

UTAH STATE BULLETIN

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

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

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EDITOR'S NOTES

NOTICE OF EFFECTIVE DATE ERRORS FOR FIVE-YEAR REVIEWS PUBLISHED FOR THE MARCH 15, 2002; APRIL 1, 2002; APRIL 15, 2002; AND MAY 1, 2002, ISSUES OF THE UTAH STATE BULLETIN

Due to a programming error, the wrong effective date was published for each Five-Year Notice of Review and Statement of Continuation printed in issues of the *Utah State Bulletin* published from March 15, 2002, through May 1, 2002. This error appeared as part of each Notice and Statement as well as in the indexes of the April 1, 2002, Bulletin. In addition, a number of Five-Year Notices of Review and Statements of Continuation failed to appear in the indexes published in the March 15, 2002, and April 1, 2002, issues. A Five-Year Notice of Review and Statement of Continuation is effective upon filing with the Division of Administrative Rules.

This error in no way affects the status of reviewed rules. A Five-Year Notice of Review and Statement of Continuation must be filed "within five years of the rule's original effective date or within five years of the filing of the last five-year review, whichever is later" in order for a rule to continue in effect (UT Code Subsection 63-46a-9(1)). This statutory deadline was met for each Five-Year Notice of Review and Statement of Continuation published during this period.

The Division of Administrative Rules regrets any inconvenience this publishing error may have caused.

If you have any questions, 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

COMMERCE OCCUPATIONAL AND PROFESSIONAL LICENSING

PUBLIC HEARING ON PROPOSED MODIFIED FEE SCHEDULE FOR SERVICES PROVIDED AND COSTS INCURRED BY THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING DURING FISCAL YEAR 2003

The Department of Commerce will hold a hearing on Friday, May 17, 2002, at 11:00 a.m. at the Heber M. Wells Building, 160 East 300 South, Room 205, Salt Lake City, Utah.

The purpose of the hearing is to obtain public comment on proposed schedule for fees which could be assessed for services provided and costs which would be incurred by the Division commencing July 1, 2002. The proposed modified fee schedule supplements the Division's fee schedule approved by the Legislature during its 2002 General Session. Subsection 63-39-3.2(5)(a) of the Budgetary Procedures Act provides an agency may establish and assess regulatory fees without legislative approval. That statute governs the process for the interim assessment of such fees prior to subsequent legislative approval.

Background: The Division assesses fees for licensure, registration, or certification of individuals and businesses to engage in certain occupations and professions. Copies of the proposed modified fee schedule will be distributed at the May 17, 2002, hearing.

For further information, please contact Joyce McStotts at (801) 530-6347.

GOVERNOR, ADMINISTRATION

EXECUTIVE ORDER

WHEREAS, Mormon cricket and grasshopper infestation in Utah is the largest in recent history, exceeding 3.3 million acres; and

WHEREAS, Mormon cricket and grasshopper damage is impacting Utah's agricultural economy as well as the state's wildlife resources; and

WHEREAS, Mormon cricket and grasshoppers are damaging grains, alfalfa, safflower, rangeland grasses and other crops; and

WHEREAS, Utah's severe drought conditions this year will exacerbate the threat to farmers and ranchers; and

WHEREAS, a minimum of \$25 million in crop damage could occur in more than a dozen Utah counties, including: Beaver, Box Elder, Cache, Carbon, Duchesne, Emery, Garfield, Juab, Millard, Morgan, Piute, Rich, San Juan, Sanpete, Sevier, Tooele, Utah, Uintah, Wasatch, Washington and others; and

WHEREAS, the numbers of crickets and grasshoppers far out weigh the state's ability to exercise control over such insects whose primary hatching grounds are on federally owned lands; and

WHEREAS, Mormon cricket and grasshopper populations pose a threat to human health and safety,

NOW THEREFORE, I, Michael O. Leavitt, Governor of the state of Utah by virtue of the power vested in me by the constitution and the laws of the state of Utah,

DO HEREBY declare that a "State of Agricultural Emergency" exists due to the Mormon cricket and grasshopper infestation in the state of Utah and that all such affected areas within the state are declared to be agricultural disasters requiring aid, assistance and relief pursuant to the provisions of state statutes.

(STATE SEAL)

IN TESTIMONY WHEREOF, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah, this 7th day of May, 2002.

MICHAEL O. LEAVITT
Governor

Attest:
OLENE WALKER
Lieutenant Governor

EXECUTIVE ORDER

WHEREAS, severe drought conditions exist and continue to worsen in the State of Utah, and present a serious threat to human health and safety, private property, wildlife, agriculture, the environment and the economy;

WHEREAS, the current drought conditions have caused and will continue to cause adverse effects to agricultural producers, wildlife, the tourism industry and potentially threaten the culinary water needs of residents;

WHEREAS, severe drought has reduced soil moisture, stream flows, ground water, and water levels and could result in agricultural losses into the tens of millions of dollars;

WHEREAS, the potential for wildfires throughout Utah is high and the availability of firefighting resources is expected to be limited as drought conditions persist and worsen throughout the entire western part of the United States;

WHEREAS, the state is suffering from four consecutive years of drought conditions and the situation has the potential to greatly worsen if left unattended;

WHEREAS, immediate action is required to protect public health and safety, public and private property, wildlife, agriculture and the environment; and

WHEREAS, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981;

NOW THEREFORE, I, Michael O. Leavitt, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order the following:

1. A "State of Emergency" and "Statewide Agricultural Disaster" exist throughout the State of Utah.
2. It is a disaster requiring aid, assistance and relief available pursuant to the provisions of state statute, and the State Emergency Operations Plan.
3. The State Emergency Operations Plan is activated.
4. Comprehensive Emergency Management shall coordinate drought relief efforts with federal, state and local entities.

(STATE SEAL)

IN TESTIMONY WHEREOF, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah this 24th day of April, 2002.

MICHAEL O. LEAVITT
Governor

Attest:
OLENE WALKER
Lieutenant Governor

EXECUTIVE ORDER

Whereas, the danger from wildland fires is extremely high throughout the State of Utah; and

Whereas, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment; and

Whereas, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended; and

Whereas, immediate action is required to suppress the fires to protect public safety, property, natural resources and the environment; and

Whereas, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981;

Now, Therefore, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the power vested in me by the constitution and the laws of the State of Utah;

Do Hereby Order That: It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of May 1, 2002, requiring aid, assistance and relief pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

In Testimony, Whereof, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah, this 1st day of May, 2002.

(State Seal)

Michael O. Leavitt
Governor

Attest:
Olene S. Walker
Lieutenant Governor

GOVERNOR'S PROCLAMATION

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 an Eighth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 22nd day of May, 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 hereunto 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 7th day of May, 2002.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

OLENE S. WALKER
Lieutenant Governor

GOVERNOR'S PROCLAMATION

WHEREAS, since the adjournment of the 2002 General Session of the Fifty-Fourth Legislature of the State of Utah, 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 into Special 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 Fifty-Fourth Legislature of the State of Utah into a Third Special Session at the State Capitol at Salt Lake City, Utah, on the 24th day of April, 2002, at 5:00 p.m., for the following purposes:

1. To consider amending the election law to accommodate the possibility of Utah being awarded a Fourth Congressional District.

2. And, to consider such other measures as may be brought to the attention of the Legislature by supplemental communication from the Governor before or during the Special Session hereby called.

(STATE SEAL)

IN TESTIMONY WHEREOF, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 24th day of April, 2002.

MICHAEL O. LEAVITT
Governor

OLENE S. WALKER
Lieutenant Governor

End of the Special Notices Section

Notices of Proposed Rules Begin on the Following Page

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between April 16, 2002, 12:00 a.m., and May 1, 2002, 11:59 p.m. are included in this, the May 15, 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 June 14, 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 September 12, 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.

**Administrative Services, Risk
Management
R37-4**

**Adjusted Utah Governmental Immunity
Limitations on Judgments**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 24783

FILED: 04/30/2002, 14:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 63-30-34(4)(b) requires the Utah State Risk Manager to calculate and establish, every other year, new limitations on judgments based on increases or decreases to the Consumer Price Index (CPI) and to submit these changes in administrative rule. This rule reflects the calculations of the changes in the CPI. The increase in the CPI is reflected in an increase in the maximum dollar amounts that the court can award in cases involving Utah State and local government entities. A 6.5% increase in the CPI is reflected in this rule.

SUMMARY OF THE RULE OR CHANGE: This rule will increase the maximum dollar amount that the courts can award in judgment against a Utah governmental entity. The CPI increased by 6.5%. This increase means that one person in any one occurrence can be awarded \$532,500. If the case involves two or more persons in any one occurrence the maximum amount that can be awarded is \$1,065,000.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-30-34(4)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The implementation of this rule will result in the maximum amount that a court can award for one person in any one occurrence to increase by \$32,500 or a maximum of \$532,500. The implementation of this rule will also result in an increase of \$65,000 to the maximum that a court can award to two or more person in any one occurrence. The maximum will increase from \$1,000,000 to \$1,065,000. These changes will result in higher costs to the State.

❖ LOCAL GOVERNMENTS: The increases to local governments will be same as for State government. The caps on awards will increase from \$500,000 for one person in any one occurrence to \$532,500 and from \$1,065,000 for two or more persons in any one occurrence. These changes will likely result in higher costs to local governments.

❖ OTHER PERSONS: No impact because the rule only applies to entities covered by the Utah Governmental Immunity Act.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact because the rule only applies to entities covered by the Utah Governmental Immunity Act.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no impact on business. Camille Anthony

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

ADMINISTRATIVE SERVICES
RISK MANAGEMENT
Room 5120 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:

Mike Sanders at the above address, by phone at 801-538-9560, by FAX at 801-538-9597, or by Internet E-mail at msanders.rmrisk@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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2002

AUTHORIZED BY: Alan Edwards, Director

**R37. Administrative Services, Risk Management.
R37-4. Adjusted Utah Governmental Immunity Limitations on Judgments.**

R37-4-1. Authority and Calculation Process.

Pursuant to UCA 63-30-34(4)(b) the Risk Manager is required to establish a new limitation of judgment each even numbered year. The Risk Manager must initially calculate the consumer price index for calendar years 1999 and 2001 using standards provided in Sections 1(f)(4) and 1(f)(5) of the Internal Revenue Code. Section 1(f)(4) defines the CPI for any calendar year as the average of the consumer price index as of the close of the 12-month period ending on August 31 of such calendar year. Section 1(f)(5) defines "consumer price index" as the index used for all-urban consumers published by the Department of Labor. Under these standards, the consumer price index for calendar year 1999 is 165.14 and the index for 2001 is 175.88. The percentage difference between the 1999 index and the 2001 index is 6.5%. This difference is used to adjust the limitation of judgment.

R37-4-2. New Limits of Judgments.

As a result of the required calculations, the limitation of judgment currently found in UCA 63-30-34(1) is increased as follows effective for occurrences on or after July 1, 2002:

1) The limit for damages for personal injury against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is now \$532,500 for one person in any one occurrence (instead of \$500,000), or \$1,065,000 for two or more persons in any one occurrence (instead of \$1,000,000);

2) A court may not award judgment of more than \$532,500 for injury or death to one person regardless of whether or not the function giving rise to the injury is characterized as governmental (instead of \$500,000); and

3) The limit for property damages (excluding damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation) against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is now \$213,000 in an one occurrence (instead of \$200,000).

KEY: limitation on judgments, risk management, governmental immunity act caps
2002
63-30-34(4)(b)

▼ ————— ▼

Alcoholic Beverage Control, Administration **R81-1-2** Definitions

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 24771
 FILED: 04/29/2002, 15:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To amend rule to conform with language of S.B. 13 passed by the 2002 legislature. (DAR Note: S.B. 13 is found at UT L 2002 ch 282 and was effective May 6, 2002.)

SUMMARY OF THE RULE OR CHANGE: The change amends language in the definition of "Warning Sign" to conform with new language in Title 32A as passed by the 2002 legislature.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 32A, Chapters 1, 2, 3, 4a, 4b, 5, 6, and 10.

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The Department of Alcoholic Beverage Control provides the warning signs to state stores, agencies, and licensees, therefore, there will initially be a small cost to the state for the printing of the new signs to replace the old signs in these establishments.
- ❖ **LOCAL GOVERNMENTS:** None. The change in this rule does not fiscally affect local governments.
- ❖ **OTHER PERSONS:** None. There should be no cost to other persons as a result of this amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None. There should be no cost to others as a result of this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: State stores, package agencies, and licensees were already required to post a warning sign on their premises. This amendment merely changes the language on the signs. There should be no fiscal impact to any of these establishments.

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

ALCOHOLIC BEVERAGE CONTROL
 ADMINISTRATION
 1625 S 900 W
 SALT LAKE CITY UT 84104-1630, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at abcmain.smackay@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2002.

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

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration. R81-1. Scope of Definitions, and General Provisions. R81-1-2. Definitions.

Definitions of terms in the Act are used in these rules, except where the context of the terms in these rules clearly indicates a different meaning.

- (1) "ACT" means the Alcoholic Beverage Control Act, Title 32A.
- (2) "BAR" means a service structure maintained on a licensed premises to furnish glasses, ice and setups and to mix and serve liquor.
- (3) "COMMISSION" means the Utah Alcoholic Beverage Control Commission.
- (4) "COUNTER" means a level surface on which patrons consume food.
- (5) "DECISION OFFICER" means a person who has been appointed by the commission or the director of the Department of Alcoholic Beverage Control to preside over the prehearing phase of all disciplinary actions, and, in all cases not requiring an evidentiary hearing.
- (6) "DEPARTMENT" or "DABC" means the Utah Department of Alcoholic Beverage Control.
- (7) "DIRECTOR" means the director of the Department of Alcoholic Beverage Control.
- (8) "DIRECTOR" of a private club means an individual elected by stockholders or members of a private club at an annual meeting to direct organizational and operational policies of the club.
- (9) "DISCIPLINARY ACTION" means the process by which violations of the Act and these rules are charged and adjudicated, and by which administrative penalties are imposed.
- (10) "DISPENSING SYSTEM" means a dispensing system or device which dispenses liquor in controlled one ounce quantities and has a meter which counts the number of pours served.
- (11) "FAIR MARKET VALUE" means the price at which a willing seller and willing buyer will trade under normal conditions. It means neither panic value, auction value, speculative value, nor a value fixed by depressed or inflated prices. Rather, it is a fair, economic, just and equitable value under normal conditions.

(12) "GUEST ROOM" means a space normally utilized by a natural person for occupancy, usually a traveler who lodges at an inn.

(13) "HEARING OFFICER" or "PRESIDING OFFICER" means a person who has been appointed by the commission or the director to preside over evidentiary hearings in disciplinary actions, and who is authorized to issue written findings of fact, conclusions of law, and recommendations to the commission for final action.

(14) "LETTER OF ADMONISHMENT" is a written warning issued by a decision officer to a respondent who is alleged to have violated the Act or these rules.

(15) "MANAGER" means a person chosen or appointed to manage, direct, or administer the affairs of another person, corporation, or company.

(16) "MEMBER" means an individual who regularly pays dues to a private club. Member does not include any corporation or other business enterprise or association, or any other group or association.

A member and the member's spouse is entitled to all rights and privileges as provided by the club's bylaws or Utah law.

(17) "POINT OF SALE" means that portion of a package agency, restaurant, private club, or selling area for a single event permittee that has been designated by the department as an alcoholic beverage selling area. It also means that portion of an establishment that sells beer for off-premise consumption where the beer is displayed or offered for sale.

(18) "REASONABLE" means ordinary and usual thinking, speaking, or acting, which is fit and appropriate to the end in view.

(19) "RESPONDENT" means a department licensee, or permittee, or employee of a licensee or permittee, against whom a letter of admonishment or notice of agency action is directed.

(20) "STAFF" or "authorized staff member" means a person duly authorized by the director of the department to perform a particular act.

(21) "UTAH ALCOHOLIC BEVERAGE CONTROL LAWS" means any Utah statutes or rules relating to the manufacture, possession, transportation, distribution and sale of alcoholic beverages, commission rules, and municipal and county ordinances.

(22) "VIOLATION REPORT" means a written report from any law enforcement agency or authorized department staff member alleging a violation of the Utah Alcoholic Beverage Control Act or rules of the commission by a department licensee, or permittee, or employee of a licensee or permittee.

(23) "WARNING SIGN" means a sign no smaller than six inches high by twelve inches wide, with print no smaller than one half inch bold letters and clearly readable, stating: "Warning: ~~the consumption of alcoholic beverages purchased in this establishment may be hazardous to your health and the safety of others.~~ Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

KEY: alcoholic beverages

[~~March 1, 2002~~2002]

Notice of Continuation December 26, 2001

32A-1-107

32A-1-119(5)(c)

32A-3-103(1)(a)

32A-4-103(1)(a)

32A-4-203(1)(a)

32A-5-103(3)(c)

32A-6-103(2)(a)

32A-7-103(2)(a)

32A-8-103(1)(a)

32A-9-103(1)(a)

32A-10-203(1)(a)

32A-11-103(1)(a)

▼ ————— ▼

**Alcoholic Beverage Control,
Administration
R81-2
State Stores**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24775

FILED: 04/30/2002, 11:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To align language in the existing rule to conform with statutory language amended by the 2002 legislature. (DAR Note: H.B. 257 is found at UT L 2002 ch 161 and was effective May 6, 2002)

SUMMARY OF THE RULE OR CHANGE: The 2002 legislature made statutory amendments that clarify both the proof of age requirements and the refusal of service guidelines in state liquor stores. This proposed rule amendment brings the rule in line with the new statutory language.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-1-107, 32A-1-105, 32A-2-103, and 32A-12-221.

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The statutory changes only clarify identification requirements and refusal of service guidelines, they do not significantly change them. There should be no monetary cost or savings involved.

❖ **LOCAL GOVERNMENTS:** None--The statutory changes only clarify identification requirements and refusal of service guidelines. There should be no monetary costs or savings to local government.

❖ **OTHER PERSONS:** None--The statutory changes only clarify identification requirements and refusal of service guidelines. There should be no monetary costs or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The statutory changes involved no fiscal impact, therefore, State store employees and others will suffer no additional costs as a result of this proposed rule amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None. The statutory changes involved no fiscal impact, therefore, none will be passed onto businesses.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at abcmain.smackay@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2002.

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

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-2. State Stores.

R81-2-1. Special Orders of Liquor by Public.

A special order item is any item not listed in the department's product/price list. All state stores are required to process any request for special orders. Any individual may place a special order at any state liquor store. Special orders may be placed for groups of individuals or organizations, either at a state liquor store or the purchasing division of the department, as follows:

- (1) A special order form must be filled out on every special order item.
- (2) Group special orders must be accompanied by a list of the state stores to which the special order item will be sent, and the name and telephone number of the individual who will purchase the special order item at that state store.
- (3) There is no handling fee on special orders, but a deposit of twenty-five dollars is required on special orders of four or more cases.
- (4) All merchandise must be cleared from the system before a reorder on that special order item is allowed.
- (5) Special order requests must include the product name and distributor or shipper.

R81-2-2. Liquor Refunds and Exchanges.

The department will accept for refund or exchange merchandise that is defective, provided the customer returns the bottle with at least 1/2 of the contents in the bottle. Wine merchandise will not be accepted for refund or exchange if the return is a result of improper extraction of the cork.

Wine purchased at any specialty wine store may not be exchanged or returned for refund.

R81-2-3. Warning Sign.

All state stores shall display in a prominent place a "warning sign" as defined in these rules.

R81-2-4. Identification Guidelines to Purchase Liquor.

The department accepts only four forms of identification to establish proof of age for the purchase of liquor by customers:

(1) ~~[a] A current valid driver's license [of any state if it] that includes date of birth and has a picture affixed and is issued in this state under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of another state;~~

(2) ~~[an official state] A current valid identification card [as provided in Sections 32A-1-301 to 32A-1-305] that includes date of birth and has a picture affixed issued by this state under Title 53, Chapter 3, Part 8, Identification Card Act, or issued by another state that is substantially similar to this state's identification card;~~

(3) ~~[a] A current valid military identification card [if it] that includes date of birth and has a picture affixed; or~~

(4) ~~[a] A current valid passport.~~

If a person's age is still in question after presenting proof of age, the department may require the person to also sign a "statement of age" form as provided in 32A-1-303. The form shall be filed alphabetically by the close of the business day, and shall be maintained on file for a period of three years.

R81-2-5. Advertising.

The advertising or promotion of liquor products within state stores is prohibited. An employee may inform the customer as to the characteristics of a particular brand or type of liquor, provided the information is linked to a comparison with other brands or types.

R81-2-6. Refusal of Service.

An employee of the store may refuse to sell liquor to any person whom the employee has ~~[reasonable suspicion] reason to believe~~ is purchasing or attempting to purchase liquor in violation of Utah Alcoholic Beverage Control ~~[Laws] laws~~. The employee may also detain the person and hold the person's form of identification in a reasonable manner and for a reasonable length of time for the purpose of informing a peace officer of a suspected violation.

KEY: alcoholic beverages

~~[May 16, 1995] 2002~~

Notice of Continuation: November 16, 2001

32A-1-107

32A-1-301 to 32A-1-305



Alcoholic Beverage Control,
Administration
R81-3
Package Agencies

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24780

FILED: 04/30/2002, 14:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To align language in the existing rule to conform with statutory language amended by the 2002 legislature. (DAR Note: H.B.

257 is found at UT L 2002 ch 161 and was effective May 6, 2002)

SUMMARY OF THE RULE OR CHANGE: The 2002 legislature made statutory amendments that clarify both the proof of age requirements and the refusal of service guidelines in state liquor stores. This proposed rule amendment brings the rule in line with the new statutory language.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-1-107, 32A-1-105, 32A-3-8 and -15, and 32A-12-221.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The statutory changes only clarify identification requirements and refusal of service guidelines for package agencies. There will be no monetary cost or savings involved for state government.
- ❖ LOCAL GOVERNMENTS: None--The statutory changes only clarify identification requirements and refusal of service guidelines for package agencies. There will be no monetary cost or savings involved for local governments.
- ❖ OTHER PERSONS: None--The statutory changes only clarify identification requirements and refusal of service guidelines for package agencies. There will be no monetary cost or savings for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The statutory changes involved no fiscal impact, therefore, package agency personnel and others will suffer no additional costs as a result of this proposed rule amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The statutory changes involved no fiscal impact, therefore, none will be passed on to businesses.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at abcmain.smackay@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2002.

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

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-3. Package Agencies.

R81-3-1. Definition.

Package agencies are retail liquor outlets operated by private persons under contract with the department for the purpose of selling packaged liquor from facilities other than state liquor stores for off premise consumption. Package agencies are classified into five types:

Type 1 - A package agency under contract with the department which is operated in conjunction with a resort environment (e.g., hotel, ski lodge, summer recreation area).

Type 2 - A package agency under contract with the department which is in conjunction with another business where the primary source of income to the operator is not from the sale of liquor.

Type 3 - A package agency under contract with the department which is not in conjunction with another business, but is in existence for the sole purpose of selling liquor.

Type 4 - A package agency under contract with the department which is located within a facility approved by the commission for the purpose of selling and delivering liquor to tenants or occupants of specific rooms which have been leased, rented, or licensed within the same facility. A type 4 package agency shall not be open to the general public.

Type 5 - A package agency under contract with the department which is located within a winery that has been granted a winery license by the commission.

The commission may grant type 4 package agency privileges to a type 1 package agency.

R81-3-2. Change of Location.

Any change of package agency location must be requested in writing and approved in advance by the commission.

R81-3-3. Bonds.

No part of any surety bond required in Section 32A-3-105, may be withdrawn during the time the package agency contract is in effect. If the package agent fails to maintain a valid surety bond, the package agency contract shall be immediately suspended until a valid bond is obtained. Failure to obtain a bond within 30 days of notification by the department of the delinquency shall result in an automatic rescission of the package agency contract.

R81-3-4. Change of Package Agent.

Pursuant to Section 32A-3-106(15), any change of the package agent designated in the department's package agency agreement is a violation of these rules and shall result in the immediate termination of the package agency contract.

R81-3-5. Special Orders of Liquor by Public.

A special order item is any item not listed in the department's product/price list. Only type 3 package agencies may process special order requests. Any individual may place a special order at any type 3 package agency. Special orders may be placed for groups of individuals or organizations, either at a type 3 package agency or the purchasing division of the department, as follows:

- (1) A special order form must be filled out on every special order item.
- (2) There is no handling fee on special orders, but a deposit of twenty-five dollars is required on special orders of four or more cases.

(3) All merchandise must be cleared from the system before a reorder on that special order item is allowed.

(4) Special order requests must include the product name and distributor or shipper.

R81-3-6. Liquor Refunds and Exchanges.

The department will accept for refund or exchange, merchandise that is defective, provided the customer returns the bottle with at least 1/2 of the contents in the bottle. Wine merchandise will not be accepted for refund or exchange if the return is a result of improper extraction of the cork. Wine purchased at any specialty wine store may not be exchanged or returned for refund.

R81-3-7. Warning Sign.

All package agencies shall display in a prominent place a "warning sign" as defined in R81-1-2.

R81-3-8. Identification Guidelines to Purchase Liquor.

