clarifies the exemption from motor fuel tax for sale of motor fuel to Indian tribes and government agencies. Section R865-13G-11 defines "gross gallon" and "net gallon" for use in calculating motor fuel tax liability; requires that all licensed distributors calculate motor fuel tax using either gross gallon or net gallon basis; and requires distributors to inform tax commission of choice then exclusively use this basis of calculation for 12 months without alternating. Section R865-13G-13 sets procedure for government entities to apply for a refund for motor fuel taxes paid; and lists the records required to be maintained for purchases on which the refund is claimed. Section R865-13G-15 provides procedures for administering the reduction of motor fuel tax authorized under Section 59-13-201.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/25/2002

Tax Commission, Auditing
R865-19S
Sales and Use Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 24690
FILED: 04/05/2002, 12:19

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 10-1-303 defines terms used in the Municipal Energy Sales and Use Tax Act. Section 10-1-306 grants the Tax Commission rulemaking power to establish the delivered value and the point of sale of taxable energy. Section 10-1-307 establishes a method for collection of municipal energy sales and use tax by the Tax Commission; and provides circumstances under which an energy supplier shall pay the tax directly to a municipality. Section 19-6-808 provides guidelines for payment of the waste tire recycling fee. Section 59-12-102 defines terms used in the Sales and Use Tax Act. Section 59-12-103 establishes a sales and use tax base, the state sales tax rate, and earmarking of certain sales tax revenues. Section 59-12-104 lists sales and uses that are exempt from sales and use tax. Section 59-12-104.1 exempts sales made by or to religious or charitable organizations from sales and use tax law; provides that the exemption shall, with exceptions, be administered as a refund; and requires Tax Commission to promulgate refund procedures by rule. Section 59-12-105 requires certain exempt sales to be reported to the Tax Commission by the owner, vendor, or purchaser; and provides penalties for failure to report these exempt sales and gives the Tax Commission the right to waive, reduce, or compromise the penalties. Section 59-12-106 requires all persons required by law to collect sales and use tax to have a license issued by the Tax Commission, prior to the collection of tax; and requires vendors to obtain an exemption certificate at the time of sale to evidence the sale qualifies for an exemption. Section 59-12-107 requires each vendor with nexus in this state to collect and remit sales and use tax to the Tax Commission, on forms prescribed by the Tax Commission; allows Tax Commission to require security; and provides credits for prepaid sales and use tax, and provides penalties for violation of law. Section 59-12-108 requires any vendor whose annual tax liability exceeds $50,000 for the previous year to file with the Tax Commission on a monthly basis; requires vendors whose annual tax liability exceeds $96,000 for the previous year to file monthly tax returns by electronic funds transfer; allows vendors required to file monthly to retain a portion of the sales tax they collect; and gives Tax Commission rulemaking power for the procedures necessary to determine tax liability for purposes of this section. Section 59-12-109 establishes that confidentiality of sales and use tax returns and other information filed with the Tax Commission is governed by Section 59-1-403. Section 59-12-111 requires all Utah vendors holding a state sales tax license to keep accurate records of all sales made for a period of three years; and requires them to be accessible to authorized Tax Commission employees upon request. Section 59-12-112 creates a tax lien on any unpaid sales taxes when a business is sold; and clarifies the liability of the purchaser of the business when the previous owner has not paid the sales tax. Section 59-12-301 allows a county legislative body to impose a transient room tax for every occupancy of public accommodations. Section 59-12-352 allows a municipality to impose a municipal transient room tax for every occupancy of public accommodations. Section 59-12-353 allows a municipality to impose an additional transient room tax for every occupancy of public accommodations to repay bonded or other indebtedness. Section 59-12-902 allows a sales tax refund for a qualified emergency food agency based on the pounds of food donated to the qualified emergency food agency; and grants rulemaking authority to the Tax Commission for implementation of the refund. Section 59-12-1102 allows a county to impose an additional sales and use tax on all taxable transactions; sets forth the procedures a county must follow in order to impose the tax; and provides for the distribution of the revenue collected from the imposition of this tax.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-19S-1 distinguishes between sales and use taxes. Section R865-19S-2 describes sales and use taxes as transaction taxes rather than taxes on articles sold; and explains that purchaser pays the tax, not the vendor. The vendor merely remits the tax to the state. Section R865-19S-4 indicates that an invoice or receipt shall show sales tax as a separate line item. If vendors collect an excess amount of tax, they must refund the tax to customers or remit excesses to the Tax Commission; and indicates circumstances under which an over collection of taxes may be offset against an under collection of taxes. Section R865-19S-6 directs vendors to the appropriate rules and statutes governing sales prices and tax rates; and directs vendors to Tax Commission tables used to calculate taxes in various jurisdictions. Section R865-19S-7 explains sales tax license requirements for businesses; and outlines rules for business address changes and business closures. Section R865-19S-8 outlines the circumstances requiring a vendor security deposit; enumerates the types of tender accepted as security; and explains the circumstances upon which security will be returned to the vendor. Section R865-19S-12

prescribes the basic form for vendor tax returns; outlines commission rules for timely filing and extensions; distinguishes between annual filing status and quarterly filing status requirement; explains alternative sales tax deposits (daily, weekly, or monthly) if necessary for the remittance of tax; and explains conditions under which vehicle dealers must prepay sales taxes, and the forms of payment accepted. Section R865-19S-13 explains confidentiality of returns and states that persons requesting a copy of their own tax returns must present proper identification. Section R865-19S-16 clarifies vendor procedure when vendor has collected excess taxes. Section R865-19S-20 defines the term "total sales" for sales tax purposes; enumerates the circumstances under which the Tax Commission will give adjustments and credits; explains the formula for calculating credit allowances on repossessions; and allows for vendor reimbursements to lending institutions where applicable. Vendor commissions are not deductible. Section R865-19S-22 describes the proper method of sales and use tax record keeping for retailers, lessees, and lessors; discusses proper microfilm and microfiche methods and ADP accounting system records; and explains the Tax Commission prerogatives if records are not prepared and maintained in the prescribed manner. Section R865-19S-23 describes the exemption certificate requirement for vendors of exempt tangible personal property; and states that the burden of proving exemption is on the vendor. Section R865-19S-25 requires sales tax license holders to return tax licenses for cancellation upon sales of business; and requires sales tax license holders to retain business records for three years after discontinuation of business. Section R865-19S-27 defines "retail sales" for sales tax purposes; and states that retail sales have broader meaning than merely sales of tangible personal property. Section R865-19S-28 defines "retailer" for sales tax purposes. Section R865-19S-29 defines "wholesale sale" for sales tax purposes, price and quantity are not factors in defining a wholesale sale; and requires wholesale vendors to obtain exemption certificates from purchasers. Section R865-19S-30 defines "purchase price" and "sales price" as synonymous; and lists the evidence required for calculating sales and use tax for vehicle sales with or without a trade-in vehicle used as partial payment. Section R865-19S-31 defines the time and place of sale determined by contract between seller and buyer. The intent of the parties if subject to generally accepted contract law. Section R865-19S-32 explains sales tax implications for leases, rentals, and conditional sales leases; and provides examples of taxable leases. Lessee may treat conditional sales lease as either a sale or a lease. Section R865-19S-33 defines "admissions", "annual membership dues", and "season passes;" clarifies what is not an admission; and states that amounts paid for activities that are not admissions must be separately stated on the invoice. Section R865-19S-34 defines "place of amusement" as a definite location. Admission is subject to tax even though the charge includes the right to participate in an activity. Section R865-19S-35 clarifies the definition of "residential use" to include nursing homes. The definition of "fuels" does not include explosives. Taxable status of fuel furnished through a single meter is determined by its predominant use. Section R865-19S-37 defines "commercials", "audio tapes", "video tapes", "motion picture exhibitor", and "distributor." Section R865-19S-38 clarifies definition of "isolated or occasional" sales. Section R865-19S-40 sales tax exemption for agricultural produce/agricultural products exchanges explained. Section R865-19S-41 clarifies, for purposes of the sales tax exemption for the U. S. government, when a sale is made to the U. S. government. Section R865-19S-42 clarifies when a sale is made to the "state of Utah" for exemption purposes. Section R865-19S-43 outlines exemption qualification requirements for religious or charitable institutions. Section R865-19S-44 explains meaning of "sales made in interstate commerce." Section R865-19S-45 adds to definition of "retailers" to include an auctioneer, consignee, bailee, factor, etc. These persons are required to collect sales tax. Section R865-19S-48 explains that returnable containers are not exempt from sales tax (although nonreturnable containers are). Containers sold for final use to the consumer are not exempt. Deposits on containers are subject to sales tax; retailer may take tax credit if deposit refund is made to customer. Section R865-19S-49 explains agricultural exemptions: food, medicine, and supplies for animals in agricultural use exempt from sales tax. Fur bearing animals raised for fur are exempt agricultural products. Fuels for heating orchards or operating off-highway farm equipment are exempt. These exemptions are only applicable to commercial farming operations. Purchaser must supply exemption certificate to vendor. Also, explains that poultry, eggs, and dairy products are not seasonal products under Subsection 59-12-104(21). Section R865-19S-50 defines flowers, trees bouquets, plants, etc. as agricultural products; explains tax rules for florist telegraphic deliveries. Florist receiving the order from the buyer must collect tax. Section R865-19S-51 clarifies tax rules for manufacturing and assembling labor on tangible personal property. Labor to install personal property to real property is exempt. Sale of the personal property itself is not exempt. Section R865-19S-52 explains exempt status of federal excise tax; state and local taxes are taxable as part of the sales price of an article. Section R865-19S-53 indicates sales by finance companies of tangible personal property acquired by repossession or foreclosure are subject to tax. Section R865-19S-54 explains governmental sales tax exemption and lists state and federal governmental entities exempt from tax. Section R865-19S-55 provides some exceptions to the rule that retail sales to hospitals are generally taxable. Section R865-19S-56 explains that sales by employers to employees are generally subject to sales tax. Section R865-19S-57 explains that retail sales of ice are taxable. Ice to be re-sold is not taxable. Contract sales of ice to railroads or freight lines are taxable; no deduction for services is allowed. Section R865-19S-58 explains that construction materials are taxable to the contractor or repairman if the contractor or repairman converts them to real property; defines "construction materials;" indicates sales of materials to contractors are taxable; sale of completed real property is not. The contractor is the final consumer when the contractor converts tangible personal property to real property; defines conditions under which sales of construction materials to religious or charitable institutions are exempt; and provides examples of items that remain tangible personal property even when attached to real property (and hence are taxable). Section R865-19S-59 defines sales of tangible personal property to repair persons or renovators as "for resale" sales,