All package agencies shall accept only four forms of identification to establish proof of age for the purchase of liquor by customers ~~[-of questionable age]:~~

(1) ~~[a]A current valid driver's license [with]that includes date of birth and has a picture affixed and is issued in this state under Title 53, Chapter 3, Uniform Driver License Act or in accordance with the laws of another state;~~

(2) ~~[an official State]A current valid identification card [with]that includes date of birth and has a picture affixed [as provided in Sections 32A-1-301 to 32A-1-305;]issued by this state under Title 53, Chapter 3, Part 8, Identification Card Act, or issued by another state that is substantially similar to this state's identification card;~~

(3) ~~[a]A current valid military identification card [if it]that includes date of birth and has a picture affixed; or~~

(4) ~~[a]A current valid passport.~~

If a person's age is still in question after presenting proof of age, the package agency may require the person to also sign a "statement of age" form as provided in 32A-1-303. The form shall be filed alphabetically by the close of business day, and shall be maintained on file for a period of three years.

R81-3-9. Promotion and Listing of Products.

An operator or employee of a type 1, 2 or 3 package agency, as defined in R81-3-1, may not promote a particular brand or type of liquor product while on duty at the package agency. An operator or employee may inform a customer as to the characteristics of a particular brand or type of liquor, provided the information is linked to a comparison with other brands or types.

Type 4 package agencies, as defined in R81-3-1, may provide a list of the code number, brand, size, and price of each item it carries for sale to the tenants or occupants of the specific leased, rented, or licensed rooms within the facility.

R81-3-10. Non-Consignment Inventory.

Type 1, 4 and 5 package agencies shall be on a non-consignment inventory status where the agency owns the inventory.

R81-3-11. Application.

An application for a package agency shall be included in the agenda of the monthly commission meeting for consideration for issuance of a package agency contract when the requirements of

Sections 32A-3-102, -103, and -105 have been met, a completed application has been received by the department, and when the package agency premises have been inspected by the department. No application fee is required for type 2 and 3 package agency applicants.

R81-3-12. Evaluation Guidelines of Package Agencies.

Type 2 and 3 package agencies shall:

(1) serve a population of at least 6,000 people comprised of both permanent residents and tourists;

(2) not be established or maintained within a one mile radius of another type 2 or 3 package agency unless it can be clearly demonstrated that it is in the best interest of the state to establish and maintain the outlet at that location; and

(3) maintain a gross profit to the state of \$12,000 annually to assure adequate service to the public.

R81-3-13. Operational Restrictions.

(1) Hours of Operation.

(a) Type 1, 2, and 5 package agencies may operate from 10:00 a.m. until 12:00 midnight, Monday through Saturday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the department. Type 2 agencies shall be open for business at least seven hours a day, five days a week, except where closure is otherwise required by law.

(b) Type 3 package agencies may operate from 10:00 a.m. until 10:00 p.m., Monday through Saturday, but may remain closed on Mondays in the discretion of the package agent. However, the actual operating hours may be less in the discretion of the package agent with the approval of the department, provided the agency operates at least seven hours a day.

(c) Type 4 package agencies may operate from 10:00 a.m. until 1:00 a.m., Monday through Friday, and 10:00 a.m. until 12:00 midnight on Saturday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the department.

(d) Any change in the hours of operation of any package agency requires prior department approval, and shall be submitted in writing by the package agent to the department.

(e) A package agency, regardless of type, shall not operate on Sundays, legal holidays, and election days where the sale of alcoholic beverages is prohibited by law until the polls have closed. If a legal holiday falls on a Sunday, the following Monday will be observed as the holiday.

(2) Size of Outlet. The retail selling space devoted to liquor sales in a type 2 or 3 package agency must be at least one hundred square feet.

(3) Inventory Size. Type 2 and 3 package agencies must maintain at least fifty code numbers of inventory at a retail value of at least five thousand dollars and must maintain a representative inventory by brand, code, and size.

(4) Access to General Public. Type 1, 2, and 3 package agencies must be easily accessible to the general consuming public.

(5) Purchase of Inventory. All new package agencies, at the discretion of the department, will purchase and maintain their inventory of liquor.

R81-3-14. Type 5 Package Agencies.

A type 5 package agency is for the limited purpose of allowing a winery to sell at its winery location the wine product it actually produces. It may not carry the products of other alcoholic beverage

manufacturers. The product produced by the winery and sold in the type 5 package agency need not be shipped from the winery to the department warehouse and then back to the package agency. However, the department shall establish, by written policy, any requirements for inventory and sales accounting, record-keeping, state labeling, payment of taxes and mark-up, etc. of the product.

R81-3-15 Refusal of Service.

An employee of the package agency may refuse to sell liquor to any person whom the employee has reason to believe is purchasing or attempting to purchase liquor in violation of the Utah Alcoholic Beverage Control laws. The employee may also detain the person and hold the person's form of identification in a reasonable manner and for a reasonable length of time for the purpose of informing a peace officer of a suspected violation.

KEY: alcoholic beverages

~~December 6, 2001~~2002

Notice of Continuation December 18, 2001

32A-1-107

▼ ————— ▼

Commerce, Real Estate
R162-9
Continuing Education

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24731

FILED: 04/16/2002, 12:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule change is to allow distance education courses to count toward mandatory continuing education requirements instead of requiring that all continuing education classes must take place in a traditional classroom setting.

SUMMARY OF THE RULE OR CHANGE: The rule allows the Division to accept "distance education" for continuing education purposes if the course delivery method has been approved by the Association of Real Estate License Law Officials (ARELLO). "Distance education" is education that does not take place in a traditional classroom setting that has been made possible by new technologies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2-5.5(1)(a)(ii)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The costs of ARELLO Certification are borne by education providers. Permitting ARELLO certified distance education may generate more courses being offered than would otherwise be the case. Although the providers pay for ARELLO approval of the course delivery method, the Division may have some small increased costs of reviewing and approving the content of additional courses. However, many courses will be already approved as to content and just be reformulated into the distance education format. Any

additional costs to the Division in approving distance education courses should therefore be small.

❖ LOCAL GOVERNMENTS: Local government is not affected by the continuing education requirements for real estate licensees.

❖ OTHER PERSONS: An unknown number of licensees who live in outlying areas will be able to take continuing education courses without traveling to population centers to take the courses in a traditional classroom setting, and thus will save travel costs. Unfortunately, the Division has no way to calculate how many licensees would save how much money.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If an education provider wanted to offer distance education courses instead of traditional classroom courses, the provider would need to go through the ARELLO certification process, which costs between \$350 and \$750. However, once certified, the course could be offered in numerous other states that accept the ARELLO certification program. If a provider chose to offer an ARELLO-certified course in multiple states, the costs attributable to offering the course in Utah would be reduced proportionately. It is important to note that distance education courses would be an optional program for course providers. No course provider would be required to offer distance education courses if they did not wish to incur the expenses related to offering such courses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule will provide a new business opportunity for schools and will permit licensees in rural areas to receive continuing education without the expense of traveling to a larger city.

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

COMMERCE
REAL ESTATE
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:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2002.

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

AUTHORIZED BY: Ted Boyer Jr., Executive Director

R162. Commerce, Real Estate.**R162-9. Continuing Education.****R162-9-1. Objective.**

9.1 Through education, the licensee shall be reasonably current in real estate knowledge and shall have improved ability to provide greater protection and service to the real estate consumer, thereby meeting the Real Estate Commission's primary objective of protection of and service to the public.

9.1.1 A licensee renewing a sales agent or broker license shall be required to provide evidence of having taken 12 classroom hours or its equivalent of certified real estate education within the two-year period preceding the licensee's renewal date.

9.1.1.1 A minimum of three of the 12 hours must be taken in a "core" course, the subject of which will be designated by the Division to keep a licensee current in changing practices and laws.

R162-9-2. Education Providers.

9.2. Continuing education providers may apply to the Division for certification of their courses.

9.2.1 Approved providers may include accredited colleges and universities, public or private vocational schools, national and state real estate related professional societies and organizations, real estate boards, and proprietary schools.

9.2.2 Those real estate education providers who have been certified for continuing education courses in a minimum of three other states and have specific standards in place for development of their courses and approval of their instructors, and who will provide that criteria to the division of real estate for a one-time approval, may be granted certification of their courses with no further application being necessary.

9.2.3 Licensees may apply to the division for continuing education credit for a non-certified real estate course taken from a national provider that the licensee believes will improve his ability to better protect or serve the public.

9.2.3.1. A licensee may request approval of the course from the division and, for an appropriate fee, the division will review the merits of the non-certified course and determine whether the course meets the criteria for Utah real estate continuing education.

9.2.4. Provided the subject matter of the course taken in not exclusive to the other state, a course approved for continuing education in another state/jurisdiction may be granted Utah credit on a case by case basis.

R162-9-3. Course Certification Criteria.

9.3 Courses submitted for certification shall have significant intellectual or practical content and shall serve to increase the professional competence of the licensee, thereby meeting the objective of the protection of and service to the public.

9.3.1 Three hours shall be comprised of "core course" curricula, the subjects of which will be determined by the division and the Real Estate Commission. The subject matter of these courses will be for the purpose of keeping a licensee current in changing practices and laws. These courses may be provided by the division or by private education providers but, in all cases, will have prior certification by the division.

9.3.1.1 Principal brokers and associate brokers may use the Division's Trust Account Seminar to satisfy the "core" course requirement once every three renewal cycles.

9.3.2 The remaining nine hours shall be in substantive areas dealing with the practice of real estate. Acceptable course criteria shall include the following:

9.3.2.1 Real estate financing, including mortgages and other financing techniques; real estate investments; accounting and taxation as applied to real property; estate building and portfolio management; closing statements; real estate mathematics;

9.3.2.2 Real estate law; contract law; agency and subagency; real estate securities and syndications; regulation and management of timeshares, condominiums and cooperatives; real property exchanging; real estate legislative issues; real estate license law and administrative rules;

9.3.2.3 Land development; land use, planning and zoning; construction; energy conservation;

9.3.2.4 Property management; leasing agreements; accounting procedures; management contracts; landlord/tenant relationships;

9.3.2.5 Fair housing; affirmative marketing; Americans with Disabilities Act;

9.3.2.6 Real estate ethics.

9.3.2.7 Using the computer, the Internet, business calculators, and other technologies to enhance the licensee's service to the public.

9.3.2.8 Offerings concerning sales promotion, including salesmanship, negotiation, sales psychology, marketing techniques, servicing your clients, or similar offerings.

9.3.2.9 Offerings in personal and property protection for the licensee and his clients.

9.3.3 Non-acceptable course criteria shall include courses similar to the following:

9.3.3.1 Offerings in mechanical office and business skills, such as typing, speed reading, memory improvement, language report writing, advertising, or similar offerings;

9.3.3.2 Offerings concerning physical well-being or personal development, such as personal motivation, stress management, time management, dress-for-success, or similar offerings;

9.3.3.3 Meetings held in conjunction with the general business of the licensee and his broker or employer, such as sales meetings, in-house staff or licensee training meetings;

9.3.4 The minimum length of a course shall be one credit hour or its equivalency. A credit hour is defined as 50 minutes within a 60-minute time period.

R162-9-4. Instructor Certification Criteria.

9.4 Instructors for continuing education purposes will be evaluated and approved separately from the continuing education courses.

9.4.1 The instructor applicant must meet the same requirements as a certified preclicensing instructor as defined in R162-8.4.1; and

9.4.2 The instructor applicant must demonstrate knowledge of the subject matter by submission of proof of the following:

9.4.2.1 At least five years experience in a profession, trade or technical occupation in a field directly related to the course which the applicant intends to instruct; or

9.4.2.2 A bachelors or postgraduate degree in the field of real estate, business, law, finance, or other academic area directly related to the course which applicant intends to instruct; or

9.4.2.3 Any combination of at least five years of full-time experience and college-level education in a field directly related to the course which the applicant intends to instruct, or

9.4.3 The instructor applicant must demonstrate evidence of the ability to communicate the subject matter by the submission of proof of the following:

9.4.3.1 A state teaching certificate or showing successful completion of appropriate college courses in the field of education; or

9.4.3.2 A professional teaching designation from the National Association of Realtors or the Real Estate Educators Association; or

9.4.3.3 Evidence, such as instructor evaluation forms or letters of reference, of the ability to teach in schools, seminars, or in an equivalent setting.

R162-9-5. Submission of Course for Certification.

9.5 An applicant shall apply for consideration of certification of a course to the Division of Real Estate not less than 60 days prior to the anticipated date of the first class.

9.5.1 The application shall include a non-refundable filing fee of \$35.00 and an instructor certification fee of \$15.00 per course per instructor. Both fees should be made payable to the Division of Real Estate.

9.5.2 The application shall be made on the form approved by the Division which shall include the following information:

9.5.2.1 Name, phone number and address of the sponsor of the course, including owners and the coordinator or director responsible for the offering;

9.5.2.2 The title of the course offering including a description of the type of training; for example, seminar, conference, correspondence course, or similar offering;

9.5.2.3 A copy of the course curriculum including a course outline of the comprehensive subject matter ~~[with]~~. Except for courses approved for specific distance education delivery, the course outline shall include the length of time to be spent on each subject area broken into segments of no more than 15 minutes each, the instructor for each segment, and the teaching technique used in each segment;

9.5.2.4 Three to five learning objectives for every three hours or its equivalency of the course and the means to be used in assessing whether the learning objectives have been reached;

9.5.2.5 A complete description of all materials to be distributed to the participants;

9.5.2.6 The date, time and locations of each course;

9.5.2.7 The procedure for pre-registration, the tuition or registration fee and a copy of the cancellation and refund policy;

9.5.2.8 ~~[The procedure for pre-registration and]~~ Except for courses approved for specific distance education delivery, the procedure for taking and maintaining control of attendance during class time, which procedure shall be more extensive than having the student sign a class roll;

9.5.2.9 The difficulty level of the course categorized by beginning, intermediate or advanced;

9.5.2.10 A sample of the proposed advertising to be used, if any;

9.5.2.11 An instructor application on a form approved by the Division including the information as defined in R162-9.4;

9.5.2.12 A signed statement agreeing to allow the course to be randomly audited on an unannounced basis by the Division or its representative;

9.5.2.13 A statement defining how the course will meet the objectives of continuing education by providing education of a current nature and how it will improve the licensees ability to provide greater protection of and service to the public;

9.5.2.14 A signed statement agreeing not to market personal sales product.

9.5.2.15 A sample of the completion certificate, or the completion certificate required by the division, if any, that will be issued which shall bear the following information:

(a) Space for the licensee's name, type of license and license number, date of course

(b) The name of the course provider, course title, hours of credit, certification number, and certification expiration date;

(c) Space for signature of the course sponsor and a space for the licensee's signature.

9.5.2.16 Signature of the course coordinator or director.

9.5.3 ~~[Application for a video course will include all information as defined in R162-9-5-2 except for R162-9-5-2-6 and R162-9-5-2-8. The application will also include a copy of the video.]~~

~~9.5.3.1 If it is the intention of the course provider that the video course is to be viewed other than in a certified school, the application will also include the following:~~

~~(a) The method for determining that each home assignment has been completed by the registered student; and~~

~~(b) The method for correcting home assignments and workbooks, and the procedure for notifying the student if the assignment has not been done correctly; and~~

~~(c) A copy of the home assignment and the workbook material.]~~ Continuing education courses in which the instruction does not take place in a traditional classroom setting, but rather through other media where teacher and student are separated by distance and sometimes by time, may be certified by the Division provided the delivery method of the course has been certified by the Association of Real Estate Licensing Law Officials (ARELLO).

9.5.3.1 Only the delivery method will be certified by ARELLO. The subject matter of the course will be certified by the Division.

9.5.3.2. Education providers making application for Distance Education Certification shall provide appropriate documentation that the ARELLO certification is in effect and that the course meets the content requirements of R162-9.3.2 along with other applicable requirements of this rule.

9.5.3.2.1. Approval under this paragraph will cease immediately should ARELLO certification be discontinued for any reason.

9.5.3.3. Courses approved for distance education delivery shall justify the classroom hour equivalency as is required by ARELLO standards.

9.5.4. The Real Estate Commission reserves the right to consider alternative certification methods and/or procedures for non-ARELLO certified Distance Education Courses.

R162-9-6. Conditions to Certification.

9.6.1 Upon completion of the educational program the course sponsor shall provide ~~[the]~~ a certificate of ~~[attendance only]~~ completion.

9.6.1.1 Certificates of completion will be given only to those students who attend a minimum of 90% of the required class time of a live lecture. Within 10 days of the end of the course, the sponsor shall provide to the Division a roster of students and their license numbers for whom certificates were issued.

9.6.2 A course sponsor shall maintain for three years a record of ~~[attendance]~~ registration of each person ~~[attending]~~ completing an offering and any other prescribed information regarding the offering, including exam results, if any.

9.6.2.1 Students registered for a distance education course shall complete the course within one year of the registration date.

9.6.3 Whenever there is a material change in a certified course, for example, curriculum, course length, instructor, refund policy, the sponsor shall promptly notify the Division in writing.

9.6.4 All course certifications shall be valid for one year after date of approval by the Division.

9.6.4.1 If a course is not renewed within three months after its expiration date, the course provider will be required to apply for a new certification for the course.

9.6.4.2 After a course has been renewed for three times, the course provider will be required to make application as for a new certification.

9.6.5 Instructor certifications shall expire December 31 of each year. Instructors who certify for the first time by September 30 shall renew December 31 of that same year. Instructors who certify for the first time after October 1 shall renew December 31 of the following year.

9.6.5.1 To renew instructor certification an instructor must teach, during the year prior to renewal, a minimum of one class in each course for which certification is sought.

9.6.5.2 If the instructor has not taught during the year and wishes to renew certification, written explanation shall be submitted outlining the reason for not instructing the course, including documentation satisfactory to the Division as to the present level of expertise in the subject matter of the course.

R162-9-7. Course and Instructor Evaluations.

9.7 The Division shall cause the course to be evaluated for adherence to course content and other prescribed criteria, and for the effectiveness of the instructor.

9.7.1 At the end of each course each student shall complete a standard evaluation form provided by the Division. The forms shall be collected at the end of the class in an envelope and the course provider will mail the sealed envelope to the Division within 10 days of the last class.

9.7.2 On a random basis the Division will assign monitors to attend a course for the purpose of evaluating the course and the instructor. The monitors will complete a standard evaluation form provided by the Division which will be returned to the Division within 10 days of the last class.

KEY: continuing education

~~June 3, 1999~~2002

Notice of Continuation October 21, 1997

61-2-5.5



Community and Economic
Development, Business and Economic
Development
R184-2
Business Income Tax Credits in
Enterprise Zones

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 24774

FILED: 04/30/2002, 09:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To define certain terms, establish a formula for determining the "allocated cap amount", and provide policies and procedures whereby business development entities may apply for targeted business income tax credits within a designated Enterprise Zone.

SUMMARY OF THE RULE OR CHANGE: The Utah Department of Community and Economic Development is required by Utah Code Annotated 1953, Title 9, Chapter 2, Part 18, to administer the allocation of business income tax credits to qualifying businesses located in Utah Enterprise Zones. This rule defines terms relevant to this process and establishes a formula and procedures to be used in evaluating applications for these tax credits.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 9, Chapter 2, Part 18

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: It is anticipated there will be two allocation rounds each year and that each of seven enterprise zones will process two applications each during each round. The state enterprise zone coordinator is estimated to require the dedication of one full week for each allocation round to provide technical assistance to businesses, process applications, rank applications and send appropriate notification. Based on the wages of the current enterprise zone coordinator, the cost to the state budget is estimated to be \$3,000.

❖ LOCAL GOVERNMENTS: It is anticipated there will be two allocation rounds each year and that each of seven enterprise zones will process two applications each during each round. Each of the local enterprise zone coordinators are estimated to require the dedication of one full week for each allocation round to provide technical assistance to businesses, process applications, rank applications and send appropriate notification. Based on the wages of the current state enterprise zone coordinator and assuming a similar wage for the local enterprise zone coordinators, the cost to local governments is estimated to be \$21,000.

❖ OTHER PERSONS: The cost for the individual business to prepare and submit required application is \$480 based on an average of 16 hours for the preparation and submission of required documents.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated there will be two allocation rounds each year and that each of seven enterprise zones will process two applications each during each round. The state enterprise zone coordinator and each of the local enterprise zone coordinators are estimated to require the dedication of one full week for each allocation round to provide technical assistance to businesses, process applications, rank applications and send appropriate notification. Based on the wages of the current enterprise zone coordinator and assuming a similar wage for the local enterprise zone coordinators, the compliance cost is estimated to be \$3,000 and \$21,000 respectively. The cost for the individual business to prepare and submit required application is \$480 based on an average of 16 hours for the preparation and submission of required documents.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change implements a process whereby a qualifying business can receive up to \$300,000 in reimbursable business tax credits. The authorization of such credits through the processes implemented by this rule has a positive fiscal impact on the

businesses receiving such authorization. This rule defines terms and establishes the criteria used to award tax credits, but does not specifically impose a fiscal burden on businesses. The legislation that mandates the creation of this rule outlines an application process which we estimate could require the investment of up to 16 hours by the respective business to complete. However, this cost is the product of the legislation, not of this rule. Consequently, the only fiscal impact directly associated with this rule is the positive fiscal impact associated with the award of the business tax credit.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
BUSINESS AND ECONOMIC DEVELOPMENT
Room 500
324 S STATE ST
SALT LAKE CITY UT 84111-2388, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Edward Meyer at the above address, by phone at 801-538-8781, by FAX at 801-538-8888, or by Internet E-mail at emeyer@dced.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/17/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/24/2002 at 1:00 PM, Suite 500, 324 South State Street, Salt Lake City, UT 84111.

THIS RULE MAY BECOME EFFECTIVE ON: 06/24/2002

AUTHORIZED BY: Edward Meyer, Associate Director

R184. Community and Economic Development, Business and Economic Development.

R184-2. Business Income Tax Credits in Enterprise Zones.

R184-2-1. Authority and Purpose.

Pursuant to Title 9, Chapter 2, Utah Code Annotated, this rule defines certain terms, establishes a formula for determining the "allocated cap amount", and provides policies and procedures whereby business development entities may apply for targeted business income tax credits within a designated Enterprise Zone.

R184-2-2. Definitions.

In addition to terms defined in Section 9-2-1801(2), the following apply:

"Substantial new employment" means that the total jobs projected to be created by the project by the end of the third calendar year after the application is submitted, which shall equal, or exceed one tenth of one percent (.1%) of the total county employment for the year in which the application is filed. This calculation shall be based on each county's average annual non-agricultural employment, using information provided by the Utah Department of Workforce Services.

"New capital development" means the construction, expansion or lease of a building, or any purchase or lease of new or used equipment, provided that such construction, expansion or lease shall result in the creation of at least one (1) new full-time equivalent job.

"Project" means 50% of the total the total expenditure for new capital development for the length of the project, which project shall not exceed three years, and up to 50% of the estimated wages and benefits for not more than 30 employees for the first three years of the project.

"Round" means a defined time period, within which a project application may be considered for funding.

"Final Round" means the last defined time period in a calendar year for considering project applications for funding.

"Total cap amount" means the total amount of the targeted business income tax credits allowed for all business enterprises which are categorized in accordance with Subsection 9-2-1803 in any fiscal year.

"Allocated Cap Amount" means the total amount of the targeted means the business income tax credit that a business applicant is allowed to claim for a taxable year, which tax credit represents a pro rata share of the total amount of \$300,000 for each fiscal year allowed under Subsection 9-2-1803(2).

"Formula for determining the allocated cap amount" means a pre-defined method for calculating the allocated cap amount, as outlined in section-3 of this rule.

R184-2-3. Calculation of Formula.

The formula for determining the allocated cap amount shall be calculated in accordance with the following steps:

1. Step 1: The Department will determine how many rounds will be scheduled during any calendar year.

2. Step 2: Applications which are intended for submission in the final round are due to the local zone administrator no later than June 1st of the applicable calendar year, except that for the year 2002, the Department may authorize a later due-date to allow for the setting of fair criteria whereby proposals can be fairly and timely evaluated. In the event the Department chooses to conduct more than one round in a fiscal year, applications for submission in said round will not be less than thirty (30) days after public notice is published in a newspaper of general circulation.

3. Step 3: The Department will determine what portion of the total cap amount is available to be committed during each single round. Such a determination will be based on the total cap amount remaining in the fund after reductions have been made project commitments from prior years, plus any amounts that are carried forward from previous rounds during the current year.

4. Step 4: Applications will be submitted on forms approved by the Department.

5. Step 5: Applications will be ranked by the Department based on the projected economic impact per direct job over three years, using an economic impact model approved by the Department prior to the application period for each round and made available upon request.

6. Step 6: Applications will be ranked based on the projected number of full time equivalent jobs created over three years.

7. Step 7: Rankings developed in Steps 5 and 6 as outlined above, will be merged into a final ranking with the ranking from each step equally weighted. This final ranking will determine the distribution of the total available cap amount for the round.

R184-2-4. Awards.

1. Applications that are unable to demonstrate a positive economic impact, as shown by projected increases in tax revenue per direct job, will not receive an allotted cap amount.

2. Applications that demonstrate a positive economic impact, as shown by projected increases in tax revenue per direct job, will be awarded an allotted cap amount in order of final ranking until the amount as budgeted by the Department for the round, have been exhausted.

3. The applicant's allocated cap amount for the first year shall be equivalent to the tax credit approved by the local zone administrator in accordance with Section 9-2-1803, Utah Code. Allotments for each future year will be awarded at a level of one half the first year, until the entire multi-year project has received its total project approved tax credit. In the event that tax credits authorized by Section 9-2-1803 are eliminated or reduced prior to the time required for a project's full tax credit to be realized, the Department will determine the final year's allocated cap amount using a calculation that distributes a given year's available funds using a fair method, among all projects which have a remaining allotment eligibility.