and therefore exempt. Sales of supplies consumed by repair persons or renovators are taxable. Section R865-19S-60 explains that items sold to businesses for use in carrying on business are taxable; and gives examples of office supplies, trade fixtures, etc. that are subject to tax. Section R865-19S-61 clarifies definition of tax exempt meal sales, meals available to general public not exempt; and defines "available to general public." Section R865-19S-62 indicates that meal tickets, coupon books, and merchandise cards, sold by persons engaged in selling those items, are taxable; and explains the collection procedure. Section R865-19S-63 defines tombstones and grave markers as improvements to real property; and defines tax rules for sales of these items. Section R865-19S-64 clarifies tax rules for the goods and services provided by morticians and undertakers. Section R865-19S-65 clarifies tax rules for newspaper sales; and defines "newspaper" for tax exemption purposes; and explains rules for advertising inserts. Section R865-19S-66 distinguishes between services rendered and tangible personal property sold by optometrists, ophthalmologists, and opticians. Services are not taxable, but sales of the tangible personal property are taxable. Section R865-19S-68 defines premiums, gifts, rebates, and coupons as taxable tangible personal property; and explains tax rules for donations of these items. Section R865-19S-70 defines persons who render services (doctors, dentists, barbers, or beauticians) as the consumers of the tangible personal property dispensed during their services. Section R865-19S-71 clarifies sales tax exemption for shipments of tangible personal property by common carrier. Section R865-19S-72 explains sales tax exemption for trade-ins and exchanges of tangible personal property. Section R865-19S-73 explains the responsibility of trustees, receivers, executors, administrators, etc. of collecting and remitting sales tax on all taxable sales, including those made at liquidation. Section R865-19S-74 defines vending machine operators as retailers; defines "cost" for the purposes of the 150% cost formula in Subsection 59-12-104(3); and requires vending machine operators to secure a sales tax license and to display license number on each vending machine. Section R865-19S-75 defines sales by photographers, photofinishers, and photostat producers as sales of tangible personal property; and requires these persons to collect tax on their services and on sales of related tangible personal property. Section R865-19S-76 defines charges for painting, polishing, washing, cleaning, and waxing tangible personal property as subject to tax, with no deduction allowed for the service involved; and explains that sales of items used in providing these services are subject to tax. Section R865-19S-78 explains that labor charges for installation, repair, renovation, and cleaning of tangible personal property are taxable; labor charges for installation of tangible personal property that becomes real property are not subject to tax which clarifies Subsection 59-12-103(1)(g)). Section R865-19S-79 defines "tourist home", "hotel", "motel", "trailer court", "trailer", and "accommodations and service charges." Section R865-19S-80 defines "pre-press materials" and "printer;" and describes sales tax liability for sales and purchases made by printers. Section R865-19S-81 explains that the sale of artwork is taxable. Purchase of art supplies that become part of the finished product may be purchased tax free. Section R865-19S-82 outlines sales tax rules for items used for display, trial, or demonstration. Tangible personal property used for display, trial, or demonstration is not subject to tax. Demonstration items used primarily to company or personal use are subject to tax. Section R865-19S-83 describes procedure for tax reimbursement of purchases for construction of pollution control facilities; and provides that after a pollution control facility is certified qualifying purchases should be made tax exempt. Section R865-19S-85 defines "establishment", "machinery and equipment", "manufacturer", "new or expanding operations", and "normal operating replacements" for the purpose of the exemption for new and expanding operations and normal operating replacements; and indicates when different activities performed at a single location constitute a separate and distinct establishment.

Section R865-19S-86 outlines procedures for mandatory filers, defines "mandatory filer" and related terms; describes criteria for vendor reimbursement of the cost of collecting and remitting sales taxes; and delineates procedures for Electronic Funds Transfer (EFT) remittance of sales taxes. Section R865-19S-87 defines "tooling", "special tooling", "support equipment", and "special test equipment" for purposes of the aerospace or electronics industry contract exemption set forth in Section 59-12-104. Section R865-19S-90 defines "interstate", "intrastate", "private communication services", and "two-way transmission" for purposes of Section 59-12-103; and enumerates taxable telephone services and gives examples of nontaxable charges. Section R865-19S-91 explains that sales to government contractors are subject to sales tax if the contractor uses or consumes the property; and lists criteria for qualification as a purchasing agent for a government entity. Section R865-19S-92 defines "canned computer software" or "prewritten computer software" as taxable tangible personal property; defines "custom computer software" as personal services exempt from sales tax; and defines "computer generated output" and "license agreement" for sales tax purposes. Section R865-19S-93 describes procedure for payment of waste tire recycling fees and clarifies what sales of tires are subject to the fee. Section R865-19S-94 distinguishes between taxable and nontaxable tips, gratuities, and cover charges at restaurants, cafes, and clubs. Section R865-19S-96 outlines assessment of the transient room tax. Section R865-19S-98 defines "person", "use", and "vehicle" for purposes of vehicle sales tax exemption for nonresidents; describes qualifications for nonresident status; describes qualifications for vehicles deemed not used in this state; outlines dealer procedures for selling vehicles to nonresidents; and clarifies Subsection 59-12-104(9). Section R865-19S-99 explains that vehicles purchased in another state are exempt from Utah sales tax if sales tax has been paid in another state. The registration card form another state serves as evidence of such payment. Section R865-19S-100 explains procedures for sales tax exemptions and refunds for religious and charitable organizations. Section R865-19S-101 explains that document preparation fees assessed for motor vehicle sales are exempt from sales tax if separately identified and not included in the vehicle sale price. Section R865-19S-102 states that ski resorts that do not have a separate meter for their exempt purchases shall determine a methodology to calculate exempt electricity purchases, and to receive Tax Commission

approval prior to using that methodology. Section R865-19S-103 defines "gas" and "supplying taxable energy" for purposes of the municipal energy sales and use tax; defines "delivered value" and "point of sale" of taxable energy; and sets forth responsibilities of an energy supplier and a user of taxable energy. Section R865-19S-104 clarifies that the annual distribution of the county option sales tax shall be based on a calendar year; adjustments shall be reflected in the February distribution. Section R865-19S-105 specifies procedures for qualified emergency food agencies to receive a refund of sales and use taxes paid on donated food. Section R865-19S-107 specifies that a manufacturer or ski resort must report exempt sales for purposes that were made exempt under Section 59-12-104, and that a vendor must report exempt sales it made to farmers. Section R865-19S-108 defines "user fee" for purposes of sales and use tax on admission or user fees. Section R865-19S-109 distinguishes between the taxable and nontaxable status of purchases and sales made by a veterinarian; and provides that if a sale by a veterinarian includes both taxable and nontaxable items, the nontaxable items must be separately stated or the entire invoice is subject to tax. Section R865-19S-110 defines "advertiser;" and clarifies taxable status of purchases and sales made by advertisers. Section R865-19S-111 clarifies when a graphic design service is nontaxable; and provides that a vendor who provides both nontaxable graphic design services and taxable tangible personal property must separately state nontaxable amounts or the entire sale is taxable. Section R865-19S-112 clarifies the sales and use tax exemption relating the admission and user fees related to the Olympic Winter Games of 2002, and designates when a purchase if confirmed.

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TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/24/2002

Tax Commission, Motor Vehicle
R873-22M
Motor Vehicle

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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FILED: 04/05/2002, 15:03

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 41-1a-102 provides definitions used in the motor vehicle chapter of the Utah Code. Section 41-1a-104 grants the Tax Commission power to enter into agreements with other jurisdictions concerning the registration, administration, and enforcement of motor vehicle laws. Section 41-1a-108 requires the Motor Vehicle Division to examine and determine the genuineness of application for registration, titling, and plating of vehicles, vessels, or outboard motors. Section 41-1a-116 allows the Tax Commission to disclose protected motor vehicle records for purposes of advisory notices; and allows Tax Commission by rule, to provide for telephone access to records. Section 41-1a-211 allows the Motor Vehicle Division to grant a temporary permit for vehicles that are in the process of registration. The permit is to last a maximum of 29 days. Section 41-1a-214 requires owner of a vehicle to sign the registration card, keep it in the vehicle at all times, and to display the card to authorized state personnel upon request. Section 41-1a-215 states generally that all registrations shall be for a 12-month period beginning with the day of registration, and provides exemptions. Section 41-1a-401 requires vehicles to have two license plates, and requires division to set specifications for license plate materials and manufacture. Section 41-1a-402 indicates that license plates shall be in colors selected by the Tax Commission and shall display the name of the state, a designation of the county in which the vehicle is registered, the date of expiration, the registration number assigned to the vehicle, and a slogan. Section 41-1a-408 defines terms; lists special group license plates that are available; sets standards which individuals must achieve before receiving a special group license plate; and provides that special group license plates and removable and temporary removable windshield placards for persons with disabilities shall be issued in accordance with Tax Commission rules. Section 41-1a-409 requires that an individual provide documentation proving membership in the military order of the purple heart before receiving a purple heart special group license plate and provides what the purple heart plate shall look like; and states that license plates issued to "horseless carriages" prior to July 1, 1992, are valid without renewal as long as the vehicle is owned by the registered owner. Section 41-1a-411 requires individuals to apply for personalized license plates; and provides that the Tax Commission may refuse a personalized plate in certain circumstances. Section 41-1a-413 indicates that persons who have been issued personalized plates must either apply to display the plates on another vehicle, or surrender the plates to the Motor Vehicle Division upon sale, trade, or release of ownership on the original vehicle. Section 41-1a-414 requires that persons with disabilities qualifying under Tax Commission rules carry an appropriately marked license plate or windshield placard in order to take advantage of parking space for the disabled; and allows law enforcement agencies to appoint volunteers to issue citations for violations of the law, subsequent to proper training. Section 41-1a-416 allows individuals owning vehicles built before 1968 to apply for an original issue license plate of the format and type issued by the state in the year as the model year of the

vehicle. Section 41-1a-522 requires the Tax Commission to establish a record of a nonconforming vehicle and print "manufacturer buy back nonconforming vehicle" clearly on the new certificate of title. Section 41-1a-701 provides that when a vehicle is sold, its registration expires; and requires that a vehicle owner remove the license plates and either forward them to the Motor Vehicle Division for destruction, or have them transferred to another vehicle when the owner relinquishes ownership of the vehicle. Section 41-1a-801 provides a state vehicle inspection number (VIN) if the original VIN is altered or destroyed; and requires owner to apply for state-issued VIN with information required by Tax Commission. Section 41-1a-1001 provides definitions necessary for implementation of salvage vehicle unbranding laws. Section 41-1a-1002 provides requirements for obtaining an unbranded title to a salvage vehicle, including interim inspections; and requires damage to be repaired pursuant to standards set by the Motor Vehicle Enforcement Division. Section 41-1a-1004 states that if a vehicle is branded as rebuilt or restored to operation, in a flood, or not restored to operation, before a transfer of ownership, the new title to the vehicle should mirror the existing brand. Sections 41-1a-1009 through 41-1a-1011 provide a definition of "abandoned vehicle", and the process that the Tax Commission must take to dispose of vehicles meeting the criteria. Section 41-1a-1010 requires a person to obtain a permit to scrap, dismantle, destroy, or change a vehicle; allows the Tax Commission to collect a fee for inspection of vehicles for which the permit has been obtained; and indicates when a permit to dismantle may be rescinded. Section 41-1a-1101 authorizes the division or any peace officer to take possession of any vehicle without a warrant under certain circumstances; and authorizes the tax commission to make rules for establishing standards for impound lots, impound yards, and public garages. Section 41-1a-1209 lists vehicles exempt from registration fees. Section 41-1a-1211 sets fees for license plates, personalized license plates, and special group license plates. Section 53-8-205 requires a safety inspection to be performed on motor vehicles, with some exceptions; and indicates frequency of required safety inspection. Section 72-10-102 defines terms under the uniform aeronautical regulatory act. Section 72-10-109 requires that persons operating, piloting, or navigating an aircraft in Utah have proper registration; and indicates instances when registration is not required. Section 72-10-112 subjects persons who fail to properly register aircraft to the same penalties provided for failure to register motor vehicles.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R873-22M-2 clarifies documentation necessary for registration or titling of vehicles under unique circumstances. Section R873-22M-7 specifies procedures for transfer of license plates from one vehicle to another; and provides a method for determining additional registration fees if the gross laden weight of a vehicle registered by gross laden weight increases during the registration year. Section R873-22M-8 clarifies when a registration issued for a period of three, six, or nine calendar months expires. Section R873-22M-11 allows a driver to carry a copy of the original registration card in lieu of the original in state-owned or state-leased vehicles. Section R873-22M-14 clarifies positioning of decals on license plates. Section R873-22M-15 sets forth procedures for applying for a state-issued VIN if the original VIN has been removed or altered or if one never existed; states where a state-issued VIN shall be placed on the vehicle; and sets forth specifications for state-issued VIN. Section R873-22M-16 establishes requirements for: (1) a lien holder who repossesses a motor vehicle to obtain title on that vehicle; (2) recording a new lien; and (3) issuing a new certificate of title showing the assignee as lienholder. Section R873-22M-17 provides criteria that an impound lot must meet to be used by the state of Utah. Section R873-22M-20 defines "aircraft;" provides that aircraft subject to FAA registration shall be registered in Utah; provides a registration period; states aircraft assessed as part of an airline by the Tax Commission are exempt from registration; and requires a decal to be placed on a registered aircraft. Section R873-22M-22 allows an out-of-state branded vehicle to be issued a comparable Utah branded title; states the Utah registration expires when a vehicle qualifies for a title brand; and defines "cost to repair or restore a vehicle for safe operation" for purposes of unbranding a vehicle. Section R873-22M-23 requires that the owner of a vintage vehicle provide a registration information update every five years after July 1, 1995. Section R873-22M-24 provides definitions of "cosmetic repairs" and "collision estimating guide recognized by the Motor Vehicle Enforcement Division" for purposed of unbranding salvage vehicles. Section R873-22M-25 requires written notification that a vehicle has been issued a salvage certificate or branded title to a prospective buyer on a form provided by the Motor Vehicle Enforcement Division; and states where the form must be displayed if the seller is a dealer. Section R873-22M-26 states that a certified vehicle inspector shall determine if an interim inspection is needed; indicates vehicles repaired beyond the point of a required interim inspection may not be unbranded if the interim inspection has not been performed; and provides guidelines on when a repair may qualify a vehicle to receive an unbranded title. Persons performing the inspection must have an I-CAR certification. Section R873-22M-27 sets forth requirements individuals must meet to qualify for special group license plates. Section R873-22M-28 allows the owner of a vehicle that is forty years or older with a horseless carriage plate issued prior to July 1, 1992, the privilege of exchanging it for a vintage vehicle special group license plate issued after July 1, 1992. Section R873-22M-29 details what a removable and a temporary removable disabled windshield placard shall look like; and provides when the windshield placard may be issued and where it must be placed in the vehicle. Section R873-22M-30 defines the term "series" with regard to the issuance of an original issue license plate; and states that the numeric code on the original issue plate cannot mirror a numeric code on a license plate already in existence. Section R873-22M-31 requires the Tax Commission to keep a list of vehicles eligible for classification as special interest vehicles; and allows the Motor Vehicle Division Director to add a vehicle to the list if the vehicle meets criteria established in