4. Applications that do not receive an allocated cap amount may resubmit an application for any subsequent round held during that calendar year. Such applications may be modified if desired and may include project activities occurring after January 1st of that year. An application submitted for an allocated cap amount in a subsequent year shall require the submission of a new application.

KEY: tax, credit, rural, business

2002

9-2-1801 through 9-2-1803

▼ ————— ▼

**Environmental Quality, Radiation
Control
R313-15-1001
Waste Disposal - General
Requirements**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24759

FILED: 04/25/2002, 08:45

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: The rule states that a licensee or registrant shall dispose of licensed material by transfer to an authorized recipient as provided in Rule R313-24 (as well as other rules and sections which are listed in Subsection R313-15-1001(1)(a)). Rule R313-24 has been added to Subsection R313-15-1001(1)(a).

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 relates to the transfer of licensed material by licensees, there is no cost or savings impact with this rule change for the State budget.

❖ LOCAL GOVERNMENTS: Since the rule relates to the transfer of licensed material by licensees, there is no cost or savings impact with this rule change for the local government.

❖ OTHER PERSONS: The rule states that a licensee or registrant shall dispose of licensed material by transfer to an authorized recipient as provided in Rule R313-24 (as well as other rules and sections which are listed in Subsection R313-15-1001(1)(a)). Since only Rule R313-24 has been added to Subsection R313-15-1001(1)(a) and it applies only to the licensees, there is no cost or savings impact with this rule change for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the rule relates to the transfer of licensed material by licensees, there are 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: There is no fiscal impact for businesses associated with this rule change.

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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/17/2002

AUTHORIZED BY: William Sinclair, Director

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**R313. Environmental Quality, Radiation Control.
R313-15. Standards for Protection Against Radiation.
R313-15-1001. Waste Disposal - General Requirements.**

(1) A licensee or registrant shall dispose of licensed or registered material only:

(a) By transfer to an authorized recipient as provided in Section R313-15-1006 or in Rules R313-21, R313-22, R313-24, or R313-25, or to the U.S. Department of Energy; or

(b) By decay in storage; or

(c) By release in effluents within the limits in Section R313-15-301; or

(d) As authorized pursuant to Sections R313-15-1002, R313-15-1003, R313-15-1004, or R313-15-1005.

(2) A person shall be specifically licensed or registered to receive waste containing licensed or registered material from other persons for:

- (a) Treatment prior to disposal; or
- (b) Treatment or disposal by incineration; or
- (c) Decay in storage; or

(d) Disposal at a land disposal facility licensed pursuant to Rule R313-25; or

(e) Storage until transferred to a storage or disposal facility authorized to receive the waste.

KEY: radioactive material, contamination, waste disposal, safety

~~[November 9, 2001]~~2002

Notice of Continuation April 30, 1998

19-3-104

19-3-108



Environmental Quality, Radiation Control **R313-19-2** Requirements of General Applicability to Licensing of Radioactive Material

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24758

FILED: 04/25/2002, 08:42

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: The following is added to Subsection R313-19-2(2): Licensees engaged in uranium mill recovery operations, authorized to possess byproduct waste material (tailings) from source material recovery operations, authorized to possess and maintain a facility in standby mode, authorized to receive byproduct material from other persons for disposal, or authorized to possess and dispose of source material waste tailings generated by milling operations are subject to the requirements of Rule R313-24.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Since the rule prescribes requirements for the licensing of radioactive material in Rule R313-24, there is no cost or savings impact associated with the rule change for the State budget.

❖ LOCAL GOVERNMENTS: Since the rule prescribes requirements for the licensing of radioactive material in Rule R313-24, there is no cost or savings impact associated with the rule change for the local government.

❖ OTHER PERSONS: Since the rule prescribes requirements for the licensing of radioactive material in Rule R313-24, there is no cost or savings impact associated with the rule change for "other persons".

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the rule prescribes requirements for the licensing of radioactive material in Rule R313-24, there are 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: There is no fiscal impact on business associated with this rule change.

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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/17/2002

AUTHORIZED BY: William Sinclair, Director

R313. Environmental Quality, Radiation Control. R313-19. Requirements of General Applicability to Licensing of Radioactive Material.

R313-19-2. General.

(1) A person shall not receive, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license issued pursuant to Rules R313-21 or R313-22 or as otherwise provided in Rule R313-19.

(2) In addition to the requirements of Rules R313-19, R313-21 or R313-22, all licensees are subject to the requirements of Rules R313-12, R313-15, and R313-18. Licensees authorized to use sealed sources containing radioactive materials in panoramic irradiators with dry or wet storage of radioactive sealed sources, underwater irradiators, or irradiators with high dose rates from radioactive sealed sources are subject to the requirements of Rule R313-34, licensees engaged in industrial radiographic operations are subject to the requirements of Rule R313-36, licensees using radionuclides in the healing arts are subject to the requirements of Rule R313-32, licensees engaged in land disposal of radioactive material are subject to the requirements of Rule R313-25, and licensees engaged in wireline and subsurface tracer studies are subject to the requirements of Rule R313-38. Licensees engaged in uranium mill recovery operations, authorized to possess byproduct waste material (tailings)

from source material recovery operations, authorized to possess and maintain a facility in standby mode, authorized to receive byproduct material from other persons for disposal, or authorized to possess and dispose of source material waste tailings generated by milling operations are subject to the requirements of R313-24.

KEY: license, reciprocity, transportation, exemptions

~~January 26, 2001~~2002

Notice of Continuation October 10, 2001

19-3-104

19-3-108

▼ ————— ▼

Environmental Quality, Radiation Control

R313-22-39

Executive Secretary Action on Applications to Renew or Amend

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24757

FILED: 04/25/2002, 08:30

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: Rule R313-24 has been added to Section R313-22-39. The rule states that the Executive Secretary will use the criteria set forth in Rule R313-24 (as well as other rules and subsections cited in the rule) when considering an application by a licensee to renew or amend a 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 requires that the Executive Secretary use the criteria set forth in Rule R313-24 when considering an application by a licensee to renew or amend a license, there will be no costs or savings impact with this rule change for the State budget.

❖ LOCAL GOVERNMENTS: Since the rule requires that the Executive Secretary use the criteria set forth in Rule R313-24 when considering an application by a licensee to renew or amend a license, the rule relates only to licensees and not to local government. There will be no costs or savings impact with this rule change to the local government budget.

❖ OTHER PERSONS: Since the rule requires that the Executive Secretary use the criteria set forth in Rule R313-24 when considering an application by a licensee to renew or amend a license, there will be no costs or savings impact with this rule change to "other persons".

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the rule change relates to licenses and not inspections, there will be

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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/17/2002

AUTHORIZED BY: William Sinclair, Director

R313. Environmental Quality, Radiation Control.

R313-22. Specific Licenses.

R313-22-39. Executive Secretary Action on Applications to Renew or Amend.

In considering an application by a licensee to renew or amend the license, the Executive Secretary will use the criteria set forth in Sections R313-22-33, R313-22-50, and R313-22-75 and in Rules R313-24, R313-25, R313-32, R313-34, R313-36, or R313-38, as applicable.

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

R313-24

Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE No.: 24738
 FILED: 04/19/2002, 11:42

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The purpose of this rule is to prescribe requirements 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. The rule includes requirements for the possession of byproduct waste material (tailings) from source material recovery operations, as well as possession and maintenance of a facility in standby mode. In addition, requirements are prescribed for the receipt of byproduct material, as defined in Section 19-3-102, from other persons for possession and disposal. The rule also prescribes requirements for 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.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 10 CFR 40, 2001

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Program funding is transferred from Federal to State government through user and review fees similar to the status quo.
- ❖ LOCAL GOVERNMENTS: Since the purpose of the rule is to prescribe requirements for possession and use of source material in recovery operations by licensees, there is no cost or savings impact to the local government.
- ❖ OTHER PERSONS: "Other persons" will save money with the State performing regulatory functions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost will be through annual fees which are less than those of the Federal Government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since businesses are already paying fees associated with licensing there will be no new fiscal impact with the rule.

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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/17/2002

AUTHORIZED BY: William Sinclair, Director

R313. Environmental Quality, Radiation Control.**R313-24. Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements.****R313-24-1. Purpose and Authority.**

(1) The purpose of this rule is to prescribe requirements 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. The rule includes requirements for the possession of byproduct waste material (tailings) from source material recovery operations, as well as possession and maintenance of a facility in standby mode. In addition, requirements are prescribed for the receipt of byproduct material, as defined in Section 19-3-102, from other persons for possession and disposal. The rule also prescribes requirements for receipt of byproduct material, as defined in Section 19-3-102, from other persons for possession and disposal incidental to the uranium waste tailings generated by the licensee's milling operations.

(2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4) and 19-3-104(8).

(3) The requirements of Rule R313-24 are in addition to, and not substitution for, the other requirements of these rules.

R313-24-2. Scope.

(1) The requirements in Rule R313-24 apply to uranium mills, uranium mill tailings, and source material disposal facilities.

R313-24-3. Environmental Analysis.

(1) Each new license application, renewal, or major amendment shall contain an environmental report describing the proposed action, a statement of its purposes, and the environment affected. The environmental report shall present a discussion of the following:

(a) An assessment of the radiological and nonradiological impacts to the public health from the activities to be conducted pursuant to the license or amendment;

(b) An assessment of any impact on waterways and groundwater resulting from the activities conducted pursuant to the license or amendment;

(c) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to the license or amendment; and

(d) Consideration of the long-term impacts including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to the license or amendment.

(2) Commencement of construction prior to issuance of the license or amendment shall be grounds for denial of the license or amendment.

R313-24-4. Clarifications or Exceptions.

For the purposes of Rule R313-24, 10 CFR 40.2a through 40.4; 40.12; 40.20(a); 40.21; 40.26(a) through (c); 40.31(h); 40.41(c); 40.42(k)(3)(i); 40.61(a) and (b); 40.65; and Appendix A to Part 40(2002) are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion and substitution of the following:

(a) Exclude 10 CFR 40.26(c)(1) and replace with "(1) The provisions of Sections R313-12-51, R313-12-52, R313-12-53, R313-19-34, R313-19-50, R313-19-61, R313-24-1, Rules R313-14, R313-15, R313-18, and R313-24 (incorporating 10 CFR 40.2a, 40.3, 40.4, and 40.26 by reference)"; and

(b) In Appendix A to 10 CFR 40, exclude Criterion 5B(1) through 5H, Criterion 7A, Criterion 13, and replace the excluded Criterion with "Utah Administrative Code, R317-6, Ground Water Quality Protection."

(2) The substitution of the following:

(a) "Board" for reference to "Commission" in the definition of "compliance period," in paragraph four of the introduction to Appendix A, and in Criterion 5A(3) of Appendix A;

(b) "Executive Secretary" for reference to "Commission" in the first and fourth references contained in 10 CFR 40.2a, in 10 CFR 40.3, 40.20(a), 40.26, 40.41(c), 40.61, 40.65, in the definition of "closure plan", in paragraph five of the introduction to Appendix A, in Criterion 6(2), 6(4), 6(6), 6A(2), 6A(3), 9, 10, 11A through 11E, and 12 of Appendix A;

(c) "10 CFR 40" for reference to "this part";

(d) "Rules R313-19, R313-21, or R313-22" for "Section 62 of the Act";

(e) "Rules R313-21 or R313-22" for reference to "the regulations in this part" in 10 CFR 40.41(c);

(f) "Section R313-19-100" for reference to "part 71 of this chapter";

(g) "Executive Secretary" for reference to "appropriate NRC regional office as indicated in Appendix D to 10 CFR part 20 of this chapter, or the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555", or for reference to "appropriate NRC Regional Office shown in Appendix D to 10 CFR part 20 of this chapter, with copies to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555" or for reference to "appropriate NRC regional office as indicated in Criterion 8A";

(h) In 10 CFR 40.42(k)(3)(i), "R313-15-401 through R313-15-406" for reference to "10 CFR part 20, subpart E";

(i) "uranium milling" for reference to "uranium milling, in production of uranium hexafluoride, or in a uranium enrichment facility";

(j) "Utah Administrative Code, Rule R317-6, Ground Water Quality Protection" for reference to "Environmental Protection Agency in 40 CFR part 192, subparts D and E" or "Environmental Protection Agency in 40 CFR part 192, subparts D and E (48 FR 45926; October 7, 1983)";

(k) "require the licensee to" for reference to "require to" in 10 CFR 40.65(1); and

(l) In Appendix A to 10 CFR part 40, the following substitutions:

(i) "R313-12-3" for reference to "Sec. 20.1003 of this chapter";

(ii) "license issued by the Executive Secretary" for reference to "Commission license";

(iii) "Executive Secretary" for reference to "NRC" in Criterion 4(d);

(iv) "representatives of the Executive Secretary" for reference to "NRC staff" in Criterion 6(6);

(v) "Executive Secretary-approved" for reference to "Commission-approved" in Criterion 6a(1) and Criterion 9;

(vi) "Executive Secretary" for reference to "the Commission or the State regulatory agency"; and

(vii) "general or specific" for the reference to "NRC general or specific."

KEY: environmental analysis, uranium mills, tailings, monitoring

2002

19-3-104

19-3-108

Environmental Quality, Water Quality **R317-100** Utah State Project Priority System for the Utah Wastewater Project Assistance Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24804

FILED: 05/01/2002, 18:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Priority System is used to rank wastewater projects for possible State and Federal funding assistance. In the past, the rule was amended annually to update the reference to the current year's priority list. The proposed amendment would delete the date reference for the priority list at R317-100-1, allowing the Water Quality Board to update the priority list on an as-needed basis. This process will avoid unnecessary rulemaking actions. An additional change is proposed for the priority system ranking criteria which is needed to remove a redundancy in the project point assessment.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment removes the reference at R317-100-1 to the Fiscal Year 2002 Utah State Project Priority List and replaces it with the "current" Project Priority List. A proposed amendment at R317-100-3(F) would remove redundant "readiness to proceed" ranking criteria from the project priority ranking system. All projects on the priority list are considered ready to proceed.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The proposed changes will be addressed using existing staff and resources.
- ❖ LOCAL GOVERNMENTS: The proposed change is of an administrative nature and will have no significant effect on how the rule is applied to local governments. No costs or savings are anticipated.
- ❖ OTHER PERSONS: The proposed change is of an administrative nature and will have no significant effect on how the rule is applied to other persons. No costs or savings are anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated as a result of the amendment. The proposed change is of an administrative nature and will have no significant effect on how the rule is applied to other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment will have no impact on businesses as they are not eligible for the loan program.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
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:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 06/24/2002

AUTHORIZED BY: Don Ostler, Director

R317. Environmental Quality, Water Quality.**R317-100. Utah State Project Priority System for the Utah Wastewater Project Assistance Program.****R317-100-1. Project Priority System.**

This rule is necessary to meet requirements of Federal Water Quality Act, 40 CFR 35.3115 and Section 19-5-104(f) of the Utah Code. Copies of the ~~current~~ ^{Fiscal Year 2002} Utah State Project Priority List are available at the Utah Department of Environmental Quality, Division of Water Quality.

R317-100-2. General.

A. The Project Priority System is used to prioritize projects to allocate wastewater revolving loan and grant funds which may be available through the state and federal governments. The priority

system is intended to identify those projects which will remedy the most severe water quality problems and to provide funds for the most beneficial program of public health protection and water quality improvement.

B. The Project Priority System will prioritize non-point source pollution, point source pollution (both storm water and municipal wastewater), and underground wastewater disposal system projects which are candidates for funding through the Utah State Wastewater Project Assistance Program. All projects considered for funding under this program receive an "alpha" ranking in accordance with R317-100-4. In addition, all point source projects identified on the State Revolving Fund (SRF) Intended Use Plan (IUP) receive a "numeric" ranking under R317-100-3.

R317-100-3. Numeric Project Priority Ranking System.**A. PRIORITY POINT TOTAL**

1. A priority number total for a project will be determined by adding the priority points from each of the four priority categories. Total Priority Points = Project Need for Reduction of Water Pollution + Potential for Improvement Factor + Existing Population Affected + Special Consideration. If two or more projects receive an equal number of priority points, such ties shall be broken using the following criteria:

a. The projects shall be ranked in order of the highest "Need for Reduction of Water Pollution."

b. If the tie cannot be broken on the basis of need, the projects shall be ranked in order of the "Potential for Improvement Factor."

c. If the tie cannot be broken on the basis of the above, the project serving the greatest population will be given priority.

B. PROJECT NEED FOR REDUCTION OF WATER POLLUTION

All projects receive the highest applicable point level only.

1. A documented existing substantial health hazard will be eliminated by the project. This may include: (1) discharge of inadequately treated wastewater to an area of immediate public contact where inadequate operation and maintenance is not the primary cause of the condition; (2) an area where a substantial number of failing subsurface disposal systems are causing surfacing sewage in areas of human habitation. The elimination of existing substantial health hazards is of highest priority. The determination of the existence of substantial health hazards shall be based upon the investigation, report, and certification of the local health department and the State Division of Water Quality. Such reports and certifications will be forwarded to EPA with the Priority List. The health hazard designation will normally apply to unsewered communities experiencing widespread septic tank failures and surfacing sewage: 70 points.

2. A raw sewage discharge will be eliminated or prevented: 60 points.

3. The surface water quality standards identified in R317-2 are impaired by an existing discharge. For points to be allotted under this criterion the affected stream segment must be "water quality limited" according to a wasteload analysis and water quality standards. Water quality standards have been established for the waters of Utah according to designated beneficial use classifications. A stream segment is considered to be "water quality limited" if a higher level of treatment than that which is provided by state effluent limitations is required to meet water quality standards. A stream segment is "effluent limited" if water quality standards are met by state imposed effluent limitations: 50 points.

4. The ground water quality standards identified in R317-6 are impaired by an existing discharge. For points to be allotted under this criterion the affected ground water must be impaired according to the numerical criteria outlined in the ground water protection levels established for Class I and II aquifers: 50 points.

5. Construction is needed to provide secondary treatment, or to meet the requirements of a Utah Pollution Discharge Elimination System (UPDES) Permit or Ground Water Discharge Permit, or the Federal Sludge Disposal Requirements: 50 points.

6. Documented water quality degradation is occurring, attributable to failing individual subsurface disposal systems where inadequate operation and maintenance is not the primary cause of the condition: 45 points.

7. Areas not qualifying as an existing substantial health hazard, but where it is evident that inadequate on-site conditions have resulted in the chronic failure of a significant number of individual subsurface disposal systems, causing an ongoing threat to public health or the environment. Points may be awarded in this category only when the Division of Water Quality determines that existing on-site limitations cannot be overcome through the use of approved subsurface disposal practices, or that the cost of upgrading or replacing failed systems to meet the minimum requirements of the local health department are determined to be excessive: 45 points.

8. Treatment plant loading has reached or exceeded 95 percent of design requirements needed to meet conditions of an UPDES Permit or needed to restore designated water use, or design requirements are projected to be exceeded within 5 years by the Division of Water Quality. Points will not be allocated under this criterion where excessive infiltration or inflow is the primary cause for the loading to the system to be at 95 percent or greater of design requirements: 40 points.

9. Existing facilities that do not meet the design requirements in R317-3. Points may be allocated under this category only if the design requirements that are not being met are determined to be fundamental to the ability of the facility to meet water quality standards: 40 points.

10. Interceptor sewers, collection systems, pump stations and treatment, where applicable, are needed to solve existing pollution, ground water, or public health concerns: 35 points.

a. Points may be awarded under this category only if they will primarily serve established residential areas and only if they are needed to solve existing pollution or public health problems.

b. Points shall not be awarded under this category where an interceptor is proposed for newly developing recreational communities, resorts, or unincorporated subdivisions.

c. Points may be awarded under this category when the majority of existing septic systems are located in defined well head protection zones or principal ground water recharge areas to Class I and II aquifers.

11. Interceptor sewers, collection systems, pump stations and treatment, where applicable, are needed to accomplish regionalization or eliminate existing treatment facilities. Points shall not be awarded under this category where an interceptor is proposed for newly developing recreational communities, resorts, or unincorporated subdivisions: 25 points.

12. Communities having future needs for wastewater facilities construction at existing wastewater systems, not included above, which are consistent with the goals of the Federal Water Pollution Control Act: 10 points.

13. Communities having future needs for new treatment plants and interceptors, not included above, which are consistent with the goals of the Federal Water Pollution Control Act: 5 points.

C. POTENTIAL FOR IMPROVEMENT FACTOR (PIF)

The PIF priority point sub-total is obtained by adding the points obtained in each of the four subcategories. Total PIF points = Classified Water Use + Discharge Standard Factor + Restoration from Water Quality Standard Violation + Estimated Improvement.

1. Classified Water Use. Priority points under this subcategory are allotted in accordance with segment designations listed in R317-2-13, Classifications of Waters of the State. Points are cumulative for segments classified for more than one beneficial use.

a. Protected as a raw water source of culinary water supply; R317-2-13 Use Classes: 1A, 1B, or 1C: 4 points.

b. Protected for primary contact recreation (swimming); R317-2-13: 2A: 4 points.

c. Protected for secondary contact recreation (water skiing, boating and similar uses); R317-2-13: 2B: 3 points.

d. Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain; R317-2-13: 3A: 3 points.

e. Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in the food chain; R317-2-13: 3B: 3 points.

f. Protected for non-game fish and other aquatic life, including the necessary aquatic organisms in their food chain; R317-2-13: 3C: 2 points.

g. Protected for waterfowl, shore birds and other water-oriented wildlife not included above, including the necessary aquatic organisms in their food chain; R317-2-13: 3D: 2 points.

h. Protected for agricultural, industrial, and "special" uses; R317-2-13: 4, 5, and 6: 1 point.

2. Discharge Standard Factor. Priority points are allotted as follows:

a. Project discharge standards are water quality based: 5 points.

b. Project must meet secondary effluent treatment standards: 2 points.

c. Project does not discharge to surface waters: 0 points.

3. Restoration from Water Quality Standard Violation.

a. Project WILL RESTORE Designated Water Use: 5 points.

b. Project WILL NOT RESTORE Designated Water Use: 0 points.

c. Points under this subcategory are assigned on the basis of whether appropriate water quality standard(s) can be restored if the respective project is constructed and any other water quality management controls are maintained at present levels. For a project to receive points under this subcategory, data from a State-approved waste load analysis must generally show that the designated water use is substantially impaired by the wastewater discharge and that the proposed project will likely restore the numerical water quality standards and designated use(s) identified in R317-2-12 and R317-2-14 for the waterbody.

d. Points may not be assigned under this subcategory if nonpoint source pollution levels negate water quality improvement from the proposed construction, if numerical standards or actual levels of pollutants being discharged are questionable, if serious consideration is being given to the redesignation of the stream segment to a lower classification, or if numerical standards for specific pollutants are inappropriately low for the classified water use.

4. Estimated Improvement in Stream Quality or Estimated Improvement in Environmental Quality including Presently Unsewered Communities and Sewered Communities with Raw Sewage Discharges. Points in this category shall be allocated based upon the judgment of the Division of Water Quality Staff and on the nature of the receiving water and surrounding watershed. Consideration shall be given to projects which discharge into Utah priority stream segments as identified in the biennial water quality report (305(b)). The criteria used to develop the Stream Segment Priority List may be used to evaluate projects on other streams not on the Stream Segment Priority List. These criteria include the existing use impairment, the overall index from a use impairment analysis, the potential for use impairment, the downstream use affected, the population affected, the amount of local interest and involvement toward improving the stream quality, the presence of endangered species, and the beneficial use classification. Activities within the watershed that are aimed at reducing point and nonpoint sources of pollution may also be considered in the allocation of points. In addition, the effect of a discharge or proposed change in a discharge on the chemical and biological quality of the receiving stream may be considered in the determination of points. Only those projects which will significantly improve water quality or environmental quality and will restore or protect the designated uses or eliminate public health hazards shall be given the maximum points allowable. Fewer points can be given in instances where some significant improvement will be achieved if a project is constructed.

a. The project is essential immediately, and must be constructed to protect public health or attain a high, measurable improvement in water quality: 20 points.

b. The project will likely result in a substantial level of improvement in water quality or public health protection: 10 points.

c. Some level of water quality improvement or public health protection would likely be provided by the construction of the project, but the effect has not yet been well established. Also, present facilities lack unit processes needed to meet required discharge standards: 5 points.

d. No significant improvement of water quality or public health protection would likely be achieved, at present, by a project: 0 points.

D. EXISTING POPULATION AFFECTED

For sewerred communities, priority points are based on the population served by a treatment facility. For unsewered areas, points are based on the population of the affected community.

1. Greater than 80,000: 10 points.
2. 40,000 - 80,000: 9 points.
3. 20,000 - 40,000: 8 points.
4. 10,000 - 20,000: 7 points.
5. 5,000 - 10,000: 6 points.
6. 4,000 - 5,000: 5 points.
7. 3,000 - 4,000: 4 points.
8. 2,000 - 3,000: 3 points.
9. 1,000 - 2,000: 2 points.
10. Less than 1,000: 1 point.

E. SPECIAL CONSIDERATION

1. The proposed project is an interceptor sewer which is part of a larger regional plan and is necessary to maintain the financial, environmental or engineering integrity of that regionalization plan: 20 points, or

2. The project is needed to preserve high quality waters such as prime cold water fishery and anti-degradation segments: 20 points.