Utah Code. Section R873-22M-32 defines certificate of title with regard to Section 41-1a-1010 of the Utah Code; and requires an applicant with a vehicle eligible for retitling under Section 41-1a-1010 to receive a title consistent with the title at the time of application for a permit to dismantle. Section R873-22M-33 provides a definition of "private institution of higher education" and "standard collegiate degree" for purposes of collegiate license plates. Section R873-22M-34 states conditions under which a personalized license plate may not be issued; allows an applicant the right to request a review of the denial; and provides procedures for review. Section R873-22M-35 states that if the user of a personalized plate fails to renew the plate within one year of the expiration, the plate will be considered surrendered to the division and the plate may be reissued to a new requestor. Section R873-22M-36 defines "advisory notice" and provides the procedures necessary to access protected motor vehicle records by telephone or in person. Section R873-22M-37 designates which of the standard license plates will be issued when the individual fails to indicate a preference for one or the other of the standard issue license plates; and states that an exchange of one type of standard issue license plate for the other standard issue license plate shall be subject to the plate replacement fee. Section R873-22M-40 provides a method to determine the age of a vehicle for purposes of determining the frequency of the state safety inspection required under Section 53-8-205.

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

TAX COMMISSION
MOTOR VEHICLE
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/24/2002

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Tax Commission, Motor Vehicle Enforcement

R877-23V

Motor Vehicle Enforcement

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24701
FILED: 04/11/2002, 10:32

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 41-3-105 gives rulemaking authority to motor vehicle enforcement administrator to carry out the purposes of the chapter; details information that a license application shall contain; gives administrator rulemaking authority to require signs; and sets forth duties of the administrator and the division. Section 41-3-201 requires that all dealers, salespersons, manufacturers, transporters, dismantlers, distributors, factory branch distributors, distributor branch and representative, crushers, remanufactures, and body shops operating in Utah have a license issued by the administrator. Section 41-3-202 establishes scope of operation allowed businesses that receive and operate under licenses issued by the motor vehicle enforcement division. Section 41-3-210 sets forth a list of prohibitions for license holders; and requires licensees to maintain records. Section 41-3-301 requires dealers to submit a title, within 30 days of sale, to the motor vehicle enforcement division; and requires dealers to provide certain information to the motor vehicle enforcement division within 30 days of issuance of a temporary permit. Section 41-3-302 allows a dealer to issue a temporary registration permit to persons purchasing a vehicle, pursuant to Tax Commission rule. Permits are good for thirty days. Dealers are responsible and liable for registration of each motor vehicle for which a permit is issued. Section 41-3-305 states that if an applicant meets criteria established in rule by the Tax Commission, the law allows motor vehicle division to issue in-transit permits for the use of highways for a time period not to exceed ninety-six hours. Section 41-3-507 requires license holders to keep a written record of special plates they issue; states what must be included in the record; and requires that lost or stolen special plates be reported immediately to the motor vehicle enforcement division.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R877-23V-3 prohibits holders of a dealer license from working as a salesperson for another dealer; and does allow dealership owners to engage as no-fee salespersons for their own dealerships. Section R877-23V-4 prohibits individuals holding a dealer's license to employ, enter into a contract with, or encourage persons to act as a salesperson if the person is not licensed as a salesperson in Utah. Section R877-23V-5 establishes guidelines for issuance, placement, and records of temporary motor vehicle registration permits and extension permits issued by dealers. Section R877-23V-6 clarifies issuance of in-transit permits for piggybacked semi-tractors. Section R877-23V-7 sets forth standards of practice for advertising and sale of motor vehicles. Section R877-23V-8 requires all dealers, dismantlers, manufacturers, remanufactures, transporters, crushers, and body shops to post a legible sign at the principal and additional places of

business; and requires these entities to identify their vehicles through signage on the vehicles. Section R877-23V-10 requires all automobile manufacturers licensed in Utah, to comply with federal vehicle identification number (VIN) requirements. Section R877-23V-11 requires all persons licensed under Section 41-3-202 to notify the motor vehicle enforcement division immediately of any change in ownership, address, or circumstance relating to its fitness to be licensed. Section R877-23V-12 establishes criteria that must be met before the issuance of a motor vehicle related license. Section R877-23V-14 requires a dealer issuing temporary permits to segregate and identify state-mandated fees; and requires the dealer to post a visible and prominent sign if the dealer charges a customer a dealer documentary service fee. Section R877-23V-16 provides that a lost or stolen special plate may be replaced only after it has expired; and requires a replaced special plate to be included in the calculation of special plates under Section 41-3-503. Section R877-23V-18 outlines qualifications for a salvage vehicle buyer license and evidence needed to support those qualifications.

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TAX COMMISSION
MOTOR VEHICLE ENFORCEMENT
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/24/2002

Tax Commission, Property Tax
R884-24P
Property Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24693
FILED: 04/05/2002, 15:43

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 11-13-25 requires a project entity created under the Interlocal Cooperation Act to pay a fee to each taxing jurisdiction in lieu of ad valorem property tax; and provides methods for calculation, collection, and distribution of the fee. Section 41-1a-301 provides procedures for apportioned registration and licensing of interstate commercial vehicles. Section 59-2-102 provides definitions relating to property tax. Section 59-2-103 requires that all residential property be assessed at a uniform and equal rate on the basis of its fair market value; and provides for a residential exemption. Section 59-2-201 requires the Tax Commission to determine the fair market value of specified property; provides a methodology for determining fair market value of productive mining property; and requires Tax Commission to notify the property owner and the assessor of the assessment. Subsection 59-2-201(4) requires the Tax Commission to notify the owner of the property and the county assessor immediately following the Tax Commission's assessment of property. Section 59-2-210 indicates how tax on mining property shall be collected; and allows withholding of royalty payments as detailed in Tax Commission rule. Section 59-2-211 states that to ensure payment and collection of ad valorem property tax, the law allows the Tax Commission to collect a security, in an amount determined by the Tax Commission, from firms mining uranium and vanadium. Section 59-2-301 requires the county assessor to assess all property in the county that is not lawfully assessed by the Tax Commission. Section 59-2-302 provides that assessments made by the county assessor or the Tax Commission are the only basis of property taxation for political subdivisions of the state. Section 59-2-303 requires the assessor to assess all property subject to taxation to the owner of the property as of January 1. Section 59-2-305 requires county assessor to list all property according to its fair market value; and allows the Tax Commission to proscribe procedures and formats that will provide uniformity to property listing. Section 59-2-306 authorizes a county assessor to require a signed statement regarding real and personal property that may be assessed, and the county in which the property is located. Section 59-2-402 requires that a proportional assessment be made to property tax if a piece of taxable transitory personal property is brought into the state after the assessment date; gives the Tax Commission rulemaking authority to implement proportional assessment; and exempts certain property from proportional assessment. Section 59-2-404 levies a uniform tax on aircraft required to be registered; and requires the Tax Commission to promulgate rules to implement the uniform tax. Section 59-2-405 imposes a statewide uniform fee of 1.5 percent of the fair market value of motor vehicles not subject to Section 59-2-405.1, and to watercraft, recreational vehicles, and all other tangible personal property; and requires Tax Commission to establish fair market value. Section 5-2-405.1 imposes a statewide uniform fee for vehicles under 12,000 pounds based on the age of the vehicle. Section 5-2-406 requires the Tax Commission to enter into a contract with each county; pursuant to this contract, either the Tax Commission or the county will collect all state and local fees due on the vehicles; requires the contract to contain performance standards; and gives rulemaking authority to the Tax Commission. Sections 59-2-501 through 59-2-515 define property that may be valued as agricultural; provides qualifications to receive this valuation; requires a rollback of tax when property no longer qualifies; and excludes certain land from the agricultural assessment. Subsection 59-2-508(2) outlines the application process to have land valued, assessed, and taxed as land in agricultural use. Section 59-2-515 allows the Tax Commission rulemaking authority to effectively administer the valuation of

agricultural property. Section 59-2-701 requires that all persons conducting appraisals of property for fair market value of real property for the assessment roll in Utah hold an appraisers certificate or registration issued by the Division of Real Estate; and allows the Tax Commission to prescribe qualifications for persons performing appraisals. Section 59-2-702 requires the Tax Commission to conduct training and continuing education programs to educate appraisers and county assessors. Section 59-2-704 requires the Tax Commission to conduct and publish studies to determine the relationship between market value shown on the assessment role and the market value of real property in each county. The Tax Commission shall order counties to adjust assessment rates to coincide with the studies; and allows Tax Commission to conduct appraisals in a county with insufficient sales data. Section 59-2-704.5 requires the Tax Commission to adopt, by rule, standards for determining acceptable assessment levels and valuation deviations within each county. Section 59-2-705 requires the Tax Commission to provide qualified personal property appraisers to the county to aid in the audit of taxable personal property in the county. Section 59-2-801 provides a methodology for the Tax Commission to apportion the assessment of property assessed by it. Section 59-2-918 prohibits a taxing entity from budgeting an increased amount of ad valorem tax revenue without advertising that increase; and provides a required format for the advertisement. Section 59-2-918.5 prohibits a taxing entity from imposing a judgment levy without advertising that intent and holding a public hearing on the matter; and provides a required format for the advertisement. Section 59-2-919 prohibits a tax rate in excess of the certified tax rate unless the taxing entity approves a resolution after first advertising that intent; provides a required format for the notice of the proposed tax increase; allows the Tax Commission to promulgate rules allowing the advertisement under this section to be combined with the Section 59-2-918 advertisement; requires the county auditor to notify all owners of real property, prior to July 22, of a hearing on the proposed increase; and sets forth guidelines for the hearing. Section 59-2-920 requires a taxing entity to submit to the Tax Commission a resolution to increase a tax rate above the certified tax rate. Section 59-2-921 requires the county board of equalization and the commission to notify each taxing entity of changes in the taxing entity's assessment roll and adopted tax rate resulting from county board of equalization and Tax Commission actions. Section 59-2-922 requires a taxing entity to repeat the procedures required under Section 59-2-919 if it determines that a greater tax rate is required than that initially approved. Section 59-2-923 provides that a taxing entity may not adopt its final budget until the public hearing required by Section 59-2-919 is held. Section 59-2-924 requires the county assessor to report the valuation of property within the county to the county auditor and the Tax Commission, and requires the county auditor to report that information, along with the certified tax rate, to each taxing entity; defines certified tax rate and indicates how the certified tax rate shall be determined; and requires the county auditor to notify all property owners of any intent of exceeding the certified tax rate. Section 59-2-1004 allows a taxpayer dissatisfied with a valuation or equalization to appeal to the board of equalization; requires the county board of equalization to hold public hearings; and allows a taxpayer to appeal the decision of the board of equalization to the Tax Commission. Section 59-2-1005 requires the county legislative body to include a notice of procedures for appeal of any personal property valuation with each tax notice; and provides procedures for appeal of taxable value. Section 59-2-1101 exempts the owner of certain property from taxation; and requires an owner to file an affidavit, if required by the Tax Commission, in order to receive exempt status for the property value. Section 59-2-1104 defines "residence;" and exempts from property tax certain property owned by disabled veterans or their unmarried surviving spouses and minor orphans. Section 59-2-1106 exempts from property tax certain property owned by blind persons or their unmarried surviving spouses or minor orphans; and authorizes the county to provide refunds for those qualifying for this exemption. Sections 59-2-1107 through 59-2-1109 authorize a county to defer or abate taxes paid by indigent persons. Section 59-2-1113 exempts household furnishings, furniture, and equipment that are used exclusively by the owner at the owner's place of residence from property tax. Subsection 59-2-1202(5) defines "household income" for purposes of the homeowner's and renter's property tax credits. Section 59-2-1302 lists the duties of the assessor or treasurer; authorizes an unpaid tax to be used as a lien against he real property; provides that an unpaid property tax is a lien upon the owner's property; and defines when an assessment is considered delinquent. Section 59-2-1303 allows an assessor to seize personal property on which a delinquent property tax or uniform fee exists; and provides procedures for the sale of seized property. Section 59-2-1317 requires the treasurer to collect the taxes and furnish tax notices to taxpayers; and indicates the information that shall be included on the notice. Section 59-2-1328 requires the payment of refunds and interest if a tax paid under protest was unlawfully collected; and allows a taxing entity to impose a judgment levy to pay its share of eligible judgments. Section 59-2-1330 provides that if a board of equalization, court, or the commission orders a reduction in the tax on a property, the taxpayer shall receive a refund of that tax, plus interest; provides an interest rate for refunds and sets a time within which the refund and interest must be paid; and allows a taxing entity to impose a judgment levy to pay its share of eligible judgments. Section 59-2-1347 allows the county legislative body and the Tax Commission the right to defer or adjust the property tax of an individual if it is determined that it is in the best interest of the state or the county; provides procedures for applying for deferral; and requires bounty legislative body or the Tax Commission to post notice of any deferrals or adjustments. Section 59-2-1351.1 provides procedures for sale of personal property seized as a result of failure to pay property tax; and includes notice requirements for sale of the property.