3. The proposed project will change the facility's sludge disposal practice from a non-beneficial use to a beneficial use method: 20 points.

4. The users of the proposed project are subject to a documented water conservation plan: 20 points.

5. The sponsor of the proposed project has completed and submitted the most recent Municipal Wastewater Planning Program (MWPP) questionnaire: 20 points.]

~~F. READINESS TO PROCEED~~

~~The identified project is near term as evidenced by its inclusion on the most recent SRF Intended Use Plan: 30 points.]~~

R317-100-4. Alpha Project Priority System.

All projects receive the highest applicable designation only. Projects will be included in one of three categories: A. Underground Wastewater Disposal Systems; B. Non-Point Source Pollution Projects, and C. Point Source Pollution Projects. The projects shall be ranked in order of: 1. Public Health Protection; 2. Water Quality Improvement; 3. Potential for Improvement; and, in the case of point source pollution projects, 4. Future Needs. Funding will be allocated as identified in R317-101, Utah Wastewater Project Assistance Program and R317-102, Utah Wastewater State Revolving Fund (SRF) Program for the categories of projects identified below.

A. UNDERGROUND WASTEWATER DISPOSAL SYSTEM PROJECTS:

1. Public Health Protection

a. Projects that improve or prevent a discharge of inadequately treated wastewater to an area of immediate public contact.

b. Projects that improve or prevent a discharge of inadequately treated wastewater within a zone of protection of a municipal or private drinking water well or that eliminate a drinking water impairment.

2. Water Quality Improvement

a. Projects that restore beneficial uses to surface water identified on the 303(d) Water Quality Impaired Waters list.

b. Projects that improve or prevent pollution to ground water.

3. Potential for Improvement

a. Projects that include improvement or replacement of underground wastewater disposal systems that may prevent degradation to surface water or ground water.

b. Projects that are necessary to comply with state or local underground wastewater disposal rules or regulations, e.g., existing systems that have inadequate ground water separation or are installed in unsuitable soil.

c. Projects that may improve underground wastewater disposal system reliability and function.

B. NON-POINT SOURCE POLLUTION PROJECTS:

1. Public Health Protection

a. Projects that improve or prevent a discharge of inadequately treated wastewater or other polluted water to an area of immediate public contact.

b. Projects that improve or prevent a discharge of inadequately treated wastewater or other polluted water within a zone of protection of a municipal or private drinking water well or that eliminate a drinking water impairment.

2. Water Quality Improvement

a. Projects that restore beneficial uses to surface water identified on the 303(d) Water Quality Impaired Waters list.

b. Projects that improve or prevent other surface water pollution.

- c. Projects that improve or prevent ground water pollution.
- 3. Potential for Improvement
 - a. Projects that improve non-point sources of pollution from industrial, municipal, private or agricultural systems that may prevent degradation to surface water or ground water.
 - b. Projects that may prevent degradation to riparian areas, wetlands or that preserve the natural environment.
 - c. Projects that encourage conservation including wastewater reuse, biosolids reuse or new conservation technologies.
 - d. Projects that encourage Best Management Practices that may directly or indirectly improve or prevent degradation to surface water or ground water.
- C. POINT SOURCE POLLUTION PROJECTS:
 - 1. Public Health Protection
 - a. Projects that improve or prevent a discharge of inadequately treated wastewater to an area of immediate public contact.
 - b. Projects that improve or prevent a discharge of inadequately treated wastewater or storm water within a zone of protection of a municipal or private drinking water well or that eliminate a drinking water impairment.
 - 2. Water Quality Improvement
 - a. Projects that restore beneficial uses to surface water identified on the 303(d) Water Quality Impaired Waters list.
 - b. Projects that improve or prevent other surface water pollution.
 - c. Projects that improve or prevent ground water pollution.
 - d. Projects necessary to achieve water quality standards more stringent than secondary treatment standards.
 - e. Projects needed to meet secondary treatment standards or that expand systems that are beyond 95 percent of the design capacity or that do not meet current design criteria.
 - 3. Potential for Improvement
 - a. Projects that improve collection, treatment and disposal systems that may prevent degradation to a surface water or ground water aquifer.
 - b. Projects that may prevent degradation to riparian areas, wetlands or that preserve the natural environment.
 - c. Projects that encourage regionalization of treatment systems.
 - d. Projects that encourage conservation including wastewater reuse, biosolids reuse, or new conservation technologies
 - 4. Future Needs. Projects that may have future needs for the construction, expansion or replacement of collection and treatment systems.

KEY: grants, state assisted loans, wastewater
~~August 24, 2004~~ 2002
 Notice of Continuation December 12, 1997
 19-5
 19-5-104
 40 CFR 35.915
 40 CFR 35.2015



**Health, Health Care Financing,
 Coverage and Reimbursement Policy**
R414-100
**Medicaid Primary Care Network
 Services**

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE No.: 24802
 FILED: 05/01/2002, 16:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking lists services available and cost sharing provisions for the Primary Care Network (PCN). The PCN offers basic primary care benefits to poor Utahns who were previously not eligible for Medicaid programs and for those previously served by the Utah Medical Assistance Program (UMAP).

SUMMARY OF THE RULE OR CHANGE: This new rulemaking lists services available and cost sharing provisions for the PCN.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** In the first year, the PCN will use \$3.8 million in General Fund monies and \$9.3 million in federal match to provide PCN reimbursements. This reflects current appropriation levels. Currently appropriated dollars will be used for a capped program. Administrative costs will be funded through enrollment fees and some administrative funds that had been allocated to administration of the Utah Medical Assistance Program that will be substantially changed in concert with the creation of the Primary Care Network program.

❖ **LOCAL GOVERNMENTS:** If local governments operate clinics that decide to participate in the Primary Care Network, they will experience the same impact as any other health care provider as detailed below.

❖ **OTHER PERSONS:** These are the classes of persons that the Department of Health believes will be impacted by the Primary Care Network rule: 1. Uninsured Utah Citizens - This group has previously gone without care, paid for the care or received charity care. The Primary Care Network will provide annually up to \$13.1 million dollars in care for approximately 25,000 adult residents with family income under 150% of the federal poverty level. By addressing health care needs at an early stage, it is anticipated that these same 25,000 residents will save significant amounts of money by avoiding more costly acute health care episodes. It is anticipated that charitable donations will help with specialty care. 2. Health Care Providers - The \$13.1 million dollar annual reimbursement to health care providers will provide much needed relief to providers that have been providing a high level of charity care. By meeting the health care needs of these 25,000 residents at an early stage, more costly hospital admissions for acute episodes should be avoided. As with private insurance, participants in the Primary Care Network will be responsible to pay co-pays and co-insurance. Providers will have some costs to collect and account for these payments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Other than simply dividing the available reimbursement (\$13.1 million) by the anticipated enrollees (25,000) and arriving at an average number of \$524 per enrollee, the Department does not have data that would allow it to estimate how much care the

average enrollee will receive. The Department also does not have data that would allow it to accurately predict how much the average hospital or primary care provider will likely be paid under the Primary Care Network. Participation will be voluntary. Reimbursement levels will have to be set high enough to attract willing providers. The Department believes that the minimal cost involved in collecting co-pays will be more than offset by providers collecting reimbursement for previously uninsured clients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule sets forth the scope of service coverage for the Primary Care Network program. This is a new program the Department will operate to cover uninsured adults with income up to 150% of the federal poverty guideline. This one-of-a-kind in the nation program authorized by a Section 1115 Waiver will allow up to 25,000 currently uninsured residents to qualify for a primary care limited benefit. I have reviewed and concur with the cost estimates for business set forth in boxes 7 and 8 of this form. The fiscal impact on business should be positive. 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 06/14/2002.

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

AUTHORIZED BY: Rod Betit, Executive Director

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

R414-100. Medicaid Primary Care Network Services.

R414-100-1. Introduction and Authority.

This rule lists the services under the Medicaid Primary Care Network (PCN). The Primary Care Network is authorized by a waiver of federal Medicaid requirements approved by the federal Center for Medicare and Medicaid Services and allowed under Section 1115 of the Social Security Act effective January 1, 1999. This rule is authorized by Title 26, Chapter 18, UCA.

R414-100-2. Definitions.

(1) "Emergency" means the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity

(including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (a) placing the enrollee's health in serious jeopardy;
- (b) serious impairment to bodily functions;
- (c) serious dysfunction of any bodily organ or part; or
- (d) death.

(2) "Emergency services" means:

- (a) attention provided within 24 hours of the onset of symptoms or within 24 hours of diagnosis;
- (b) for a condition that requires acute care, and is not chronic;
- (c) reimbursed only until the condition is stabilized sufficient that the patient can leave the hospital emergency department; and
- (d) is not related to an organ transplant procedure.

(2) "Outpatient" means an enrollee who receives services from a licensed outpatient care facility.

(3) "Primary care" means services to diagnose and treat illness and injury as well as preventive health care services. Primary care promotes early identification and treatment of health problems, which can help to reduce unnecessary complications of illness or injury and maintain or improve overall health status.

R414-100-3. Services Available.

(1) To meet the requirements of 42 CFR 431.107, the department contracts with each provider who furnishes services under the PCN.

(2) By signing a provider agreement with the department, the provider agrees to follow the terms incorporated into the provider agreements, including policies and procedures, provider manuals, Medicaid Information Bulletins, and provider letters.

(3) By signing an application for Medicaid coverage, the enrollee agrees that the department's obligation to reimburse for services is governed by contract between the department and the provider.

(4) Medical or hospital services for which providers are reimbursed under the PCN 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).

(5) The following services in the Medicaid Primary Care Network are available to those adults found eligible under Section 1931 of the federal Social Security Act (Aid to Families of Dependent Children adults and medically needy adults):

(a) emergency services only in a designated hospital emergency department;

(b) primary care physician services provided directly by licensed physicians or osteopaths, or by licensed certified nurse practitioners, or physician assistants under appropriate supervision of the physician or osteopath, but not including pregnancy related or mental health services by any of the listed providers;

(c) services associated with surgery or administration of anesthesia are physician services to be provided by physicians or licensed certified nurse anesthetists;

(d) laboratory and radiology services by licensed and certified providers;

(e) durable medical equipment, supplies and appliances used to assist the patient's medical recovery;

(f) preventive services, immunizations and health education methods and materials to promote wellness, disease prevention and manage illnesses;

(g) pharmacy services by a licensed pharmacy limited to four prescriptions per month, per client with no overrides or exceptions in the number of prescriptions;

(h) dental services are limited to examinations, cleanings, fillings, extractions, treatment of abscesses or infections and to be covered must be provided by a dentist in the office;

(i) transportation services limited to ambulance (ground and air) service for medical emergencies;

(j) interpretive services provided by contracting entities competent to provide medical translation services for people with limited English proficiency and interpretive services for the deaf; and

(k) vision services once every 12 months including an eye examination/refraction by a licensed ophthalmologists or optometrists, but not including the cost of glasses or other refractive device.

R414-100-4 Cost Sharing Provisions.

(1) Emergency department visits require a \$30 copayment.

(2) Outpatient office visits require a \$5 copayment for physician and physician-related visits. There is no copayment for preventive services, immunizations and health education.

(3) Dental office visits require a \$5 copayment.

(4) Laboratory and x-ray services:

(a) laboratory services costing less than \$50 require no copayment or co-insurance;

(b) laboratory services costing more than \$50 require a co-insurance of 5% of the Medicaid allowed amount;

(c) x-ray services costing less than \$100 require no copayment or co-insurance; and

(d) x-ray services costing more than \$100 require a co-insurance of 5% of the Medicaid allowed amount.

(5) Pharmacy services require:

(a) a \$5 copayment per prescription for generic drugs;

(b) a 25% of the estimated acquisition cost co-insurance for brand name drugs for which there is no generic equivalent; and

(c) a 100% copay for brand name drugs for which there is a generic equivalent.

(6) Durable medical equipment and supplies require a co-insurance of 10% of Medicaid allowed amount.

(7) The out-of-pocket maximum payment for copayments or co-insurance is limited to \$1000 per enrollee per enrollment year.

(8) Tribal members utilizing the federal Indian Health Care or tribal health care systems will not pay copayments, co-insurance or deductibles.

(9) Vision services require a \$5 copayment per office visit.

KEY: Medicaid, primary care network

2002

26-18



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-200
Non-Traditional Medicaid Health Plan
Services

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 24803

FILED: 05/01/2002, 17:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking lists services available to and cost sharing provisions for those adults who will be eligible for the Non-Traditional Medicaid Health Plan (NTHP). This subset of the adult Medicaid population will receive a comprehensive service package comparable to what state employees receive, but a reduced benefit package as compared to the general Medicaid population. The predicted cost-savings will be used to extend health care coverage to up to 25,000 Utahns through the new Primary Care Network (PCN).

SUMMARY OF THE RULE OR CHANGE: This rulemaking lists services available and cost sharing provisions of the NTHP.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rulemaking is expected to create \$2,350,000 in General Fund savings and \$5,750,000 in federal match savings to be transferred to the new Primary Care Network.

❖ LOCAL GOVERNMENTS: Local governments that agree to serve NTHP plan enrollees will be affected in the same manner as corporate Medicaid providers. Participation in this plan is voluntary and the costs should be similar to what it costs a provider to see a state employee with PEHP coverage.

❖ OTHER PERSONS: Provider participation in this plan is voluntary and the cost should be similar to what it costs a provider to see a state employee with Public Employees Health Plan (PEHP) coverage. Adults that previously had full Medicaid coverage will have coverage for fewer services and have slightly higher co-pays and co-insurances.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Provider participation in this plan is voluntary and the cost should be similar to what it costs a provider to see a state employee with PEHP coverage. Costs for providers should be minimal. Adults that previously had full Medicaid coverage will have coverage for fewer services and have slightly higher co-pays and co-insurances. It is impossible to know whether these adults will continue to seek medical care for all of the previously covered services. This personal accountability should limit inappropriate utilization.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rulemaking establishes services available and cost sharing provisions for the Non-Traditional Medicaid Health Plan (NTHP) for some mandatory and optional groups that previously received full benefits under traditional Medicaid. The goal of this rulemaking is to redistribute limited state funding to extend health care coverage to more Utahns through the Primary Care Network (PCN). I concur with the cost estimates in boxes 7 and 8 and

believe this rulemaking will have minimal fiscal impact on business. Rod L. Betit

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH 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 06/14/2002.

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

AUTHORIZED BY: Rod Betit, Executive Director

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

R414-200. Non-Traditional Medicaid Health Plan Services.

R414-200-1. Introduction and Authority.

This rule lists the services under the Non-Traditional Medicaid Health Plan (NTHP). This plan is authorized by a waiver of federal Medicaid requirements approved by the federal Center for Medicare and Medicaid Services and allowed under Section 1115 of the Social Security Act effective January 1, 1999. This rule is authorized by Title 26, Chapter 18, UCA.

R414-200-2. Definitions.

(1) "Emergency" means the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (a) placing the enrollee's health in serious jeopardy;
- (b) serious impairment to bodily functions;
- (c) serious dysfunction of any bodily organ or part; or
- (d) death.

(2) "Enrollee" means an eligible individual including Section 1931 Temporary Assistance for Needy Families Adults, the Section 1931 related medically needy and those eligible for Transitional Medicaid.

(3) "Outpatient hospital services" means medically necessary diagnostic, therapeutic, preventive, or palliative care provided for less than 24 hours in outpatient departments located in or physically connected to an acute care general hospital.

R414-200-3. Services Available.

(1) To meet the requirements of 42 CFR 431.107, the Department contracts with each provider who furnishes services under the NTHP.

(a) By signing a provider agreement with the Department, the provider agrees to follow the terms incorporated into the provider agreements, including policies and procedures, provider manuals, Medicaid Information Bulletins, and provider letters.

(b) By signing an application for Medicaid coverage, the applicant agrees that the Department's obligation to reimburse for services is governed by contract between the Department and the provider.

(2) Medical or hospital services for which providers are reimbursed under the Non-Traditional Medicaid Health Plan are 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).

(3) The following services, as more fully described and limited in provider contracts and provider manuals, are available to Non-Traditional Medicaid Health Plan enrollees:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) emergency services in dedicated hospital emergency departments;

(d) physician services provided directly by licensed physicians or osteopaths, or by licensed certified nurse practitioners, licensed certified nurse midwives, or physician assistants under appropriate supervision of the physician or osteopath.

(e) services associated with surgery or administration of anesthesia provided by physicians or licensed certified nurse anesthetists;

(f) vision care services by licensed ophthalmologists or licensed optometrists, within their scope of practice;

(g) laboratory and radiology services provided by licensed and certified providers;

(h) physical therapy services provided by a licensed physical therapist if authorized by a physician;

(i) dialysis to treat end-stage renal failure provided at a Medicare-certified dialysis facility;

(j) home health services defined as intermittent nursing care or skilled nursing care provided by a Medicare-certified home health agency;

(k) hospice services provided by a Medicare-certified hospice to terminally ill enrollees (six month or less life expectancy) who elect palliative versus aggressive care;

(l) abortion and sterilization services to the extent permitted by federal and state law and meeting the documentation requirement of 42 CFR 440, Subparts E and F;

(m) certain organ transplants;

(n) services provided in freestanding emergency centers, surgical centers and birthing centers;

(o) transportation services, limited to ambulance (ground and air) service for medical emergencies;

(p) preventive services, immunizations and health education activities and materials to promote wellness, prevent disease, and manage illness;

(q) family planning services provided by or authorized by a physician, certified nurse midwife, or nurse practitioner to the extent permitted by federal and state law;

(r) pharmacy services provided by a licensed pharmacy;

(s) inpatient mental health services, limited to 30 days per enrollee per calendar year;

(t) outpatient mental health services, limited to 30 visits per enrollee per calendar year;

(u) outpatient substance abuse services;

(v) dental emergency services only for relief of pain and infection, limited to an emergency examination, emergency x-ray and emergency extraction;

(w) interpretive services if they are provided by entities under contract with the Department of Health to provide medical translation services for people with limited English proficiency and interpretive services for the deaf;

(x) occupational therapy limited to that provided for fine motor development; and

(y) chiropractic services.

(4) Emergency services are:

(a) limited to attention provided within 24 hours of the onset of symptoms or within 24 hours of diagnosis;

(b) for a condition that requires acute care and is not chronic;

(c) reimbursed only until the condition is stabilized sufficient that the patient can leave the hospital emergency department; and

(d) not related to an organ transplant procedure.

(5) The vision care benefit is limited to \$30 per year.

R414-200-4. Cost Sharing.

(1) An enrollee is responsible to pay to the:

(a) hospital a \$220 co-insurance payment for each inpatient hospital admission;

(b) hospital a \$6 copayment for each non-emergency use of hospital emergency services;

(c) provider a \$3 copayment for outpatient office visits for physician, physician-related, mental health, and physical therapy services; except, no copayment is due for preventive services, immunizations and health education; and

(d) pharmacy a \$2 copayment per prescription for prescription drugs.

(2) The out-of-pocket maximum payment for copayments or co-insurance is limited to \$500 per enrollee per calendar year.

KEY: Medicaid, non-traditional, cost sharing
2002
26-18



**Health, Health Care Financing,
Coverage and Reimbursement Policy**
R414-301

Medicaid General Provisions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24805

FILED: 05/01/2002, 21:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to make a change in the provision of benefits pending a hearing for applicants. The change requires an applicant to request a hearing within 10 days of the mailing date on the notice of denial. The intent of this change is to make the rules consistent for both applicants and recipients. Other changes are being made to remove rules that are not required to be in rulemaking, items which are

incorporated by reference, to make other corrections, and to update citations.

SUMMARY OF THE RULE OR CHANGE: We are adding a requirement that an applicant must request a fair hearing within 10 days of the mailing date of the denial notice if the applicant wants to receive benefits pending the hearing decision. This change makes the rules consistent for both applicants and recipients who want to receive benefits pending a hearing decision. We added some clarifications about fair hearing proceedings. We have added references to a couple of new Medicaid programs. We are changing the language which said the Department of Workforce Services was responsible for administration of medical programs to reflect the transition of administration to the Department of Health. We have added some language about client's rights and responsibilities for clarification. We added definitions which are used in this rule and in rules R414-302 through R414-309. We added clarification about agency conferences to explain that requesting an agency conference does not prevent a client from requesting a fair hearing, nor does it extend the time in which to request a fair hearing. We have updated some citations.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 42 CFR 431.220 through 431.246, 2000 ed.; and 42 CFR 431(F) 2000 ed.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Clarifying that applicants who are denied must request a fair hearing within 10 days in order to receive Medicaid benefits pending the hearing decision, may generate some savings, but the amount is impossible to predict.
- ❖ LOCAL GOVERNMENTS: There is no impact to local governments because this rulemaking does not in any way impact local governments.
- ❖ OTHER PERSONS: Clarifying that applicants who are denied must request a fair hearing within 10 days in order to receive Medicaid benefits pending the hearing decision, may have a negative impact on some recipients and providers, but the amount is impossible to estimate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Clarifying that applicants who are denied must request a fair hearing within 10 days in order to receive Medicaid benefits pending the hearing decision, may have a negative impact on some recipients and providers, but the amount is impossible to estimate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rulemaking makes a change in the provision of benefits pending a hearing for applicants. The change requires an applicant to request a hearing within 10 days of the mailing date on the notice of denial. This change will make the rules consistent for both applicants and recipients. The impact on business will be negligible. Rod L. Betit

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH 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 or Gayle M. Six at the above address, by phone at 801-538-6592 or 801-538-6895, by FAX at 801-538-6099 or 801-538-6952, or by Internet E-mail at lrMartin@doh.state.ut.us or gsix@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 06/14/2002.

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

AUTHORIZED BY: Rod Betit, Executive Director

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

R414-301. Medicaid General Provisions.

R414-301-~~101~~1. Authority.

~~1. The department requires compliance with Section 26-18-3-2. The [legal authority to administer the medical programs listed below has been transferred by the] Department of Health [to] may contract with the Department of Workforce Services and the Department of Human Services to do eligibility determinations for one or more of the medical programs listed below [in accordance with Utah Code (U.C.) Subsection 26-18-3(3)]. The Department of Health is responsible for the administration of these programs[-~~

~~3. Medical programs]:~~

- ~~a.](1) Aged Medicaid (AM);~~
- ~~b.](2) Blind Medicaid (BM);~~
- ~~c.](3) Disabled Medicaid (DM);~~
- ~~d.](4) Family Medicaid (FM);~~
- ~~e.](5) Child Medicaid (CM);~~
- ~~f.](6) Title IV-E Foster Care Medicaid (FC);~~
- ~~g.](7) Medicaid for Pregnant Women (PG);~~
- ~~h.](8) Prenatal Medicaid (PN);~~
- ~~i.](9) Newborn Medicaid (NB);~~
- ~~j.](10) Transitional Medicaid (TR);~~
- ~~k.](11) Refugee Medicaid (RM);~~
- ~~l.](12) Utah Medical Assistance Program (UMAP);~~
- ~~m.](13) Qualified Medicare Beneficiary Program (QMB);~~
- ~~n.](14) Specified Low-Income Medicare Beneficiary Program (SLMB);~~
- ~~o.](15) Qualifying Individuals Programs (QI) of which there are two eligibility groups, Group 1 (QI-1) and Group 2 (QI-2)[-;~~
- ~~(16) Medicaid Work Incentive;~~
- ~~(17) Medicaid Cancer Program;~~
- ~~(18) Primary Care Network.~~

~~R414-301-102. References.~~

~~All referenced materials are available for public review at the Division of Employment Development.]~~

R414-301-~~103~~2. Definitions.

The following definitions apply in rules R414-301 through R414-308:

~~1.](1) "Applicant" means any person requesting assistance under any of the programs [discussed] listed in R414-301.~~

~~2.](2) "Assistance" means medical assistance under any of the programs [discussed] listed in R414-301.~~

~~3. "CHEC" means Child Health Evaluation and Care.~~

~~4. "Client" means an applicant or recipient of any of the programs listed in R414-301.~~

~~3.](5) "Department" means the Department of [Workforce Services] Health.~~

~~4.](6) "Director" or "designee" means the director or designee of the Division of [Employment Development] Health Care Financing.~~

~~5.](7) "Local" office means [the] any [local] community office location of the Department of Workforce Services, the Department of Human Services or the Department of Health where an individual may apply for medical assistance programs.~~

~~8. "Outreach location" means any site other than a state office where state workers are located to accept applications for medical assistance programs. Locations include sites such as hospitals, clinics, homeless shelters, etc.]~~

~~6. "Recipient" means any individual receiving assistance under any of the programs discussed.~~

~~7. "Worker" means a state employee who determines eligibility for Medicaid.~~

~~8. "Client" means an applicant or recipient of any of the programs discussed.~~

~~9. "Spouse" means any individual who has been married to a client or recipient and has not legally terminated the marriage.~~

~~10. "CHEC" means Child Health Evaluation and Care.]~~

~~9. "QI" means the Qualifying Individuals program.~~

~~11.](10) "QMB" means Qualified Medicare Beneficiary.~~

~~12. "SLMB" means Specified Low Income Medicare Beneficiary.]~~

~~11. "Recipient" means any individual receiving assistance under any of the programs discussed.~~

~~13.](12) "Reportable change" means any change in circumstances which could affect a client's eligibility for Medicaid, including: [-~~

~~a. Some examples of reportable changes include:~~

~~i.](a) change in the source of income;~~

~~ii.](b) change of more than \$25 in gross income;~~

~~iii.](c) changes in household size;~~

~~iv.](d) changes in residence;~~

~~v.](e) gain of a vehicle;~~

~~vi.](f) change in resources;~~

~~vii.](g) change of more than \$25 in total allowable deductions;~~

~~viii.](h) changes in marital status, deprivation, or living arrangements[-];~~

~~(i) pregnancy or termination of a pregnancy;~~

~~(j) onset of a disabling condition; and~~

~~(k) change in health insurance coverage.~~

~~14.](13) "Resident of a medical institution" means a single client who is a resident of a medical institution from the month after entry into a medical institution until the month prior to discharge~~

from the institution. Death in a medical institution is not considered a discharge from the institution and does not change the client's status as a resident of the medical institution. Married clients are residents of an institution in the month of entry into the institution and in the month they leave the institution.