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 were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R884-24P-5 defines "household income" with regard to property tax abatements or deferrals for indigent persons; and states that absence from

residence due to vacation, confinement to hospital or other temporary situations shall not be deducted from the 10-month residency requirement of Section 59-2-1109. Section R884-24P-7 defines terms; and provides a methodology for assessment of mining properties. Section R884-24P-8 clarifies procedures for payment to the Tax Commission of security deposit required by Section 59-2-211 to ensure payment of property tax on uranium and vanadium mining properties. Section R884-24P-10 defines terms and provides methodology necessary for taxation of underground rights in land that contains deposits of oil or gas; and provides for withholding of these taxes. Section R884-24P-14 requires assessor to consider preservation easements when valuing historically significant real property and structures; and requires property owner to inform assessor and Tax Commission of the preservation easement. Section R884-24P-16 defines terms and provides a methodology for valuing Interlocal Cooperation Act project entity properties. Section R884-24P-17 sets standards to be followed when performing a reappraisal of all classes of locally-assessed real property within a county. Section R884-24P-19 sets forth the ad valorem training and designation program. Section R884-24P-20 defines terms concerning the appraisal of property under construction and provides methodology for valuing that property. Section R884-24P-24 sets forth form county auditor must use to notify real property owners of property valuation and tax changes; and provides guidelines to be used in determining new growth, the certified tax rate, and increase in property tax revenues. Section R884-24P-26 clarifies what lands are eligible for assessment under the Farmland Assessment Act (FAA); sets forth requirements for application for assessment and taxation under FAA; and provides guidelines on the rollback tax for land no longer qualifying under the FAA. Section R884-24P-27 defines terms related to the standards of assessment performance; sets forth standards of assessment performance regarding assessment level and uniformity; states when corrective action is necessary; and provides an alternate performance evaluation. Section R884-24P-28 sets forth a procedure for reporting heavy equipment leased or rented during the tax year. Section R884-24P-29 states situations when household furnishings, furniture, and equipment are subject to property tax. Section R884-24P-32 clarifies that leasehold improvements shall be included in the value of the underlying real property and assessed to the owner of the underlying real property unless the underlying real property is owned by an exempt entity. Sectin R884-24P-33 defines terms; and provides percent good schedules for all personal property to be used to arrive at the property's taxable value. Section R884-24P-34 clarifies that information gathered for the purposes of an assessment or sales ratio study may be used for valuation purposes only as part of a systematic reappraisal program and not for isolated reappraisal of properties. Section R884-24P-35 requires the owner of property receiving a property tax exemption based on exclusive use for religious, charitable, or educational purposes to file an annual affidavit. Section R884-24P-36 sets forth items that must appear on the real property tax notice, in addition to items required in Section 59-2-1317. Section R884-24P-37 requires the county assessor to maintain an appraisal record of all real property subject to assessment by the county; indicates what information shall be included in the record; and requires the value of the land and improvements be shown separately. Section R884-24P-38 provides definitions and a methodology for assessing nonoperating railroad properties. Section R884-24P-40 clarifies when parsonages, rectories, monasteries, homes and residences are used exclusively for religious purposes; and states that vacant land not actively used by the religious organization is not exempt from property tax. Section R884-24P-41 clarifies when it is proper to request an adjustment of taxes for past years under Section 59-2-1347. Section R884-24P-42 states that the Tax Commission is responsible for auditing the administration of the FAA, to verify proper listing and classification of properties assessed under the act, and conduct routine audits of personal property accounts. Section R884-24P-44 indicates who is the owner for purposes of the property tax exemption for the owner of equipment and machinery used for agricultural purposes; and clarifies when machinery and equipment are not used for farming purposes. Section R884-24P-47 provides procedures for determining the average wholesales market value of aircraft; sets forth guidelines for aircraft purchased or moved to Utah during the year; and provides procedures for registration of aircraft and distribution of uniform tax collected. Section R884-24P-49 defines terms and provides a methodology for valuating a private rail car company apportioned to Utah. Section R884-24P-50 defines terms and provides a methodology for apportioning the Utah portion of commercial aircraft. Section R884-24P-52 defines terms and establishes criteria necessary for the determination of whether a residence is a primary residence in Utah. Section R884-24P-53 provides valuation tables for the valuation of land subject to the FAA. Section R884-24P-55 requires each county to establish a written ordinance for real property sale procedures and indicates what issues the ordinance must address; and requires that the ordinance be displayed in a public place and be available to all interested parties. Section R884-24P-56 provides a formula to calculate the previous year's statewide rate; apportions vehicles assessed under Section 41-1a-301 at the same percentage filed with the Customer Service Division of the Tax Commission; and defines "principal route." Section R884-24P-57 defines terms related to a judgment levy; provides guidelines on a judgment levy public hearing and advertisement; and requires taxing entities to file with the Tax Commission a statement certifying that they meet the qualifications for imposing a judgment levy. Section R884-24P-58 indicates how the one-time decrease in the certified rate based on the county option sales tax shall be determined. Section R884-24P-59 indicates how the one-time decrease in the certified rate based on resort community sales tax shall be determined. Section R884-24P-60 excludes motorcycles from the definition of "motor vehicle;" and provides additional guidelines on the calculation of the age-based uniform fee on tangible personal property. Section R884-24P-61 defines "recreational vehicle" and excludes motorcycles from the definition of "motor vehicle;" clarifies what types of personal property the uniform fee applies to; and provides a formula to determine the fair market value of tangible personal property. Section R884-24P-62 defines terms related to state-assessed utility and transportation properties; and provides a methodology for valuation of state-assessed utility and transportation properties. Section R884-

24P-63 requires a written customer service performance plan to be developed by the party contracting to collect both state registration fees and county property taxes on vehicles; and requires county offices and the Tax Commission to provide training. Section R884-24P-64 provides a formula for determining the taxable value of vehicles owned by disabled veterans and the blind for purposes of the property tax exemptions for the disabled veterans and the blind. Section R884-24P-65 defines "transitory personal property" and clarifies when this type of property is subject to a proportional assessment of property tax. Section R884-24P-66 defines "factual error;" and indicates when a board of equalization must accept a property tax appeal that is filed beyond the period allowed under the statute of limitations.

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/24/2002

End of the Five-Year Notices of Review and Statements of Continuation Section

Notices of Five-Year Review Extensions Begin on the Following Page

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1998)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1998).

Environmental Quality

Drinking Water

No. 24674 (filed 04/02/2002 at 1:29 p.m.): R309-600 (was R309-113). Drinking Water Source Protection.
Enacted or Last Five-Year Review: 04/10/97 (No. 18898, 5YR, filed 04/10/97 at 2:43 p.m., published 05/01/97)
Extended Due Date: 08/08/2002

Judicial Conduct Commission

Administration

No. 24688 (filed 04/04/2002 at 2:22 p.m.): R595-1. Rules of Procedure.
Enacted or Last Five-Year Review: 04/15/97 (No. 18680 -18682, AMD, filed 02/14/97 at 12:00 noon, published 03/01/97)
(DAR NOTE: These amendments combined existing sections into one rule that was enacted into the Utah Administrative Code on 04/15/97 when the Judicial Conduct Commission was put under the Rulemaking Act.)
Extended Due Date: 08/13/2002

End of the Notices of Five-Year Review Extensions Section

Notices of Rule Effective Dates Begin on the Following Page

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services
Fleet Operations
No. 24444 (NEW): R27-5. Fleet Tracking.
Published: February 15, 2002
Effective: April 8, 2002

No. 24445 (NEW): R27-6. Fuel Dispensing Program.
Published: February 15, 2002
Effective: April 8, 2002

No. 24446 (NEW): R27-8. State Vehicle Maintenance Program.
Published: February 15, 2002
Effective: April 8, 2002

Agriculture and Food
Animal Industry
No. 24486 (AMD): R58-6. Poultry.
Published: March 1, 2002
Effective: April 2, 2002

Commerce
Occupational and Professional Licensing
No. 24472 (AMD): R156-54-302b. Examination Requirements - Radiology Practical Technician.
Published: March 1, 2002
Effective: April 2, 2002

No. 24459 (NEW): R156-75. Genetic Counselors Licensing Act Rules.
Published: March 1, 2002
Effective: April 2, 2002

Corrections
Administration
No. 24430 (AMD): R251-704. North Gate.
Published: February 15, 2002
Effective: April 10, 2002

Health
Epidemiology and Laboratory Services, Environmental Services
No. 24356 (AMD): R392-400. Temporary Mass Gathering Sanitation.
Published: January 15, 2002
Effective: April 11, 2002

Health Care Financing, Medical Assistance Program
No. 24496 (AMD): R420-1. Utah Medical Assistance Program.
Published: March 1, 2002
Effective: April 9, 2002

Human Services
Mental Health
No. 24460 (AMD): R523-1-19. Prohibited Items and Devices on the Grounds of Public Mental Health Facilities.
Published: March 1, 2002
Effective: May 1, 2002

Recovery Services
No. 24493 (AMD): R527-35. Non-AFDC Fee Schedule.
Published: March 1, 2002
Effective: April 2, 2002

Public Safety
Peace Officer Standards and Training
No. 24436 (AMD): R728-404-5. Special Regulations.
Published: February 15, 2002
Effective: April 10, 2002

No. 24443 (NEW): R728-408. POST Academy and the Emergency Vehicle Operations Range Are Secure Facilities.
Published: February 15, 2002
Effective: April 10, 2002

No. 24440 (AMD): R728-505-6. Special Regulations.
Published: February 15, 2002
Effective: April 10, 2002

Workforce Services
Administration
No. 24471 (AMD): R982-301. Councils.
Published: March 1, 2002
Effective: April 9, 2002

Employment Development
No. 24494 (AMD): R986-700. Child Care Assistance.
Published: March 1, 2002
Effective: April 9, 2002

The Rules Index Begins on the Following Page

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, 2002, including notices of effective date received through April 15, 2002, the effective dates of which are no later than May 1, 2002. 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).

DAR NOTE: Because of publication constraints, neither index will appear in this issue of the *Bulletin*.

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/).