(14) "SLMB" means Specified Low-Income Medicare Beneficiary.

[45-](15) "Spendedown" means an amount of income in excess of the allowable income standard that must be paid in cash to the department or incurred through the medical services not paid by Medicaid, or some combination of these.

(16) "Spouse" means any individual who has been married to a client or recipient and has not legally terminated the marriage.

16. "Good cause" means the client has the right to refuse to comply with certain eligibility requirements if it can be established that a suitable reason exists.

17. "QI" means the Qualifying Individuals program.

(17) "Worker" means a state employee who determines eligibility for Medicaid.

[R414-301-104. Availability of Program Manuals.

The department adopts 42 CFR 431.18, 1991 ed., which is incorporated by reference.

R414-301-[105]3. Client Rights and Responsibilities.

[4-](1) Anyone may apply or reapply any time for any program.

[2-](2) If someone needs help to apply he may have a friend or family member help, or he may request help [will be given by] from the local [department]office or outreach staff.

[3-](3) Workers will identify themselves to clients.

[4-](4) Clients will be treated with courtesy, dignity and respect.

[5-](5) Workers will ask for verification and information clearly and courteously.

[6-](6) If a client must be visited after working hours, the worker will make an appointment.

[7-](7) Workers will not enter a client's home without the client's permission.

(8) Clients must provide requested verifications within the time limits given. The Department may grant additional time to provide information and verifications upon client request.

(9) Clients have a right to be notified about the decision made on an application or other action taken which affects their eligibility for benefits.

[8-](10) Clients may look at most information about their case.

[9-](11) Anyone may look at the policy manuals located at any department local office.

[10-](12) The client must repay any understated liability. The client is responsible for repayments due to ineligibility.

[11-](13) The client must report [certain]a reportable change[s] as defined in R414-301-2(12) to the local office within ten days of the day the change becomes known.

R414-301-[106] 4. Safeguarding Information.

[4-](1) The department adopts 42 CFR 43[5]1(F), [1994]2000 ed., which is incorporated by reference. The department requires compliance with Sections 63-2-101 through 63-2-909.

[2-](2) Current department practices:

[a-](a) Workers shall safeguard all information about specific clients.

[b-](b) There are no provisions for taxpayers to see any information from client records.

[e-](c) The director or designee shall decide if a situation is an emergency warranting release of information to someone other than the client. The information may be released only to an agency with comparable rules for safeguarding records. The information released cannot include information obtained through an income match system.

R414-301-[107]5. Complaints and Agency Conferences.

(1) [Clients]A client may request an agency conference at any time to resolve a problem regarding [their]the client's case. Clients may have an authorized representative attend the agency conference.

(2) Requesting an agency conference does not prevent a client from also requesting a fair hearing in the event the agency conference does not resolve the client's concerns.

(3) Having an agency conference does not extend the time period in which a client has to request a fair hearing.

R414-301-[108]6. Hearings.

[4-](1) The department adopts 42 CFR 431.220 through 431.246, [1991]2000 ed., which is incorporated by reference. The department requires compliance with Title 63, Chapter 46b.

[2-](2) [Current department practices:

— a.] If a client's hearing request concerns only medical assistance, the [Department of Health]department shall conduct a formal hearing.

[b-](3) If a client's hearing request concerns food stamps or financial assistance in addition to medical assistance, the [department]Department of Workforce Services shall conduct an informal hearing.

[e-](4) Hearings may be conducted by telephone when the client agrees to that procedure.

[d-](5) Clients must request a hearing in writing. The written request must include a clear expression stating a desire to present their case.

[e-](6) Client[']s must ask for the hearing within 90 days of the mailing date of the notice regarding a disagreement with any proposed action.

(7) The hearing officer may schedule one or more pre-hearing conferences to clarify the issues to be heard at the hearing and to arrange exchange of relevant documents.

[f-](8) If the hearing was conducted by the [Department of Health]department, the client may appeal the hearing decision to the [District]Court of Appeals.

[g-](9) If the hearing was conducted by the [department]Department of Workforce Services, the client may appeal a hearing decision to the director of the Division of Adjudication within the Department of Workforce Services, or to the District Court.

[h-](10) When an action requires advance notice, the [client]recipient shall continue to receive assistance if the hearing is requested before the effective date of the action, or within ten days of the mailing date of the notice of action. If the agency action is upheld, the client may be asked to repay benefits received pending a final hearing decision. The [client]recipient may choose not to accept the benefits offered pending a hearing decision.

[i-](11) When an agency action does not require advance notice, assistance shall be reinstated if a hearing is requested within ten days of the mailing date of the notice unless the sole issue is one of state or federal law or policy.

~~[(12)]~~ An applicant who has requested a hearing shall receive medical assistance if the hearing decision has not been issued within 21 days of the request. To receive benefits pending the hearing decision, the applicant must request the hearing within 10 days of the mailing date of the notice with which the applicant disagrees. The benefits shall begin on the same date had the application been approved but no earlier than the first day of the application month. Retroactive benefits shall not be approved unless the applicant would be eligible even if the Agency prevailed at the hearing. The applicant may choose not to accept the benefits offered pending a hearing decision.

~~[(13)]~~ Final administrative action shall be taken within 90 days from the request for a hearing unless the client asks for a postponement or additional time is needed to allow all parties time to present and respond to the issues. The period of postponement may be added to the 90 days.

~~[1.]~~ The agency conducting a hearing shall keep a record of the hearing and a summary of the hearing decision.

~~—m.]~~ (14) Hearings shall be conducted only at the request of a client~~;~~ the client's spouse~~;~~ a minor client's parent; or a guardian~~representatives~~ of the client, ~~[or] client's spouse, minor client or minor client's parent; or a representative chosen by the client, client's spouse, or minor client's parent.~~

~~[(15)]~~ A hearing contesting resource assessment shall not be conducted until an institutionalized individual has applied for Medicaid.

**KEY: client rights~~[*]~~, ~~[human services]~~Medicaid
~~[April 1, 1998]2002~~
 Notice of Continuation February 6, 1998
 26-18**



**Health, Health Care Financing,
 Coverage and Reimbursement Policy
 R414-310
 Medicaid Primary Care Network
 Demonstration Waiver**

**NOTICE OF PROPOSED RULE
 (New Rule)**

DAR FILE No.: 24806
 FILED: 05/01/2002, 21:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is necessary to set forth the eligibility criteria for a new Medicaid program called the Primary Care Network.

SUMMARY OF THE RULE OR CHANGE: This rule sets forth the criteria for eligibility for the Primary Care Network (PCN) program which is a new program the Department will operate to cover uninsured adults with income up to 150% of the federal poverty guideline.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 42 CFR 433.138(b), 431.206, 431.210, 431.211, 431.213, 431.214, 435.610, 435.907, 435.908, 435.911, 435.912 and 435.919 2000 ed.; 20 CFR 416(K) Appendix, 2000 edition; and Section 1915(b) of the Compilation of the Social Security Laws, in effect January 1, 1999

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** In the first year, the PCN will use \$3.8 million in General Fund monies and \$9.3 million in federal match to provide PCN reimbursements. This reflects current appropriation levels. Currently appropriated dollars will be used for a capped program. Administrative costs will be funded through enrollment fees and some administrative funds that had been allocated to administration of the Utah Medical Assistance Program that will be substantially changed in concert with the creation of the Primary Care Network program.

❖ **LOCAL GOVERNMENTS:** If local governments operate clinics that decide to participate in the Primary Care Network, they will experience the same impact as any other health care provider as detailed below.

❖ **OTHER PERSONS:** These are the classes of persons that the Department of Health believes will be impacted by the Primary Care Network rule: 1. Uninsured Utah Citizens - This group has previously gone without care, paid for the care or received charity care. The Primary Care Network will provide annually up to \$13.1 million dollars in care for approximately 25,000 adult residents with family income under 150% of the federal poverty level. By addressing health care needs at an early stage, it is anticipated that these same 25,000 residents will save significant amounts of money by avoiding more costly acute health care episodes. It is anticipated that charitable donations will help with specialty care. 2. Health Care Providers - The \$13.1 million dollar annual reimbursement to health care providers will provide much needed relief to providers that have been providing a high level of charity care. By meeting the health care needs of these 25,000 residents at an early stage, more costly hospital admissions for acute episodes should be avoided. As with private insurance, participants in the Primary Care Network will be responsible to pay co-pays and co-insurance. Providers will have some costs to collect and account for these payments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed Primary Care Network does not mandate or curtail any action by any person outside of the Department of Health. As such, there are no involuntary compliance costs. If a previously uninsured resident chooses to participate in the program there will be annual costs to apply, gather information about income and other necessary information to establish eligibility. The Department believes that the process is not overly burdensome for those that wish to participate. If a provider chooses to join the network and serve persons covered by this program, there will be minimal costs associated with joining the network and submitting claims. The network will follow established practices for billing. If reimbursement is inadequate to justify the expense of participating, providers will be free to leave the network. Other than simply dividing the available reimbursement (\$13.1 million) by the anticipated

enrollees (25,000) and arriving at an average number of \$524 per enrollee, the Department does not have data that would allow it to estimate how much care the average enrollee will receive. The Department also does not have data that would allow it to accurately predict how much the average hospital or primary care provider will likely be paid under the Primary Care Network. Participation will be voluntary. Reimbursement levels will have to be set high enough to attract willing providers. The Department believes that the minimal cost involved in collecting co-pays will be more than offset by providers collecting reimbursement for previously uninsured clients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule sets forth the criteria for eligibility for the Primary Care Network program which is a new program the Department will operate to cover uninsured adults with income up to 150% of the federal poverty guideline. This one-of-a-kind in the nation program authorized by a Section 1115 Waiver will allow up to 25,000 currently uninsured residents to qualify for a primary care limited benefit. I have reviewed and concur with the cost estimates for business set forth in boxes 7 and 8 of this form. The fiscal impact on business should be positive. 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:

Gayle M. Six or Ross Martin at the above address, by phone at 801-538-6895 or 801-538-6592, by FAX at 801-538-6952 or 801-538-6099, or by Internet E-mail at gsix@doh.state.ut.us or 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 06/14/2002.

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

AUTHORIZED BY: Rod Betit, Executive Director

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

R414-310. Medicaid Primary Care Network Demonstration Waiver.

R414-310-1. Authority.

This rule sets forth the eligibility requirements for enrollment under the Medicaid Primary Care Network. The Primary Care Network is authorized by a waiver of federal Medicaid requirements approved by the federal Center for Medicare and Medicaid Services

and allowed under Section 1115 of the Social Security Act effective January 1, 1999. This rule is authorized by Title 26, Chapter 18.

R414-310-2. Definitions.

The following definitions apply throughout this rule:

(1) "Applicant" means an individual who applies for benefits under the Primary Care Network program, but who is not an enrollee.

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

(3) "Co-payment and co-insurance" means a portion of the cost for a medical service for which the enrollee is responsible to pay for services received under the Primary Care Network.

(4) "Deeming" or "deemed" means a process of counting income from a spouse or an alien's sponsor to decide what amount of income after certain allowable deductions, if any, must be considered income to an applicant or enrollee.

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

(6) "Enrollee" means an individual who has applied for and been found eligible for the Primary Care Network program and has paid the enrollment fee.

(7) "Enrollment fee" means a payment that an applicant or an enrollee must pay to the Department to enroll in and receive coverage under the Primary Care Network.

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

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

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

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

(12) "Primary Care Network" means a program under a federal waiver of Medicaid regulations which provides primary care medical services to uninsured adults who do not otherwise qualify for Medicaid.

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

(14) "Spouse" means any individual who has been married to an applicant or enrollee and has not legally terminated the marriage.

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

R414-310-3. Applicant and Enrollee Rights and Responsibilities.

(1) Any person may apply or reapply any time for any program.

(2) If a person needs help to apply, he may have a friend or family member help, or he may request help from the local office or outreach staff.

(3) Applicants and enrollees must provide requested information and verifications within the time limits given. The

Department may grant additional time to provide information and verifications upon request of the applicant or enrollee.

(4) Applicants and enrollees have a right to be notified about the decision made on an application, or other action taken which affects their eligibility for benefits.

(5) Applicants and enrollees may look at information in their case file that was used to make an eligibility determination.

(6) Anyone may look at the policy manuals located at any Department local office.

(7) An individual must repay any benefits received under the Primary Care Network if the Department determines that the individual was not eligible to receive such coverage under the Primary Care Network.

(8) Applicants and enrollees must report certain changes to the local office within ten days of the day the change becomes known. The Department shall notify the applicant at the time of application of the changes that the enrollee must report. Some examples of reportable changes include:

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

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

(c) An enrollee leaves the household or dies.

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

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

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

(9) An applicant or enrollee has a right to request an agency conference or a fair hearing as described in R414-301.

(10) An enrollee in the Primary Care Network program is responsible for paying any required co-payments or co-insurance amounts to providers for medical services the enrollee receives which are covered under the Primary Care Network program.

R414-310-4. General Eligibility Requirements.

(1) The provisions of R414-302-1, R414-302-2, R414-302-3, R414-302-5, and R414-302-6 apply to applicants and enrollees of the Primary Care Network.

(2) An individual who is not a U.S. citizen and does not meet the alien status requirements of R414-302-1 is not eligible for any services under the Primary Care Network program.

(3) Applicants and enrollees are not required to provide Duty of Support information to enroll in the Primary Care Network program. An individual who would be eligible for Medicaid but fails to cooperate with Duty of Support requirements required by the Medicaid program cannot enroll in the Primary Care Network program.

(4) Medically needy clients can participate in the Primary Care Network in any month they do not pay their spenddown to participate in the Medically Needy Program.

R414-310-5. Verification and Information Exchange.

The provisions of R414-307-4 apply to applicants and enrollees of the Primary Care Network.

R414-310-6. Residents of Institutions.

The provisions of R414-302-4(1), (3) and (4) apply to applicants and enrollees of the Primary Care Network.

R414-310-7. Creditable Health Coverage.

(1) The Department adopts 42 CFR 433.138(b) and 435.610, 2000 ed., and Section 1915(b) of the Compilation of the Social Security Laws, in effect January 1, 1999, which are incorporated by reference.

(2) An individual who is covered under a group health plan or other creditable health insurance coverage as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), is not eligible for enrollment in the Primary Care Network program.

(3) An individual who has access to health insurance coverage through an employer or a spouse's employer where the employer would pay 50% or more of the applicable insurance premium is not eligible for the Primary Care Network program. The individual is considered to have access to coverage even if the employer offers coverage only during an open enrollment period.

(4) An individual who is covered under Medicare Part A or Part B, or could enroll in Medicare Part B coverage, is not eligible for enrollment in the Primary Care Network.

(5) Individuals who are full-time students at a university or college, and who have access to health insurance coverage from the university or college are not eligible to enroll in the Primary Care Network program.

(6) The Department shall deny eligibility if the applicant or spouse has voluntarily terminated health insurance coverage within the six months immediately prior to the application date for enrollment under the Primary Care Network program. Eligibility for the Primary Care Network may begin six months after the prior insurance coverage expires. An applicant or applicant's spouse who is involuntarily terminated from an employer's plan may be eligible for the Primary Care Network without a six month waiting period.

(7) Notwithstanding the limitations in this section, an individual with creditable health coverage operated or financed by the Indian Health Services may enroll in the program.

(8) Each applicant must report at application and each enrollee must report at certification review for each individual for whom enrollment is being requested, whether such individuals have access to or are covered by a group health plan or other creditable health insurance coverage, including coverage which may be available through an employer or a spouse's employer, or through a university or college plan.

(9) An enrollee must report when any enrollee in the household begins to receive coverage under, or begins to have access to, any type of group health plan or other creditable health insurance coverage.

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

R414-310-8. Household Composition.

(1) The following individuals are included in the household when determining household size for the purpose of computing financial eligibility for the Primary Care Network Program:

(a) the individual;

(b) the individual's spouse living with the individual; and

(c) any dependent children of the individual or the individual's spouse who are under age 19 and living with the individual.

(2) A household member who is temporarily absent for schooling, training, employment, medical treatment or military service, or who will return home to live within 30 days from the date of application is considered part of the household.

R414-310-9. Age Requirement.

(1) An individual must be 19 years of age or older to enroll in the Primary Care Network program.

(2) The month in which an individual's 19th birthday occurs is the first month the person can be eligible for enrollment in the Primary Care Network program; however, if the individual could enroll in the Children's Health Insurance Program for that month, the individual cannot enroll in the Primary Care Network program until the following month.

R414-310-10. Income Provisions.

(1) To be eligible to enroll in the Primary Care Network program, a household's countable gross income must be equal to or less than 150% of the federal non-farm poverty guideline for a household of the same size. An individual with income above 150% of the federal poverty guideline is not allowed to spend down income to be eligible under the Primary Care Network program. All gross income, earned and unearned, received by the individual and the individual's spouse is counted toward household income, unless this section specifically describes a different treatment of the income.

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

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

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

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

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

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

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

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

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

(7) Needs-based Veteran's pensions are counted as income. Only the portion of a Veteran's Administration check to which the individual is legally entitled is countable income. (8) Child support payments received by a parent in the household which is in repayment of past due child support is counted as income for the parent. Current child support payments received for a dependent child living in the home are counted as that child's income.

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

(10) Supplemental Security Income and State Supplemental payments are countable income.

(11) Income, unearned and earned, shall be deemed from an alien's sponsor, and the sponsor's spouse, if any, when the sponsor has signed an Affidavit of Support pursuant to Section 213A of the

Immigration and Nationality Act on or after December 19, 1997. Sponsor deeming will end when the alien becomes a naturalized U.S. citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act or can be credited with 40 qualifying work quarters. Beginning after December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public.

(12) Income that is defined in 20 CFR 416(K) Appendix, 2000 edition, which is incorporated by reference, is not countable.

(13) Payments that are prohibited under other federal laws from being counted as income to determine eligibility for federally-funded medical assistance programs are not countable.

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

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

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

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

(18) Earned and unearned income of a child who is under age 19 is not counted if the child is not the head of a household.

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

(20) Reimbursements for employee work expenses incurred by an individual are not countable income.

(21) The value of food stamp assistance is not countable income.

R414-310-11. Budgeting.

This section describes methods that the Department uses to determine the household's countable monthly or annual income.

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

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

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

(4) Methods of determining the best estimate are income averaging, income anticipating, and income annualizing. The Department may use a combination of methods to obtain the most

accurate best estimate. The best estimate may be a monthly amount that is expected to be received each month of the certification period, or an annual amount that is prorated over the certification period. The Department may use different methods for different types of income received in the same household.

(5) The Department determines farm and self-employment income by using the individual's most recent tax return forms. If tax returns are not available, or are not reflective of the individual's current farm or self-employment income, the Department may request income information from the most recent time period during which the individual had farm or self-employment income. The Department deducts 40% of the gross income as a deduction for business expenses to determine the countable income of the individual. For individuals who have business expenses greater than 40%, the Department may exclude more than 40% if the individual can demonstrate that the actual expenses were greater than 40%. The Department deducts the same expenses from gross income that the Internal Revenue Service allows as self-employment expenses.

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

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

R414-310-12. Assets.

There is no asset test for eligibility in the Primary Care Network program.

R414-310-13. Application Procedure.

(1) The Department adopts 42 CFR 435.907 and 435.908, 2000 ed., which are incorporated by reference.

(2) The applicant must complete and sign a written application to enroll in the Primary Care Network program.

(3) The Department accepts any Department-approved application form for medical assistance programs offered by the state as an application for the Primary Care Network.

(a) If an applicant cannot write, he must make his mark on the application form and have at least one witness to the signature.

(b) The date of application is the day the signed application form is received by the Department.

(c) If a legal guardian or power of attorney has been appointed, or there is a payee for the individual, the Department shall make all forms and other documents in the name of both the individual and the individual's representative.

(d) An authorized representative may apply for the applicant if unusual circumstances prevent the individual from completing the application process himself. The applicant must sign the application form if possible.

(e) The Department shall reinstate a medical case without requiring a new application if the case was closed in error. The Department shall not require a new application if the case was closed for failure to complete a recertification or comply with a request for information or verification if the enrollee complies before the effective date of the case closure or by the end of the month immediately following the month the case was closed.

(4) An applicant may withdraw an application for the Primary Care Network any time before the Department completes an eligibility decision on the application.

(5) The applicant shall pay a \$50 annual enrollment fee to enroll in the Primary Care Network once the Department has determined that the individual meets the eligibility criteria for enrollment.

(a) Coverage does not begin until the Department receives the enrollment fee.

(b) The \$50 enrollment fee covers both the individual and the individual's spouse if the spouse is also requesting enrollment in the Primary Care Network.

(c) The \$50 enrollment fee is required at application, and at each recertification.

(d) The \$50 enrollment fee must be paid to the Department in cash, or by check or money order made out to the Department of Health.

(6) If an eligible household requests enrollment for an additional family member, the application date for the additional family member is the date of the request. A new application form is not required to enroll the additional family member; however, the household shall provide the information necessary to determine eligibility for the additional family member, including information about access to creditable health insurance for that family member.

(a) Coverage for the additional family member will be allowed from the date of application through the end of the current certification period.

(b) A new enrollment fee is not required to add an additional household member during the current certification period.

(c) A new income test is not required to add the new family member for the months remaining in the current certification period.

(d) Additional household members may be added only if the Department has not stopped enrollment under section R414-310-16.

(e) Income of the new family member will be considered and payment of the enrollment fee will be required at the next scheduled recertification.

R414-310-14. Eligibility Decisions and Recertification.

The Department adopts 42 CFR 435.911 and 435.912, 2000 ed., which are incorporated by reference.

(1) At application and recertification, the Department shall determine if the individual is eligible for Medicaid before determining eligibility for the Primary Care Network program. An individual who is eligible for a Medicaid program without paying a spenddown cannot enroll in the Primary Care Network program. If the individual must pay a spenddown to become eligible for Medicaid, the individual may choose to enroll in the Primary Care Network program instead of paying a spenddown to receive Medicaid.

(2) To enroll, the individual must meet the criteria for enrollment in the Primary Care Network program, pay the enrollment fee, and it must be a time when the Department has not stopped enrollment under section R414-310-16.

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

(a) the applicant voluntarily withdraws the application and the Department sends a notice to the applicant to confirm the withdrawal;

(b) the applicant died; or

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

(4) The enrollee must recertify at least every 12 months.

(5) The Department may require the applicant, the applicant's spouse, or the applicant's authorized representative to attend an interview as part of the application and recertification process. Interviews may be conducted in person or over the telephone, at the Department's discretion.

(6) The enrollee must complete the recertification process and provide the required verifications by the end of the recertification month. The case will be closed at the end of the recertification month if the enrollee does not complete the recertification process and provide required verifications by the end of the recertification month. If an enrollee does not complete the recertification by the end of the recertification month, but completes the process and provides required verifications by the end of the month immediately following the recertification month, coverage will be reinstated as of the first of that month if the individual continues to be eligible and pays the enrollment fee.

(7) The Department may extend the recertification due date if the enrollee demonstrates that a medical emergency, death of an immediate family member, natural disaster or other similar cause prevented the enrollee from completing the recertification process on time.

R414-310-15. Effective Date of Enrollment and Enrollment Period.

(1) The effective date of enrollment in the Primary Care Network program is the day that a completed and signed application is received by the Department. The Department shall not pay for any services received before the effective enrollment date.

(2) The effective date of re-enrollment for a recertification in the Primary Care Network program is the first day of the month after the recertification month, if the recertification is completed by the end of the recertification month or the month immediately following the recertification month, the enrollee continues to be eligible, and the enrollee pays the recertification enrollment fee.

(3) If the enrollee does not complete the recertification by the end of the recertification month, or by the end of the month immediately following the recertification month, and the enrollee does not have good cause for missing the deadline, the effective date of re-enrollment in the Primary Care Network program shall be the day that a completed recertification form, or a new application form, is received by the Department. If a gap in enrollment occurs because an enrollee does not complete the recertification process within this time frame, the Department shall not cover medical expenses incurred before the new enrollment effective date.

(4) An individual found eligible for the Primary Care Network shall receive 12 months of coverage unless the individual dies, moves out of state, cannot be located, begins to be covered or to have access to coverage under a group health plan or other creditable health insurance coverage, becomes eligible for Medicaid, or enters a public institution or an Institute for Mental Disease.

(5) When a case closes and remains closed for one or more calendar months, the individual must submit a new application to the Department to reapply. The individual must meet all the requirements of a new applicant including paying a new enrollment fee.

R414-310-16. Enrollment Limitation.

The Department shall limit enrollment in the Primary Care Network.

(1) The Department may stop enrollment of new individuals at any time based on availability of funds.

(2) The Department shall not maintain waiting lists during a time period that enrollment of new individuals is stopped.

(3) If enrollment has not been stopped, individuals may apply for the Primary Care Network program. Eligibility will be on a first-come, first-served basis during any open enrollment period.

R414-310-17. Notice and Termination.

(1) The department adopts 42 CFR 431.206, 431.210, 431.211, 431.213, 431.214, 435.919, 2000 ed., which are incorporated by reference.

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

(3) The Department shall terminate an individual's enrollment upon enrollee request or upon discovery that the individual is no longer eligible. The Department shall terminate an individual's enrollment if the individual fails to complete the recertification process on time.

R414-310-18. Improper Medical Coverage.

(1) An individual who receives benefits under the Primary Care Network program for which he is not eligible is responsible to repay the Department for the cost of the benefits received.

(2) If the sponsor of an alien does not provide correct information, the alien and the alien's sponsor are jointly liable for benefits received for which the individual was not eligible.

KEY: primary care, demonstration

2002

26-18-1



Health, Health Systems Improvement,
Child Care Licensing
R430-3-8
Sanction Action on License

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24795

FILED: 05/01/2002, 15:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: All licensed child care facilities were previously governed by Rule R430-100. In 1999, the rules were split into three license categories (Rules R430-60, -90, -100) and the background screening rule (Rule R430-6). This change updates the reference in the sanction rule to make it clear that all groups are subject to denial or revocation of their license for failure to comply.

SUMMARY OF THE RULE OR CHANGE: In Subsection R430-3-8(1)(a), add references to "R430-6, R430-60 and R430-90."

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This update to the rule does not change current practice. No cost anticipated.
- ❖ LOCAL GOVERNMENTS: Child care facilities operated by local government will not experience a change in the regulatory requirements and no additional cost is anticipated.
- ❖ OTHER PERSONS: Child care facilities will not experience a change in the regulatory requirements and no additional cost is anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Child care facilities will not experience a change in the regulatory requirements and no additional cost is anticipated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on business as a result of this technical change to the rule.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE LICENSING
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:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2002.

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

AUTHORIZED BY: Rod Betit, Executive Director

R430. Health, Health Systems Improvement, Child Care Licensing.

R430-3. General Child Care Facility Rules Inspection and Enforcement.

R430-3-8. Sanction Action on License.

(1) The Department may initiate an action against a child care facility pursuant to Section 26-39-108. That action may include:

(a) Denial or revocation of a license if the facility fails to comply with R430-6, R430-60, R430-90, or R430-100, exhibits evidence of aiding, abetting or permitting the commission of any illegal act, or demonstrates conduct adverse to the public health, morals, welfare, and safety of the children under its care.

(b) Restriction or prohibition on new admissions to a child care facility for:

- (i) violation of any provision under these rules; or
- (ii) permitting, aiding, or abetting the commission of any illegal act in the child care facility.

(c) Distribution of a notice of public disclosure to at least one newspaper of general circulation or other media form stating the violation of licensure rules or illegal conduct permitted by the facility and the agency action taken.

(d) Placement of Department employees or agents as monitors in the facility until corrective action is completed.

(e) Assessment of the cost incurred by the Department in placing the monitors.

(f) Assessment of monetary penalties that must be paid by the facility.

KEY: child care facilities

**~~January 21, 1998~~2002
26-39**



Human Services, Recovery Services
R527-210
Guidelines for Setting Child Support
Awards.

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24794

FILED: 05/01/2002, 14:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The tax exemption provision is no longer needed because the Office of Recovery Services/Child Support Services (ORS/CSS) Agent is no longer responsible for assigning the tax exemption to a parent. Instead, all of the Utah Administrative Procedures Act (UAPA) notices and orders issued by ORS/CSS have been changed to include standard language, which assigns the tax exemption(s) to the parent providing the largest share of support for the child(ren) as calculated on the guidelines worksheets.

SUMMARY OF THE RULE OR CHANGE: Section R527-210-1 of the rule has been deleted. The other paragraphs have been renumbered accordingly.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-11-304.2, 78-45-7.11, 78-45-7.20, and 78-45-7.21

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is minimal savings to the state budget because the Office of Recovery Services (ORS) Agents no longer have to add the tax exemption provision to the orders issued by the office. The orders have standard language, which assigns the tax exemption(s) to the parent providing the largest share of support for the child(ren) as calculated on the guidelines worksheets.

❖ LOCAL GOVERNMENTS: Administrative rules of ORS do not apply to local government.

❖ OTHER PERSONS: There is no impact to any other persons because the proposed rule change has no effect on the

application of the law referred to in the paragraph that has been deleted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any other persons in this rule. The proposed rule change will not create a compliance cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has never had an impact on businesses and the change to the rule does not create or cause an impact to businesses.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8509, or by Internet E-mail at lwilber@hs.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 06/14/2002.

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

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.

R527-210. Guidelines for Setting Child Support Awards.

R527-210-1. ~~Awarding Tax Exemption for Dependent Children.~~

~~Section 78-45-7.21 requires that the court or administrative agency assign the tax exemption for dependent children in any final order established on or after July 1, 1994. For tax exemption purposes, an administrative order is not considered a final order unless it is based on a voluntary paternity declaration or an administrative determination of paternity.~~

R527-210-2. ~~Reduction for Extended Visitation.~~

1. Extended visitation is defined as the time period during which the child is with the noncustodial parent for at least 25 of any 30 consecutive days. Normal visitation and holiday visits to the custodial parent shall not be considered an interruption of the consecutive day requirement.

2. If the child support order provides that the base child support award will be reduced for each child for extended visitation and extended visitation is exercised, the office shall reduce the support obligation accordingly.

3. If the support order does not specifically provide that the base child support award will be reduced for extended visitation and the child is a recipient of financial public assistance, the Office of Recovery Services/Child Support Services (ORS/CSS) shall not reduce the support obligation.

R527-210-2[3]. Accountability of Support Provided to Benefit Child.

At the time of issuing an administrative order for current support, ORS/CSS may include in the order, upon the petition of the obligor, a provision for the obligee to furnish an accounting of amounts provided for the child's benefit to the obligor. In order to be eligible, the obligor must be current on all child support; the obligor must not have a child support arrearage.

KEY: child support

~~August 15, 1997~~ 2002

Notice of Continuation January 26, 1999

62A-11-304.2

78-45-7.11

78-45-7.20

78-45-7.21



Insurance, Administration **R590-209** Court Ordered Health Insurance Coverage for Dependents

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 24756

FILED: 04/25/2002, 08:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to establish minimum standards for insurers providing accident and health coverage when a court or administrative order requires the responsible parent to provide health insurance for dependents.

SUMMARY OF THE RULE OR CHANGE: The rule defines "Out-of-area dependents," sets minimum standards and general provisions for the coverage of the out-of-area dependent in a court or administrative order, violators to be subject to the penalties provided in 31A-2-308, and compliance to the rule required 45 days after the rule takes effect.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, and 31A-22-610.5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Three or four of our eight domestic companies will need to refile policy forms with the department which will cost them \$20 for one or multiple filings. This will create little additional work for the department and no need to hire additional people. No cost savings is anticipated.

❖ LOCAL GOVERNMENTS: This rule will not affect local government since the rule applies only to licensees of the department.

❖ OTHER PERSONS: Cost to insurers because they have only been paying for emergency or urgent care, but the insurer will not have to pay any higher amounts than they would to an in-area provider. The out-of-state provider will be able to recover

from the parents the difference between the actual cost and the insurer payment. It will be a cost savings to the custodial parent to have some payment from the insurer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost to insurers because they have only been paying for emergency or urgent care, but the insurer will not have to pay any higher amounts than they would to an in-area provider. The out-of-state provider will be able to recover from the parents the difference between the actual cost and the insurer payment. It will be a cost savings to the custodial parent to have some payment from the insurer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Providers will be paid more quickly because the insurer will be paying a higher portion of the provider billings. It will be a higher cost to insurers because they have been paying limited emergency care benefits. The employer may be effected by a slight increase in premium.

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 06/14/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/05/2002 at 2:00 PM, State Office Building (behind the Capitol), Room 1112, Salt Lake City, UT.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-209. Court Ordered Health Insurance Coverage for Dependents.

R590-209-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the insurance commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. The authority to set minimum standards by rule is pursuant to Subsections 31A-22-610.5(4)(iv), 31A-22-610.5(5), 31A-22-610.5(6), 31A-22-610.5(7) and 31A-22-610.5(9).

R590-209-2. Purpose and Scope.

The purpose of this rule is to establish minimum standards for insurers providing accident and health coverage when a court or administrative order requires the responsible parent to provide health insurance for dependents.

R590-209-3. Definitions.

The following definition shall be used for purposes of this rule:

"Out-of-area dependent" means a child who does not reside with the parent who is responsible for providing health insurance coverage required by a court or administrative order and does not reside in the insurer's service area.

R590-209-4. Minimum Standards and General Provisions.

(1) When there is a court or administrative order requiring a parent to provide health insurance to an out-of-area dependent, as described in Subsection 31A-22-610(5), the insurer covering the responsible parent shall provide coverage consistent with the following minimum standards:

(a) enrollment in the responsible parent's health insurance coverage will be as if the out-of-area dependent child resided within the service area;

(b) health insurance coverage will be provided by the insurer to the out-of-area dependent child that is equivalent to health insurance coverage within the responsible parent's service area;

(c) the out-of-area health insurance coverage may be provided by a health maintenance organization, a preferred provider organization, indemnity program, or fee-for-service arrangement, regardless of the initial family coverage plan;

(d) an unmarried out-of-area dependent is eligible for coverage until the age stated in the court or administrative order or age 26 if the court or administrative order is silent;

(e) health insurance coverage may not be restricted to emergency or urgent care only; and

(f) the restrictions under Section 31A-8-408 do not apply to a health maintenance organization that provides coverage under this rule.

(2) The insurer's policy form will clearly state that the amount paid for a covered service to a provider for an out-of-area dependent will be at a benefit level not less than a contracted in-area provider benefit.

R590-209-5. Penalties.

Violations of this rule are subject to the penalties provided for in Section 31A-2-308.

R590-209-6. Compliance Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the rules effective date.

R590-209-7. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such validity shall not affect any other provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: insurance, health

2002

31A-2-201

31A-22-610.5



Insurance, Administration
R590-213
Individual, Franchise, Group, and
Blanket Accident and Health Insurance
Grace Period

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 24760

FILED: 04/25/2002, 10:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to clarify the requirement in Section 31A-22-607 relating to coverage in effect during insurance grace periods. The rule applies to all individual, franchise, blanket, and group accident and health insurers.

SUMMARY OF THE RULE OR CHANGE: The rule defines coverage and claims handling requirements during the grace period in Section R590-213-4 for individual, franchise accident and health insurance policies and in Section R590-213-5 for group and blanket accident and health policies. Section R590-213-6 refers to penalties for the violation of this rule and Section R590-213-7 allows 45 days after the rule's effective date for insurers to comply with the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-22-605, 31A-26-301, and 29 CFR Part 2560, Section 2560.503

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This rule will not require the department to hire additional employees nor require insurers to file rates or forms with the department. Therefore there will be no anticipated cost or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** This new rule will not affect local government since the rule is regulated by a state government agency and relates only to that relationship.
- ❖ **OTHER PERSONS:** Insurers will be making benefit payments for urgent claims, pre-service claims and concurrent care claims according to federal and state timelines, where in the past they have delayed paying claims waiting for the premium. Post-service claims may still be delayed according to state and federal statute. The consumer or provider will have quicker reimbursement for services. The department does not think that this will affect policy premiums.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers will be making benefit payments for urgent claims, pre-service claims and concurrent care claims according to federal and state time-lines, where in the past they have delayed paying claims waiting for the premium. Post-service claims may still be delayed according to state and federal statute. The consumer or provider will have quicker reimbursement for services. The department does not think that this will affect policy premiums.

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

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 06/14/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/05/2002 at 3:00 PM, State Office Building (behind the Capitol) Room 1112, Salt Lake City, UT.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance Administration.

R590-213. Individual, Franchise, Group, and Blanket Accident and Health Insurance Grace Period.

R590-213-1. Authority.

This rule is promulgated pursuant to:

- (1) Subsection 31A-2-201(3) that gives the commissioner authority to make rules to implement the provisions of this title;
- (2) Subsection 31A-22-605(4)(a) that requires the commissioner to adopt rules relating to standards for the manner and content of policy provisions and disclosures; and
- (3) Subsection 31A-26-301(1) that gives the commissioner authority to adopt rules regarding timely payment of claims.

R590-213-2. Purpose and Scope.

The purpose of this rule is to clarify the requirement in Section 31A-22-607 relating to coverage in effect during insurance grace periods. The rule applies to all individual, franchise, blanket, and group accident and health insurers.

R590-213-3. Definitions.

For purposes of this rule the following definitions are adopted.

- (1) "Adverse benefit determination" means the denial of a benefit, reduction of a benefit, termination of a benefit, or failure to provide or make payment, in whole or in part, for a benefit. Adverse benefit determination includes denial, reduction, termination, or failure to provide or make payment that is based on a determination of an insured's or beneficiary's eligibility to participate in a plan.
- (2) "Concurrent care decision" means a decision affecting an ongoing course of treatment to be provided over a period of time or

a number of treatments that was previously approved by the health plan.

(3) "Post-service claim" means any claim for a benefit under a group health plan that is not a pre-service claim.

(4) "Pre-service claim" means any claim for a benefit under a group health plan with respect to which the terms of the plan condition receipt of the benefit, in whole or in part, on approval of the benefit in advance of obtaining medical care.

(5) "Urgent care claim" means a claim for medical care or treatment with respect to which the application of the post-service time periods for making non-urgent care determinations:

(a) could seriously jeopardize the life or health of the claimant or the ability of the claimant to regain maximum function; or

(b) would subject the claimant to severe pain that cannot be adequately managed without the care or treatment that is the subject of the claim, per the opinion of the claimant's physician, with knowledge of the claimant's current medical condition.

R590-213-4. Rules for Individual and Franchise Accident and Health Insurance Policies.

Beginning with each premium after the first premium of an individual or franchise accident and health policy, the following standards apply:

(1) the coverage remains in force during the grace period, i.e. the insurer's liability for settlement of claims incurred during the grace period continues during the grace period;

(2) the claims incurred and submitted for settlement to the insurer during the grace period may not be delayed pending receipt of premium before the end of the grace period or pending policy discontinuance; and

(3) The policy may be discontinued for non-payment of premium:

(a) the day after the ending day of the grace period, if it is guaranteed renewable; or

(b) the day after the day premium was due, if it is not guaranteed renewable and notice has been sent pursuant to Subsection 31A-21-303(4)(b).

R590-213-5. Rules for Group or Blanket Accident and Health Insurance Policies.

Beginning with each premium after the first premium of a group or blanket accident and health policy, the following standards apply:

(1) The coverage remains in force during the grace period, i.e. the insurer's liability for settlement of claims incurred during the grace period continues during the grace period.

(2) The claims incurred and submitted to the insurer for settlement during the grace period will be processed as follows:

(a) urgent care claims occurring during the grace period are to be settled according to 29 CFR Part 2560, Section 2560.503-1(f)(2)(i). This section provides that urgent care claims must be determined within 72 hours. Federal regulation 29 CFR Part 2560, Section 2560.503-1(b)(3) states that claims procedures may not contain any provision that "unduly inhibits or hampers the initiation or processing of claims for benefits." The following would be considered to inhibit or hamper the processing of an urgent care claim:

(i) the insurer has not received premium from the employer;

(ii) the insurer is in the process of discontinuing the policy for non-payment of premium;

(iii) the employee has not provided proof that the employee's portion of the premium has been withheld by his employer;

(iv) the employee has not provided proof that the employer pays all of the employee's premium;

(b) concurrent care decisions occurring during the grace period are to be settled according to 29 CFR Part 2560, Section 2560.503-1(f)(2)(ii). This section provides that concurrent care claims must be determined "sufficiently in advance of the reduction or termination to allow the claimant to appeal...." Federal regulation 29 CFR Part 2560, Section 2560.503-1(b)(3) states that claims procedures may not contain any provision that "unduly inhibits or hampers the initiation or processing of claims for benefits." The following would be considered to inhibit or hamper the processing of a concurrent care decision claim:

(i) the insurer has not received premium from the employer;

(ii) the insurer is in the process of discontinuing the policy for non-payment of premium;

(iii) the employee has not provided proof that the employee's portion of the premium has been withheld by his employer; or

(iv) the employee has not provided proof that the employer pays all of the employee's premium;

(c) pre-service claims occurring during the grace period are to be settled according to 29 CFR Part 2560, Section 2560.503-1(f)(2)(iii)(A). This section provides that pre-service claims must be determined within 15 days after receipt of the claim." Federal regulation 29 CFR Part 2560, Section 2560.503-1(b)(3) states that claims procedures may not contain any provision that "unduly inhibits or hampers the initiation or processing of claims for benefits." The following would be considered to inhibit or hamper the processing of a pre-service claim:

(i) the insurer has not received premium from the employer;

(ii) the insurer is in the process of discontinuing the policy for non-payment of premium;

(iii) the employee has not provided proof that the employee's portion of the premium has been withheld by his employer; or

(iv) the employee has not provided proof that the employer pays all of the employee's premium;

(d) post-service claims occurring during the grace period are allowed a claim settlement investigation extension period, which is subject to:

(i) the processing time if using a claim settlement investigation extension period on a post-service claim is:

(A) from the date premium was due until the policy discontinuance date; or

(B) from the date premium was due until the date premium due is received; or

(C) from the date premium was due until the claimant provides proof that premium was withheld from the employee's wages or salary; or

(D) from the date premium was due until the claimant provides proof that the employer pays all of the employee's premium;

(E) the total processing time, including the investigation extension period, shall not exceed 45 days from receipt of claim;

(ii) the processing procedure shall include the following:

(A) an EOB will be prepared and sent to the claimant and the provider;

(B) the reason shown on the EOB will be: "A tentative settlement decision on this claim has been made, however, further investigation is necessary because your employer has not paid the premium due for month, year. A final settlement decision will be made when one of the following occurs:

(I) the premium is received from your employer;
(II) the policy is discontinued for non-payment of premium; or
(III) you provide proof that your portion of the premium has been withheld by your employer or that your employer pays all of your premium;"

(C) a notice will be sent to the employer notifying the employer that all post-service claims incurred and submitted to the insurer for settlement during the grace period have been extended for further investigation because:

(I) the premium due has not been received by the insurer;
(II) the policy may be discontinued for non-payment of premium;

(III) the employee has not provided proof that the employee's portion of the premium has been withheld by the employer or proof that the employer pays all of the employee's premium;

(iii) if the insurer extends the investigation of post-service claims in accordance with this section, the investigation extension will be done in accordance with the time requirements in Utah Code Annotated (U.C.A.) Sections 31A-26-301.6 until June 30, 2002. After July 1, 2002, the insurer must observe the time requirements stated in 29 CFR Part 2560, Section 2560.503-1(f)(2)(iii)(B) and (g)(i), (ii), (iii), (iv), and (v)(A);

(iv) if the employer pays the premium due within the grace period, post-service claims, whose investigation has been extended under this rule, will be settled in accordance with the time requirements in Section 31A-26-301.6 until June 30, 2002. After July 1, 2002, the insurer must settle the claim consistent with 29 CFR Part 2560, Section 2560.503-1(f)(2)(iii)(B) and (g)(i), (ii), (iii), (iv), and (v)(A);

(v) the receipt of an extended investigation claim explanation of benefits (EOB) is an adverse benefit determination and is subject to the insurer's grievance process;

(vi) under Subsection 31A-23-311(1) the insurer is deemed to have received the premium if the premium due has been received by:

(A) an agent or broker who placed the insurance;

(B) a group policyholder;

(C) an employer who deducts part or all of the premium from an employee's wages or salary; or

(D) an employer who pays all or part of the premium for an employee;

(vii) the policy may be discontinued for non-payment of premium in accordance with Subsections 31A-23-311(3) and (4);

(A) under Subsection 31A-23-311(3), the effective date of discontinuance is the later of:

(I) the last day of the coverage period for which premium has been withheld by the employer, i.e. the day after the end day of the grace period; or

(II) 15 days after the date the insurer mails actual notice to the certificateholder that coverage has terminated, i.e. no earlier than the day after the end of the grace period and no later than the 45th day from the last date for which premium was received; or

(III) the 45th day from the last date for which premium was received;

(B) under Subsection 31A-23-311(4), the effective date of discontinuance is the date of notice from the policyholder that:

(I) coverage of a similar kind and quality has been obtained from another insurer; or

(II) the policyholder is electing to voluntarily terminate the certificateholder's coverage and has given the policyholder's employees notice of the termination.

R590-213-6. Penalties.

Violations of this rule are punishable pursuant to Section 31A-2-308.

R590-213-7. Enforcement.

The commissioner will begin enforcing the provisions of this rule 45 days from the rule's effective date.

R590-213-8. Severability.

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

KEY: insurance, health

2002

31A-2-201

31A-22-605

31A-26-301



Insurance, Administration **R590-216** Standards for Safeguarding Customer Information

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 24752

FILED: 04/23/2002, 14:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to establish standards to assist department licensees in developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information as required by the Gramm-Leach-Bliley Act, 15 U.S.C. 6801, 6805 and 6807.

SUMMARY OF THE RULE OR CHANGE: Section R590-216-3 defines five terms specifically for this rule. Section R590-216-4 requires licensees to implement a comprehensive written information security program to protect customer information. Section R590-216-5 sets requirements for the comprehensive written security program. Section R590-216-6 provides examples of methods to implement Sections R590-216-4 and -5 above. Section R590-216-7 provides general enforcement actions that will be taken if there are violations to this rule. Section R590-216-8 states that enforcement of the provisions of the rule will begin 45 days after the rule goes into effect.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-202, 31A-23-317, and 15 USC 6801, 6805, 6807

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule will not increase or decrease anticipated costs to the State's budget. Any administrative actions taken as a result of a violation to this rule will be absorbed into the department's current budget.

❖ LOCAL GOVERNMENTS: This rule will not affect local government since the rule applies only to licensees of the department.

❖ OTHER PERSONS: The federal Gramm-Leach-Bliley Act requires all department licensees that qualify as financial institutions under the act to protect personal nonpublic information of their customers. These licensees will incur costs to develop and maintain systems to protect the information.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule and the federal act will require licensees that are affected to change their information systems to prevent inappropriate access or disclosure to unauthorized persons. The department will ask affected parties to include such estimates in their comments. The costs currently are general and not specific.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Under the federal law, the insurance commissioner is required to set standards for all licensees subject to the law that establish a minimum level of protection for customer personal nonpublic information. The standards are intended to maintain privacy of the information and to prevent unauthorized access or disclosure of information. This is a benefit to the public. At this point the costs to businesses are not known. These costs will vary according to a number of variables.

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 06/14/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/05/2002 at 11:00 AM, State Office Building (behind the Capitol), Room 1112, Salt Lake City, UT.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-216. Standards for Safeguarding Customer Information.****R590-216-1. Authority.**

This rule is promulgated pursuant to Subsections 31A-2-202(1), 31A-2-201(2) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce Title 31A, to perform duties imposed by Title 31A and to make administrative rules to implement the provisions of Title 31A. Furthermore, Title V, Section 505 (15 United States Code (U.S.C.) 6805)) empowers the Utah Insurance Commissioner to enforce Subtitle A of Title V of the Gramm-Leach-Bliley Act of 1999(15 U.S.C. 6801 through 6820). Title V, Section 505 (15 U.S.C. 6805(b)(2)) authorizes the commissioner to issue rules to implement the requirements of Title V, Section 501(b) of the federal act. The commissioner is also authorized under Subsection 31A-23-317(3) to adopt rules implementing the requirements of Title V, Section 501(b) of the federal act.

R590-216-2. Purpose and Scope.

(1) This rule establishes standards applicable to the department's licensees to assist them in developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505(b), and 507 of the Gramm-Leach-Bliley Act, codified at 15 U.S.C. 6801, 6805(b) and 6807.

(2) Section 501(a) provides that it is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information. Section 501(b) requires the state insurance regulatory authorities to establish appropriate standards relating to administrative, technical and physical safeguards:

(a) to ensure the security and confidentiality of customer records and information;

(b) to protect against any anticipated threats or hazards to the security or integrity of such records; and

(c) to protect against unauthorized access to or use of records or information that could result in substantial harm or inconvenience to a customer.

(3) Under Section 505(b)(2) state insurance regulatory authorities are to implement the standards prescribed under Section 501(b) by rule with respect to persons engaged in providing insurance.

(4) Section 507 provides, among other things, that a state rule may afford persons greater privacy protections than those provided by Subtitle A of Title V of the Gramm-Leach-Bliley Act. This rule requires that the safeguards established pursuant to the rule shall apply to nonpublic personal information, including nonpublic personal financial information and nonpublic personal health information that licensees of the department obtain from their customers.

R590-216-3. Definitions.

For purposes of this rule, the following definitions apply:

(1) "Customer" means a customer of the licensee as the term customer is defined in Rule R590-206, Privacy of Consumer Financial and Health Information Rule, Subsection 4(9).

(2) "Customer information" means nonpublic personal information as defined in Subsection R59-206-4(19) about a customer, whether in paper, electronic or other form, that is maintained by or on behalf of the licensee.

(3) "Customer information systems" means the electronic or physical methods used to access, collect, store, use, transmit, protect or dispose of customer information.

(4) "Licensee" means a licensee as that term is defined in Subsection R590-206-4(17)(a). However, a person exempted by R590-210, Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts, are not a licensee for purposes of this rule.

(5) "Service provider" means a person that maintains, processes or otherwise is permitted access to customer information through its provision of services directly to the licensee.

R590-216-4. Information Security Program.

Each licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. The administrative, technical and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

R590-216-5. Objectives of Information Security Program.

A licensee's information security program shall be designed to:

(1) Ensure the security and confidentiality of customer information;

(2) Protect against any anticipated threats or hazards to the security or integrity of the information; and

(3) Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

R590-216-6. Examples of Methods of Development and Implementation.

The actions and procedures described in this section are examples of methods of implementation of the requirements of Sections 4 and 5 of this rule. These examples are non-exclusive illustrations of actions and procedures that licensees may adopt to implement Sections 4 and 5 of this rule.

(1) For risk assessment, the licensee may:

(a) identify reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems;

(b) assess the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and

(c) assess the sufficiency of policies, procedures, customer information systems and other safeguards in place to control risks.

(2) For risk management and control, the licensee may:

(a) design its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities;

(b) train staff, as appropriate, to implement the licensee's information security program; and

(c) regularly test or otherwise regularly monitor the key controls, systems and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.

(3) For service provider arrangement oversight, the licensee may:

(a) exercise appropriate due diligence in selecting its service providers; and

(b) require its service providers to implement appropriate measures designed to meet the objectives of this rule, and, where indicated by the licensee's risk assessment, takes appropriate steps to confirm that its service providers have satisfied these obligations.

(4) For program adjustment, the licensee may monitor, evaluate and adjust, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.

R590-216-7. Determined Violation.

Violation of any provision of the rule will result in appropriate enforcement action by the department, which may include forfeiture, penalties, and revocation of license as provided in Section 31A-2-308.

R590-216-8. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

KEY: insurance

2002

31A-2-201

31A-2-202

31A-23-317

15 U.S.C. 6801

15 U.S.C. 6805

15 U.S.C. 6807

▼ ————— ▼ Labor Commission, Industrial Accidents

R612-2-5

Regulation of Medical Practitioner Fees

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24733

FILED: 04/17/2002, 10:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to raise the fee paid for anesthesiology in work-related injuries or diseases. The change also incorporates by reference the most recent editions of the HealthCare Financing Administrations' Resource Based Relative Value Scale (RBRVS); the American Medical Association's (AMA) CPT-4 coding guidelines as well as the Commission's Medical Fee Guidelines and Codes. It also changes references from industrial injury or occupational disease to worker-related injuries or illnesses.

SUMMARY OF THE RULE OR CHANGE: This rule change raises the fee paid for anesthesiology in worker-related cases from \$37 per 15 minutes of anesthesia to \$41 per 15 minutes of

anesthesia. The most recent editions of HCFA's RBRVS, the AMA's CPT-4 coding guidelines, and the Commission's Medical Fee Guidelines and Codes are incorporated. It also changes references from industrial injury or occupational disease to worker-related injuries or illnesses.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 34A-3-101 et seq; 34A-2-101 et seq; 34A-1-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No additional administrative casts or savings. As an employer, the proposed changes may eventually result in a small increase in insurance premiums, estimated to be less than 1/10 of 1%.

❖ LOCAL GOVERNMENTS: As an employer, the proposed changes may eventually result in a small increase in insurance premiums, estimated to be less than 1/10 of 1%.

❖ OTHER PERSONS: As an employer, the proposed changes may eventually result in a small increase in insurance premiums, estimated to be less than 1/10 of 1%.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment imposes no additional compliance costs other than the small effect on premiums of less than 1/10 of 1%.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment has minimal fiscal impact on businesses, but is necessary to establish an appropriate payment scale for anesthesia. Also, prior enactment of the RBRVS system appears to have produced cost savings in other areas that offset any cost to business from this amendment.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
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:

Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6904, or by Internet E-mail at jsewell.icmain@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 06/14/2002.

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

AUTHORIZED BY: R Lee Ellertson, Commissioner

**R612. Labor Commission, Industrial Accidents.
R612-2. Workers' Compensation Rules-Health Care Providers.
R612-2-5. Regulation of Medical Practitioner Fees.**

Pursuant to Section 34A-2-407:

A. The Labor Commission of Utah:

1. Establishes and regulates fees and other charges for medical, surgical, nursing, physical and occupational therapy, mental health, chiropractic, naturopathic, and osteopathic services, or any other area of the healing arts as required for the treatment of ~~an industrially injured employee~~ a work-related injury or illness.

2. Adopts and by this reference incorporates the National Health Care Financing Administration's (HCFA) "Resource-Based Relative Value Scale" (RBRVS), ~~[2001]~~ 2002 edition, as the method for calculating reimbursement and the American Medical Association's CPT-4, ~~[2001]~~ 2002 edition, coding guidelines. The non-facility total unit value will apply in calculating the reimbursement, except that procedures provided in a facility setting shall be reimbursed at the facility total unit value and the facility may bill a separate facility charge. The CPT-4 coding guidelines are subject to the Utah Labor Commission's Medical Fee Guidelines and Codes and the following Labor Commission conversion factors for medical care rendered for ~~an industrial injury or occupational disease~~ a work-related injury or illness, effective ~~[January]~~ June 1, [2001] 2002:

Anesthesiology \$~~[37]~~ 41.00 (1 unit per 15 minutes of anesthesia);

Medicine \$40.00;

Pathology and Laboratory 150% of Utah's published Medicare carrier;

Radiology \$53.00;

Restorative Medicine \$40.00, with Utah code 97001 at a 0.8 relative value unit and Utah code 97002 at a 0.5 of relative value unit.

Surgery \$37.00;

All 20000 codes, codes 49505 thru 49525 and all 60000 codes of the CPT-4 coding guidelines \$58.00.

3. Adopts and incorporates by this reference the Utah Labor Commission's Medical Fee Guidelines and Codes, as of ~~[March 8, 2001]~~ June 1, 2002. The Utah Medical Fee Guidelines and Codes can be obtained from the division for a fee sufficient to recover costs of development, printing, and mailing.

4. Decides appropriate billing procedure codes when disputes arise between the medical practitioner and the employer or its insurance carrier. In no instance will the medical practitioner bill both the employer and the insurance carrier.

B. Employees cannot be billed for treatment of their ~~industrial injuries or occupational diseases~~ work-related injuries or illnesses.

C. Discounting from the fees established by the Labor Commission is allowed only through specific contracts between a medical provider and a payor for treatment of ~~industrial injured/all patients~~ work-related injury or illness.

D. Restocking fee 15%. Rule R612-2-16 covers the restocking fee.

E. Dental fees are not published. Rule R612-2-18 covers dental injuries.

F. Ambulance fees are not published. Rule R612-2-19 covers ambulance charges.

KEY: workers' compensation, fees, medical practitioner

[July 5, 2001] 2002

Notice of Continuation June 15, 1998

34A-2-101 et seq.

34A-3-101 et seq.

34A-1-104



Transportation, Motor Carrier
R909-75
Safety Regulations for Motor Carriers
Transporting Hazardous Materials
and/or Hazardous Wastes

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24736

FILED: 04/17/2002, 16:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To remove obsolete references, add new definitions, and make other changes required by federal law.

SUMMARY OF THE RULE OR CHANGE: Removing obsolete references. 171.6 making control numbers current. Adding new definitions to correspond with UN recommendations. Limiting radioactive material definition to 173.403. Delayed implementation for communications to October 1, 2005. Adding limitation which regulates certain viscous flammable liquids that are excepted from the IMDG Code. 171.12 and 171.12a poisonous inhalation hazard labels and placards are required. International shipments are provided with the following provisions and exceptions for labeling of certain non-bulk and bulk packaging in closed transport vehicles to and from Canada; to and from Mexico; and within a single port area. Remove obsolete references to regulations and materials. Implementation for certain communication changes is delayed until October 1, 2005. Editorial changes that not all portable tanks have maximum allowable pressure. Revised minimal wall thickness requirements to take into account capacity of metal IBC containers. 171.12 adopting materials incorporated by reference. 172.519(f) hazardous materials offered under provisions of 171.11, 171.12 or 171.12a may be placarded according to ICAO Technical instructions, the IMDG Code or the TDG Regulations except for bulk poisonous by inhalations (PIH). 172.407(f) labels conforming to UN recommendations may be used. 172.400a PIH materials may be excepted under 171.12 and 171.12a. 171.12(b)(5) adds a limitation which regulates certain viscous flammable liquids that are excepted from the IMDG Codes and allowing for the use of IBC's and UN portable tanks that conform to the requirements of the IMDG Codes. 171.12(b)(20) states that organic peroxide not identified by a technical name in 172.101 must be approved by the associate administrator. 178.812 outlining alternative methods and conditions the top lift tests for flex IBC's. Moving qualification and maintenance requirements for portable tanks from 173.32(c) to 180.601, 180.603 and 180.605. Changes to special provisions. 171.12 to make current labeling and placarding exceptions to be consistent with poison inhalation labeling exceptions. (NOTE: The changes outlined in the above summary are changes to the Code of Federal Regulations (CFR) at 49 CFR 107-181 as published by Regulations Management Corporation which is incorporated by reference. The change to the rule is limited to the addition of the dates of the incorporated manual.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-9-103

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 49 CFR Parts 100-180

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These changes are will require updated training which will be handled in staff meetings and recurrent training sessions.

❖ LOCAL GOVERNMENTS: These changes are will require updated training which will be handled in staff meetings and recurrent training sessions.

❖ OTHER PERSONS: Delaying the implementation of communications changes for placards, allowing some exceptions for international standards of poison inhalation materials can save \$.85 per placard by not having to purchase new placards. Training on updates and changes would need to be handled in staff meetings which could cost from \$15 to \$35 per hour per person needing to be trained.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Delaying the implementation of communications changes for placards, allowing some exceptions for international standards of poison inhalation materials can save \$.85 per placard by not having to purchase new placards. Training on updates and changes would need to be handled in staff meetings which could cost from \$15 to \$35 per hour per person needing to be trained.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Although there may be some fiscal impact on business, they are mandated by federal law and international specifications and cannot be avoided.

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

TRANSPORTATION
 MOTOR CARRIER
 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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2002

AUTHORIZED BY: John R. Njord, Executive Director

R909. Transportation, Motor Carrier.

R909-75. Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes.

R909-75-1. Adoption of Federal Regulations.

Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes, 49 CFR, Sub-Chapter C, Parts 100 through 180, of the October 1, 200[0]1, edition [as printed in the Regulations Management Corporation Service], are incorporated by reference. [In addition, amendments to the same edition, which appear November 1, 2000, December 1, 2000, January 1, 2001, February 1, 2001, March 1, 2001, April 1, 2001, and May 1, 2001, are incorporated by reference within this rule.] This applies to all private, common, and contract carriers by highway in commerce.

KEY: hazardous materials transportation, hazardous substances, hazardous waste, safety regulation

August 15, 2001

Notice of Continuation April 22, 1997

72-9-103

72-9-104



**Workforce Services, Employment
Development
R986-100
Employment Support Programs**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 24796
FILED: 05/01/2002, 15:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify Department policy on group homes.

SUMMARY OF THE RULE OR CHANGE: We added a definition of "group home." Our current rule was unclear as to what kinds of assistance residents of group homes might be eligible for. This rule change brings our rules into compliance with Federal Food Stamp regulations and current Department practice.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-010 et seq., 35A-3-301 et seq., 35A-3-401 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This is a federally funded program so there are no costs or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government and therefore there are no costs or savings to local governments.
- ❖ **OTHER PERSONS:** There are no costs or savings to any other persons as these changes merely reflect current Department practices of long standing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this change. There are no

fees associated with this change. It will not cost anyone any sum to comply with these changes. This is a federally funded program and the money is within current Department budgets to pay any costs associated with this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no impact on business. This is an entirely federally funded program.

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

**WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.**

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@ws.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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2002

AUTHORIZED BY: Raylene G. Ireland, Executive Director

R986. Workforce Services, Employment Development.

R986-100. Employment Support Programs.

R986-100-104. Definitions of Terms Used in These Rules.

In addition to the definitions of terms found in 35A Chapter 3, the following definitions apply to programs listed in R986-100-102:

- (1) "Applicant" means any person requesting assistance under any program in Section 102 above.
- (2) "Assistance" means "public assistance"
- (3) "Certification period" is the period of time for which public assistance is presumptively approved. At the end of the certification period, the client must cooperate with the Department in providing any additional information needed to continue assistance for another certification period. The length of the certification period may vary between clients and programs depending on circumstances.
- (4) "Client" means an applicant for, or recipient of, public assistance services or payments, administered by the Department.
- (5) "Confidential information" means information that has limited access as provided under the provisions of UCA 63-2-201 or 7 CFR 272.1. The name of a person who has disclosed information about the household without the household's knowledge is confidential and cannot be released. If the person disclosing the information states in writing that his or her name and the information may be disclosed, it is no longer considered confidential.
- (6) "Department" means the Department of Workforce Services.
- (7) "Education or training" means:
 - (a) basic remedial education;

- (b) adult education;
- (c) high school education;
- (d) education to obtain the equivalent of a high school diploma;
- (e) education to learn English as a second language;
- (f) applied technology training;
- (g) employment skills training;
- (h) on-the-job training; or
- (i) post high school education.

(~~9~~8) "Employment plan" consists of two parts, a participation agreement and an employment plan. Together they constitute a written agreement between the Department and a client that describes the requirements for continued eligibility for financial assistance and the result if an obligation is not fulfilled.

(~~10~~9) "Executive Director" means the Executive Director of the Department of Workforce Services.

(~~11~~10) "Financial assistance" or "cash assistance" means payments, other than for food stamps, child care or medical care, to an eligible individual or household under FEP, FEPTP, RRP, GA, or WTE and which is intended to provide for the individual's or household's basic needs.

(~~12~~8) "Full-time education or training" means education or training attended on a full-time basis as defined by the institution attended.

(12) "Group Home." The Department uses the definition of group home as defined by the state Department of Human Services.

(~~13~~13) "Household assistance unit" means a group of individuals who are living together or who are considered to be living together, and for whom assistance is requested or issued. For all programs except Food Stamps and CC, the individuals included in the household assistance unit must be related to each other as described in R986-200-205.

(~~14~~14) "Income match" means accessing information about an applicant's or client's income from a source authorized by law. This includes State and Federal sources.

(~~15~~15) "Local office" means the Employment Center which serves the geographical area in which the client resides.

(~~16~~16) "Material change" means anything that might affect household eligibility, participation levels or the level of any assistance payment including a change in household composition, eligibility, assets and/or income.

(~~17~~17) "Minor child" is a child under the age of 18, or under 19 years of age and in school full time and expected to complete his or her educational program prior to turning 19, and who has not been emancipated either by a lawful marriage or court order.

(~~18~~18) "Parent" means all natural, adoptive, and step parents.

(~~19~~19) "Public assistance" means:

- (a) services or benefits provided under UCA 35A Chapter 3, Employment Support Act;
- (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;
- (c) foster care maintenance payments provided with the General Fund or under Title IV-E of the Social Security Act;
- (d) food stamps; and
- (e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(~~20~~20) "Recipient" means any individual receiving assistance under any of the programs listed in Section 102.

(~~21~~21) "Standard needs budget" is determined by the Department based on a survey of basic living expenses.

R986-100-106. Residency Requirements.

(1) To be eligible for assistance for any program listed in R986-100-102, a client must be living in Utah voluntarily and not for a temporary purpose. There is no requirement that the client have a fixed place of residence. An individual is not eligible for public assistance in Utah if they are receiving public assistance in another State.

(2) The Department may require that a household live in the area served by the local office in which they apply.

(3) Individuals are not eligible if they are:

- (a) in the custody of the criminal justice system;
- (b) residents of a facility administered by the criminal justice system;

- (c) residents of a nursing home;

- (d) hospitalized; or

- (e) residents in an institution.

(4) Individuals who reside in a temporary shelter, including shelters for battered women and children, for a limited period of time are eligible for public assistance if they meet the other eligibility requirements.

(5) Residents of a substance abuse or mental health facility may be eligible if they meet all other eligibility requirements. To be eligible for Food Stamps, the substance abuse or mental health facility must be an approved facility. Approval is given by the Department. [~~The Department does not approve group homes.~~] Approved facilities must notify the Department and give a "change report form" to a client when the client leaves the facility and tell the client to return it to the local office. The change report form serves to notify the Department that the client no longer lives in the approved facility.

(6) Residents of a group home may be eligible for food stamps provided the group home is an approved facility. The state Department of Human Services provides approval for group homes.

KEY: employment support procedures

~~February 1, 2002~~

35A-3-101 et seq.

35A-3-301 et seq.

35A-3-401 et seq.

Workforce Services, Employment Development **R986-200** Family Employment Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24797

FILED: 05/01/2002, 16:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify the Department's position on counting diversion toward time limits. To add two new provisions for Temporary Assistance for Needy Families (TANF) Surplus Funds and to clarify eligibility requirements for diversion.

SUMMARY OF THE RULE OR CHANGE: It is the Department's goal with diversion to try to prevent dependence on public assistance. Because diversion has such a different goal than the Family Employment Plan and does not cover living expenses during the diversion period, the Department has determined that the first diversion payment in any 12 month period of time should not count toward the 36 month FEP time limit. The change to Section R986-200-216 was to make more clear the criteria for eligibility for diversion. The Department has also established new rules for funding available through TANF Surplus Funding. The two new programs will serve clients who do not exceed 200 percent of the poverty level with training and other types of assistance as determined in each region. Each region will determine which services best meet the needs of the region's population when determining which services to fund.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-301 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This is a federally funded program so there are no costs or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government and therefore there are no costs or savings to local governments.
- ❖ **OTHER PERSONS:** There are no costs or savings to any other persons as these changes merely reflect current Department practices of long standing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. This is a federally funded program and the money is within current Department budgets to pay any costs associated with this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no impact on business. This is an entirely federally funded program.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@ws.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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2002

AUTHORIZED BY: Raylene G. Ireland, Executive Director

R986. Workforce Services, Employment Development.

R986-200. Family Employment Program.

R986-200-216. Diversion.

~~["Diversion" means a one-time FEP payment that may equal up to a maximum of three months of financial assistance pursuant to Section 35A-3-303. A diversion payment may be available under the following conditions:~~

~~—(1) The household unit must demonstrate a need for financial assistance to pay for housing or substantial and unforeseen expenses or work related expenses which cannot be met with current or anticipated resources.~~

~~—(2) The expectation must be that within the diversion period the family will be employed or have other specific means of self support.~~

~~—(3) The household unit must appear to meet all eligibility criteria for a FEP financial assistance payment based on the client's declaration and the best judgement of the employment counselor. Documentation of identity of parent(s) and SSN for all household members will be required. The client is required to provide additional verification necessary to establish eligibility if requested by the Department.]~~

(1) Diversion is a one-time financial assistance payment provided to help a client avoid receiving extended cash assistance.

(2) In determining whether a client should receive diversion assistance, the Department will consider the following:

(a) the applicant's employment history;

(b) the likelihood that the applicant will obtain immediate full-time employment;

(c) the applicant's housing stability; and

(d) the applicant's child care needs, if applicable.

(3) To be eligible for diversion the applicant must:

(a) have a need for financial assistance to pay for housing or substantial and unforeseen expenses or work related expenses which cannot be met with current or anticipated resources;

(b) show that within the diversion period, the applicant will be employed or have other specific means of self support, and

(c) meet all eligibility criteria for a FEP financial assistance payment except the applicant does not need to cooperate with ORS in obtaining support. If the client is applying for other assistance such as medical or child care, the client will have to follow the eligibility rules for that type of assistance which may require cooperation with ORS.

(4) If the Department and the client agree diversion is appropriate, the client must sign a diversion agreement listing conditions, ~~and~~ expectations and participation requirements.

(5) The diversion payment may not exceed three times the monthly financial assistance payment for the household size. All income expected to be received during the three-month period including wages and child support must be considered when negotiating the appropriate diversion payment amount.

(6) Child support will belong to the client during the three-month period, whether received by the client directly or collected by ORS. ORS will not use the child support to offset or reimburse the diversion payment.

(7) The client must agree to have the financial assistance portion of the application for assistance denied.

(8) If a diversion payment is made and the client later decides to reapply for financial assistance within three months of the date of the original application, the initial application date will be used and the amount of the diversion payment previously issued will be prorated over the three months and subtracted from the payment(s) to[~~for~~] which the household unit is eligible.

(9) ~~[The d]~~ Diversion ~~[program]~~ assistance is not available to clients participating in FEPTP. This is because FEPTP is based on performance and payment can only be made after performance.

R986-200-217. Time Limits.

(1) Except as provided in R986-212-218 and in Section 35A-3-306, a family cannot receive financial assistance under the FEP or FEPTP for more than 36 months.

(2) The following months count toward the 36-month time limit regardless of whether the financial assistance payment was made in this or any other state:

(a) each month when the family received financial assistance beginning with the month of January, 1997;

(b) each month beginning with January, 1997, where a parent resided in the household, the parent's income and assets were counted in determining the household's eligibility, but the parent was disqualified from being included in the financial payment. Disqualification occurs when a parent has been determined to have committed fraud in the receipt of public assistance or when the parent is an ineligible alien; and

(c) each month when financial assistance was reduced or a partial financial assistance payment was received beginning with the month of January, 1997, ~~and~~

~~—(d) months when the family received diversion assistance beginning with the month of January, 1997.]~~

(3) Months which do not count toward the 36 month time limit are:

(a) months where both parents were absent from the home and dependent children were cared for by a specified relative who elected to be excluded from the household unit;

(b) months where the client received financial assistance as a minor child and was not the head of a household or married to the head of a household;

(c) months during which the parent lived in Indian country, as defined in Title 18, Section 1151, United States Code 1999, or an Alaskan Native village, if the most reliable data available with respect to the month, or a period including the month, indicate that at least 50% of the adults living in Indian country or in the village were not employed; or

(d) months when a parent resided in the home but were excluded from the household assistance unit. A parent is excluded when they receive SSI benefits.

(e) the first diversion period in any 12 month period of time is not counted toward the 36 month time limit. A second diversion period within 12 months will count as one month toward the 36 month time limit. If a client has already used 36 months of financial assistance, the client is not eligible for diversion assistance unless the client meets one of the extension criteria in R986-200-218 in addition to all other eligibility criteria of diversion assistance.

R986-200-244 TANF Needy Family (TNF).

(1) TNF is not a program but describes a population that can be served using TANF Surplus Funds.

(2) Eligible families must have a dependent child under the age of 18 residing in the home, and the total household income must not

exceed 200% of the Federal poverty level. Income is determined as gross income without allowance for disregards.

(3) Services available vary throughout the state. Information on what is available in each region is available at each Employment Center. The Department may elect to contract out services.

(4) If TANF funded payments are made for basic needs such as housing, food, clothing, shelter, or utilities, each month a payment is received under TNF, counts as one month of assistance toward the 36 month lifetime limit. Basic needs also include transportation and child care if all adults in the household are unemployed and will count toward the 36 month lifetime limit.

(5) If a member of the household has used all 36 months of FEP assistance the household is not eligible for basic needs assistance under TNF but may be eligible for other TANF funded services.

(6) Assets are not counted when determining eligibility for TNF services.

R986-200-245 TANF Non-FEP Training (TNT).

(1) TNT is to provide skills and training to parents to help them become suitably employed and self-sufficient.

(2) The client must be unable to obtain suitable employment without training.

(3) Eligible families must have a dependent child under the age of 18 residing in the home and the total household income must not exceed 200% of the Federal poverty level. If the only dependent child is 18 and expected to graduate from High School before their 19th birthday the family is eligible up through the month of graduation. Income is counted and calculated the same as for WIA as found in rule R986-600.

(4) Assets are not counted when determining eligibility for TNT services.

(5) The client must show need and appropriateness of training.

(6) The client must negotiate an employment plan with the Department and participate to the maximum extent possible.

(7) The Department will not pay for supportive services such as child care, transportation or living expenses under TNT. The Department can pay for books, tools, work clothes and other needs associated with training.

**KEY: family employment program
February 1, 2002
35A-3-301 et seq.**

▼ ————— ▼

Workforce Services, Employment Development **R986-400** General Assistance and Working Toward Employment

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 24798
FILED: 05/01/2002, 16:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State will transition from Utah Medical Assistance Program (UMAP) to Primary Care Network (PCN) pursuant to a waiver granted by the Federal government effective 7-1-02. The eligibility criteria for PCN will change so the Department is removing references to UMAP in its rules. We also needed to add a provision that has always been in policy but needed to be put in rules.

SUMMARY OF THE RULE OR CHANGE: If a client is living in a group home that is administered by a governmental unit or under contract with a governmental unit, the client is not eligible for General Assistance (GA) funds. This provision has always been in policy but needed to be put in rules. The GA programs have very limited resources and because the group homes listed are receiving some type of government payment already, the Department does not make payment to individuals in those facilities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-401, and 35A-3-402

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This change reflect current Department practices so there will be no costs or savings to the State budget over what we are currently doing.
- ❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government and therefore there are no costs or savings to local governments.
- ❖ **OTHER PERSONS:** There are no costs or savings to any other persons as these changes merely reflect current Department practices of long standing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no impact on business as it merely reflects Department practice of long standing. An individual living in a group home has never been eligible for GA if the group home is administered by a governmental unit or under contract with a governmental unit.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@ws.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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2002

AUTHORIZED BY: Raylene G. Ireland, Executive Director

R986. Workforce Services, Employment Development.**R986-400. General Assistance and Working Toward Employment.****R986-400-402. General Provisions.**

(1) GA provides temporary financial assistance to single persons without dependent children and married couples without dependent children who are unemployable due to a physical or mental health condition.

(2) Unemployable is defined to mean the individual is not capable of earning \$500 per month. The incapacity must be expected to last 30 days or more.

(3) Drug addiction and/or alcoholism alone is insufficient to prove the unemployable requirement for GA as defined in Public Law 104-121.

(4) For a married couple living together only one must meet the unemployable criteria. The spouse who is employable will be required to meet the work requirements of WTE unless the spouse can provide medical proof that he or she is needed at home to care for the unemployable spouse. Medical proof, consisting of a medical statement from a medical doctor, doctor of osteopathy, or licensed psychologist, is required. The medical statement must include all of the following:

- (a) the diagnosis of the spouse's condition;
- (b) the recommended treatment needed or being received for the condition;
- (c) the length of time the client will be required in the home to care for the spouse; and
- (d) whether the client is required to be in the home full time or part time.

(5) GA is only available to a client who is at least 18 years old or legally or factually emancipated. Factual emancipation means the client has lived independently from his or her parents or guardians and has been economically self-supporting for at least six consecutive months, and the client's parents have refused financial support.

(6) A client claiming factual emancipation must cooperate with the Department in locating his or her parents. The parents, once located, will be contacted by the Department. If the parents continue to refuse to support the client, a referral will be made to ORS to enforce the parents' child support obligations.

(7) A person eligible for Bureau of Indian Affairs assistance is not eligible for GA financial assistance.

(8) In addition to the residency requirements in R986-100-106, residents in a group home that is administered under a contract with a governmental unit or administered by a governmental unit are not eligible for financial assistance.

R986-400-403. Proof of Unemployability.

(1) An applicant must provide current medical evidence that he or she is not capable of working and earning \$500 per month due to a physical or mental health condition and that the condition is

expected to last at least 30 days from onset. Evidence consists of a statement from a medical doctor, a doctor of osteopathy, a licensed psychologist, ~~[the Utah Medical Assistance Program,] or [another] an~~ agency involved in disability determination, such as VA or the State Office of Rehabilitation.

(2) An applicant must cooperate in the obtaining of a second opinion if requested by the Department. Only the costs associated with a second opinion requested by the Department will be paid for by the Department. The Department will not pay the costs associated with obtaining a second opinion if the client requests the second opinion.

(3) If the illness or incapacity is expected to last longer than 12 months, the client must apply for SSDI/SSI benefits.

(4) Full-time or part-time participation in post-high school education or training is considered evidence of employability rendering the client ineligible for GA financial assistance unless the Department directs the client to participate in short term skills training as part of a client's employment plan. Short term skills training is defined as a course of study which an otherwise unemployable client can complete within 12 months and which is expected to lead to employability. If the client is not directed to participate in short term skills training in the employment plan, the client must report any voluntary participation in an education or training program to his or her employment counselor.

~~[R986-400-410. GA Medical Assistance.~~

~~—(1) A client who is eligible for GA financial assistance is eligible for the Utah Medical Assistance Program (UMAP) and need not complete a separate application for UMAP.~~

~~—(2) The Department may use funds as available to reimburse UMAP for treatment of a client's documented medical condition which is not covered by UMAP, if the treatment is likely to resolve the medical condition and allow the client to become employable.]~~

KEY: general assistance, working toward employment
February 1, 2002
35A-3-401
35A-3-402



Workforce Services, Employment Development

R986-600

Workforce Investment Act

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24799

FILED: 05/01/2002, 16:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To change the eligibility criteria for Workforce Investment Act (WIA) clients.

SUMMARY OF THE RULE OR CHANGE: The prior rule established three tiers of eligibility for WIA clients. It was found that the neediest clients were in danger of not being served under the

tier system. This rule change puts Utah on a par with other states and the way they determine eligibility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 35A, Chapter 5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This is a federally funded program so there are no costs or savings to the state budget.

❖ LOCAL GOVERNMENTS: This rule does not apply to local government and therefore there are no costs or savings to local governments.

❖ OTHER PERSONS: There are no costs or savings to any other persons as these changes merely reflect current Department practices of long standing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. This is a federally funded program and the money is within current Department budgets to pay any costs associated with this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no impact on business. This is an entirely federally funded program.

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

WORKFORCE SERVICES
 EMPLOYMENT DEVELOPMENT
 140 E 300 S
 SALT LAKE CITY UT 84111-2333, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@ws.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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2002

AUTHORIZED BY: Raylene G. Ireland, Executive Director

R986. Workforce Services, Employment Development. R986-600. Workforce Investment Act. R986-600-606. Intensive Services.

(1) If the client establishes appropriateness. [f]intensive services are available to adults and dislocated workers:

(a) who are unemployed and are unable to obtain 'suitable employment' through core services and who have been determined by a Department employment counselor to be in need of more intensive services in order to obtain employment; or

(b) who are employed, but who are determined by the Department to be in need of intensive services in order to obtain or retain suitable employment.

(2) The employment counselor determines what is suitable employment based on the customer's individual circumstances. Suitable employment is employment that allows for self-sufficiency. Self-sufficiency for WIA is generally determined to be 200% of the Office of Management and Budget poverty level.

(3) intensive services consist of:

(a) an assessment as provided in R986-600-620,

(b) development of an employment plan as provided in R986-600-621. If the client is not receiving other forms of public assistance some modifications to the plan may be made to reflect the client's circumstances,

(c) Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training, and

(d) case management, counseling and career planning.

R986-600-607. Training Services.

(1) ~~If the client establishes appropriateness, [T]training services are available to adults and dislocated workers:~~

(a) who are unemployed and are unable to obtain 'suitable employment' through intensive services and who have been determined by a Department employment counselor to be in need of training services in order to obtain suitable employment; or

(b) who are employed, but who are determined by the Department to be in need of training services in order to obtain or retain suitable employment as defined in R986-600-606(2).

(2) The employment counselor determines what is suitable employment based on the customer's individual circumstances.

(3) Training services include employment related education and work site learning.

R986-600-611. Income Eligibility Requirements.

(1) Applicants for all youth programs must meet the income eligibility requirements in this rule.

(2) ~~[Displaced]Dislocated~~ workers do not need to meet income eligibility requirements ~~[in any tier, however in tier two and three]however~~ appropriate training is only available if the ~~[displaced]dislocated~~ worker is unable to obtain

~~(a) employment at 80% or more of his or her lay off wage[-], or~~

~~(b) suitable employment as defined in this rule.~~

(3) Adult workers must meet the income eligibility requirements of this rule ~~[when the Department is operating in tiers two and three].~~

~~[R986-600-612. Tier System for Determining Eligibility for Adult and Dislocated Workers.~~

~~(1) The Department will determine eligibility based on a three tier system. When a client is approved for training funds, the Department will estimate the anticipated cost to the Department associated with that training and "obligate" and reserve that amount for accounting purposes. The total amount of money obligated and reserved will determine which tier is operational at any given time.~~

~~(2) Tier One. The Department will operate in Tier One until 50% of the available WIA adult or dislocated worker training funds have been obligated statewide. Once 50% of those funds have been obligated the Department will move to Tier Two for that funding stream. In Tier One, adult applicants do not need to meet income~~

~~eligibility requirements. Training funds will be provided on the basis of need and appropriateness in Tier One. Dislocated workers may be considered appropriate for training regardless of their ability to reattach to the labor force in Tier One. Given that the funding available for adults and dislocated workers is from different streams, those two groups will not necessarily change tiers at the same time.~~

~~(3) Tier Two. When WIA adult training funds are 50% obligated on a statewide basis for the year, adults will be required to meet the low income guidelines as defined in these rules. When WIA dislocated worker funds are 50% obligated on a statewide basis for the year, a dislocated worker can only get funding if they cannot find a job paying 80% of the lay off wage.~~

~~(4) Tier Three. When the WIA adult training funds are 80% obligated on a statewide basis for the year, adults must meet the low income guidelines and will be prioritized according to the Department's current prioritization factors. Current prioritization factors are available at the Department. When WIA dislocated worker funds are 80% obligated on a statewide basis for the year, a dislocated work can only get funding if he or she cannot find a job paying 80% of the lay off wage and they meet the Department's current prioritization factors.~~

~~(5) Because the funding is separate and distinct for each program, the three tiers operate independently for each of the two affected programs; adult and dislocated workers.]~~

R986-600-612. Prioritization Factors Used for Determining Eligibility for Adult and Dislocated Workers.

(1) For adult workers, in addition to income eligibility, the Department will prioritize clients' eligibility based on prioritization factors developed by the Department. Current prioritization factors are available at the Department. When a client is approved for intensive or training services, the Department will estimate the anticipated cost to the Department associated with that services and "obligate" and reserve that amount for accounting purposes. The total amount of money obligated and reserved will determine which prioritization factors are operational at any given time.

(2) A dislocated work can only get funding if he or she cannot find a job paying 80% of the lay off wage or suitable employment as defined in this rule and they meet the Department's current prioritization factors.

(5) Because the funding is separate and distinct for each program, the prioritization factors operate independently for each of the two affected programs.

R986-600-613. Income Eligibility.

(1) A client is deemed to have met the income eligibility requirements for youth services, and adult services ~~[when operating in tier two and three]~~, if the client is receiving or is a member of a household that has been determined to be eligible for food stamps within the last six months or is currently receiving financial assistance from the Department or is homeless.

(2) In addition, a[A] client is deemed to have met the income eligibility requirements for youth services if the youth is a runaway or a foster child.

(3) If a client is not eligible under paragraphs (1) and (2) above, the client must meet the low income eligibility guidelines in this rule.

R986-600-614. How to Determine Who Is Included in the Family.

Family size must be determined to establish income eligibility for youth services and adults~~[in tier two and three]~~.

(1) A 'family' is two or more persons related by blood, marriage, or decree of court, living in a single residence, and included in one or more of the following categories:

(a) A husband and wife and dependent children age 21 and under

(b) A parent or legal guardian and dependent children age 21 and under

(c) A husband and wife.

(2) A single person or an adult child (age 22 or older) applying on their own behalf and living with parent(s) is considered a family of one. Dependent adult children are not included in determining family size if another household member is applying for services.

(3) "Living in a single residence" includes family members residing elsewhere on a voluntary, temporary basis, such as attending school or visiting relatives. It does not include involuntary temporary residence elsewhere, such as incarceration, or court-ordered placement outside the home.

(4) Two people living in a single residence but who are not married are not members of the same 'family'. If they have children together, for WIA reporting purposes, each is considered a single parent and the children are considered part of each persons family.

(5) Family size will be determined by counting the maximum number of family members in the residence during the last 6 months.

(6) Family size must be verified only if using family income to determine low-income status for WIA adult or youth services.

(7) A family can only include two generations.

(8) A client with a disability that is a barrier to employment may be determined a family of one for determining family income.

R986-600-615. Assets.

Assets are not counted when determining ~~[income]~~ eligibility for WIA services.

R986-600-618. Dislocated Worker.

(1) A ~~[D]~~dislocated ~~[W]~~worker is an individual who meets one of the following criteria:

(a)(i) has been terminated or laid off, or has received a notice of termination or layoff from employment, and

(ii)(1) is eligible for or has exhausted unemployment compensation entitlement, or

(ii)(2) has been employed for a duration sufficient to demonstrate attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under unemployment compensation law, and

(iii) is unlikely to return to the individual's previous industry or occupation. 'Unlikely to return' means that labor market information shows a lack of jobs in either that industry OR occupation, or the customer declares that they will not return to that industry or occupation.

(b)(i) Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise, or

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive rapid response services, is employed at a facility at which the employer has made a general announcement that such facility will close. Rapid response services are defined by WIA.

(c) Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.

(d) Is a displaced homemaker. A WIA displaced homemaker is an individual who has been providing unpaid services to family members in the home and who:

(i) has been dependent on the income of another family member but is no longer supported by that income; and

(ii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) The dislocation must have occurred within the prior two years.

(3) There are no income or asset guidelines for ~~[D]~~dislocated ~~[W]~~worker eligibility~~[and they are income eligible regardless of which tier the Department is currently serving]~~. Training appropriateness must still be determined before training services can be provided.

(4) The following documentation is acceptable to confirm ~~[D]~~dislocated ~~[W]~~worker status:

a. Unemployment Insurance records;

b. An individual layoff letter;

c. Rapid Response Unit analysis or review;

d. Public announcements of layoff;

e. If no other means of verification are available, the employer can provide verification; or

f. Worker self certification, although this is a last resort and requires documentation that other attempts to verify were unsuccessful.

(5) If the Department is providing services under a National Reserve Discretionary Grant, additional documentation may be needed.

KEY: Workforce Investment Act

July 1, 2001

35A-5



**Workforce Services, Employment
Development
R986-700
Child Care Assistance**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24801

FILED: 05/01/2002, 16:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To "age off" payments made for child care in 60 days instead of 90 days and allow the Department to provide assistance by way of the Horizon Card.

SUMMARY OF THE RULE OR CHANGE: Section R986-700-703: If a parent has not paid the child care provider within 60 days of issuance of the child care assistance payment on the Horizon Card, or if there has been no activity on the child care payments on the card for 60 days, the payment will "age off" the card and no longer be available. It is the Department's policy that payment should be made to the child care provider immediately and if payment is not made timely the parent probably did not need child care during the time period covered by the payment. Prior Department policy was to "age off" assistance payments in 90 days. This shortened time frame contemplated by this rule is to aid in accounting and insure that child care payments are paid for services provided during the month the parent was eligible for child care assistance. Section R986-700-714: The Department is moving to issuance of child care assistance on the Horizon Card (electronic benefit transfer). The funds will be "earmarked" on the card for child care and cannot be used for any other purpose. The Department has been issuing child care assistance on the Horizon Card when the client uses a child care center but will be adding different types of providers when possible. A change in the rule is necessary to allow the Department to authorize payment on the Horizon Card for other provider types in the future.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-310

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This is a federally funded program so there are no costs or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government and therefore there are no costs or savings to local governments.
- ❖ **OTHER PERSONS:** There are no costs or savings to any other persons as these changes merely reflect current Department practices of long standing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. This is a federally funded program and the money is within current Department budgets to pay any costs associated with this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no impact on business. This is an entirely federally funded program.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@ws.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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2002

AUTHORIZED BY: Raylene G. Ireland, Executive Director

**R986. Workforce Services, Employment Development.
R986-700. Child Care Assistance.
R986-700-703. Client Rights and Responsibilities.**

In addition to the client rights and responsibilities found in R986-100, the following client rights and responsibilities apply:

- (1) A client has the right to select the type of child care which best meets the family's needs.
- (2) If a client requests help in selecting a provider, the Department will refer the client to the local Child Care Resource and Referral agency.
- (3) A client is responsible for monitoring the child care provider. The Department will not monitor the provider.
- (4) A client is responsible to pay all costs of care charged by the provider. If the child care assistance payment is less than the amount charged by the provider, the client is responsible for paying the provider the difference.
- (5) In addition to the requirements for reporting other material changes that might affect eligibility, outlined in R986-100-113, a client is responsible for reporting a change in the client's need for child care, a change in the client's child care provider, and a change in the amount a provider charges for child care, to the Department within 10 days of the change.
- (6) If a material change which would result in a decrease in the amount of the CC payment is reported within 10 days the decrease will be made effective beginning the next month and sums received in the month in which the change was reported will not be treated as an overpayment. If the client fails to report the change within 10 days, the decrease will occur as soon as the Department learns of the change and the overpayment will be assessed back to the date of the change.
- (7) A client is responsible for payment to the Department of any overpayment made in CC.
- (8) Any client receiving any type of CC who is not receiving full court ordered child support must cooperate with ORS in obtaining child support from the absent parent. Child support payments received by the client count as unearned income. If a client's case was closed for failure to cooperate with ORS it cannot be reopened until ORS notifies the Department that the client is cooperating.
- (9) All clients receiving CC must cooperate in good faith with the Department in establishing paternity unless there is good cause for not cooperating.
- (10) If the client has failed to provide all necessary information and the child care provider requests information about payment of CC to the client, the Department is authorized to inform the provider

that further information is needed before payment can be determined.

(11) The Department may also release general information to a provider regarding the status of or a delay in the payment of CC.

(12) If child care funds are issued on the Horizon Card (electronic benefit transfer) unused child care funds will be removed from the Horizon Card 60 days after the last child care transaction/transfer occurred ("aged off") and will no longer be available to the client. The Department cannot replace child care payments which have been aged off the horizon card.

R986-700-714. CC Payment Method.

(1) CC payments to parents will be generated monthly by a two-party check issued in the parent's name and the chosen provider's name, except as noted in paragraph (2) below. The check is mailed to the client. In the event of an emergency, a payment up to a maximum of \$125 can be made on the Horizon card. Emergency payments can only be made where a parent is in danger of not being able to obtain necessary child care if the parent is required to wait until the two party check can be issued.

(2) CC payments ~~[to center providers licensed for 16 or more children]~~ will be made by electronic benefit transfer (EBT) either through a point of sale (POS) machine or interactive voice recording (IVR) system to authorized provider types as determined by the Department. The provider may elect which option of EBT to use. The provider must sign an agreement with the Department's contractor in order to be eligible to receive CC payments. If the provider elects to use the POS method of payment, the provider must lease a POS machine at the provider's own expense. ~~[Providers paid at the nationally accredited center rate will continue to receive the two party check.]~~

(3) In the event that a check is reported as lost or stolen, both the parent and the provider are required to sign a statement that they have not received funds from the original check before a replacement check can be issued. The statement must be signed on an approved Department form and the signing witnessed, and in some cases notarized, at a local office of the Department. If the provider is unable to come into a Department office to sign the form, the form may be accepted if the signature is notarized. If the original check has been redeemed, a copy of the check will be reviewed and both the parent and provider must provide a sworn, notarized statement that the signature on the endorsed check is a forgery. The Department may require a waiting period prior to issuing a replacement check.

~~(3)~~⁽⁴⁾ The Department is authorized to stop payment on a CC check without prior notice to the client if:

(a) the Department has determined that the client was not eligible for the CC payment, the Department has confirmed with the child care provider that no services were provided for the month in question or the provider cannot be located, and the Department has made an attempt to contact the parent; or

(b) when the check has been outstanding for at least 90 days; or

(c) the check is lost or stolen.

~~(4)~~⁽⁵⁾ No stop payment will be issued by the Department without prior notice to the provider unless the provider is not providing services or cannot be contacted.

KEY: child care
[February 1,] 2002
35A-3-310

Workforce Services, Employment Development **R986-900** Food Stamps

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 24800
FILED: 05/01/2002, 16:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To bring Department rules into compliance with Federal regulation.

SUMMARY OF THE RULE OR CHANGE: The waivers previously granted for paragraph R986-900-902(2)(b) and the first sentence of paragraph R986-900-902(2)(d) are no longer necessary because they have become a part of federal regulation. No changes will occur as a result of this rule change. The second sentence of paragraph R986-900-902(2)(d) has been removed because the federal government rescinded Utah's waiver.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally funded program so there are no costs or savings to the state budget.
- ❖ LOCAL GOVERNMENTS: This rule does not apply to local government and therefore there are no costs or savings to local governments.
- ❖ OTHER PERSONS: There are no costs or savings to any other persons as these changes merely reflect current Department practices of long standing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. This is a federally funded program and the money is within current Department budgets to pay any costs associated with this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no impact on business. This is an entirely federally funded program.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S

SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@ws.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 06/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2002

AUTHORIZED BY: Raylene G. Ireland, Executive Director

R986. Workforce Services, Employment Development.

R986-900. Food Stamps.

R986-900-902. Options and Waivers.

The Department administers the food stamp program in compliance with federal law with the following exceptions or clarifications:

(1) The following options not otherwise found in R986-100 have been adopted by the Department where allowed by the applicable federal law or regulation:

(a) The Department has opted to hold hearings at the state level and not at the local level.

(b) The Department does not offer a workfare program for ABAWDs (Able Bodied Adults Without Dependents).

(c) An applicant is required to apply at the local office which serves the area in which they reside.

(d) The Department has opted to adopt a standard utility allowance (SUA) for utilities. The standard utility allowance is updated annually and is available upon request from the Department.

The Department allows clients to choose between using the SUA or actual utility expenses as a deduction from income when determining the food stamp benefit amount. The household must choose between using the SUA or actual expense at the time of application. The household may change from one to the other only at the time of recertification or if the household moves to a different place of residence.

(e) The Department does not use photo ID cards. ID cards are available upon request to homeless, disabled, and elderly clients so that the client is able to use food stamp benefits at a participating restaurant.

(f) The state has opted to provide food stamp benefits through the use of an electronic benefit transfer system known as the Horizon Card.

(g) The Department counts diversion payments in the food stamp allotment calculation.

(h) The Department has opted to exempt individuals from mandatory participation in Food Stamp Employment and Training activities in counties that have been designated as Labor Surplus Areas by the Department of Labor. These counties change each year based on Department of Labor statistics and a list of counties is available from the Department. They are the same counties as referenced in subsection (2)(a) below.

(i) The Department has opted to use Utah's TANF vehicle allowance rules in conjunction with the Food Stamp Program vehicle allowance regulations at 7 CFR 273.8, as authorized by Pub. L. No. 106-387 of the Agriculture Appropriations Act 2001, Food Stamp Act of 1977, 7 USC 2014.

(j) The Department has opted to count all of an ineligible alien's resources and all but a pro rata share of the ineligible alien's income and deductible expenses as provided in 7 CFR 273.11(c)(3)(ii)(A).

(2) The Department has been granted the following applicable waivers from the Food and Nutrition Service:

(a) Certain Utah counties have been granted a waiver which exempts ABAWDs from the work requirements of Section 824 of PRWORA. The counties granted this waiver change each year based on Department of Labor statistics. A list of counties granted this waiver is available from the Department. [

~~(b) If a client fails to appear for the scheduled face to face interview required by 7 CFR 273.2 (e)(3), the Department is not required to attempt to schedule another interview unless the client contacts the Department and requests another interview. If the client misses two scheduled interviews and does not express an interest in pursuing the application, the application can be denied without waiting until the 30th day as required by 7 CFR 273(g)(3).]~~

~~(e)b~~ If a client does not provide initial verification as requested within ten days of the interview, the Department can deny the household's application at the expiration of the ten days and is not required to wait until the 30th day following the date of application. [

~~(d) The Department is not required to conduct a face to face interview for each recertification period as required by 7 CFR 273.14(b)(3)(i), provided that at least one face to face interview, in conjunction with recertification, is conducted each year.]~~

~~(e)c~~ The Department requires that a household need only report changes in earned income if there is a change in source, the hourly rate or salary, or if there is a change in full-time or part-time status. A client is required to report any change in unearned income over \$25 or a change in the source of unearned income.

~~(f)d~~ The Department uses a combined Notice of Expiration and Shortened Recertification Form. Notice of Expiration is required in 7 CFR 273.14(b)(1)(i). The Recertification Form is found under 7 CFR 273.14(b)(2)(i).

~~(g)e~~ The Department conducts the Family Nutrition Education Program for individuals even if they are otherwise ineligible for food stamps.

~~(h)f~~ FEP and FEPTP clients may opt to have their food stamp benefits paid as cash. This waiver will expire on December 31, 2000.

~~(i)g~~ The Department may deduct overpayments that resulted from an IPV from a household's monthly entitlement.

~~(j)h~~ If the application was received before the 15th of the month and the client has earned income, the certification period can be no longer than six months. The initial certification period may be as long as seven months if the application was received after the 15th of the month.

KEY: food stamps, public assistance

~~February 1, 2002~~

~~35A-3-103~~



NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends June 14, 2002. At its option, the agency may hold public hearings.

From the end of the waiting period through September 12, 2002, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

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

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 24488
Filed: 05/01/2002, 17:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is being done to make the enrollment process during an open enrollment period more convenient for applicants.

SUMMARY OF THE RULE OR CHANGE: Section R382-10-19 is being amended to change the process for submitting applications for enrollment during an open enrollment period. Instead of only being accepted through the mail or online at a central location, applications will also be accepted in person, through the mail, or online at any local office. Language is also being added to this section which describes the date of receipt for applications received through the mail or online.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 40; Section 26-40-103

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This change may save the Children's Health Insurance Program (CHIP) program a small amount of administrative costs. The original filing listed costs as follows: The cap on enrollment, along with other changes, will keep the CHIP program within the \$5.5 million general fund appropriation. When sufficient funds are available within existing appropriations, this rule establishes the process to open enrollment to allow CHIP to enroll as many children as its budget will allow.
- ❖ LOCAL GOVERNMENTS: This provision does not affect local government.
- ❖ OTHER PERSONS: This change will possibly save applicants a small amount of money by making the application process simpler. The original filing listed costs as follows: Potential enrollees and providers will be positively impacted when budget allows new applications to be accepted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule requires no affirmative compliance by any person. New enrollees and providers will be positively impacted.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change will have little fiscal impact on business. My comments to the first filing were that the Department of Health projected that 21,000 children would be eligible to qualify for CHIP. Enrollment as of December, 2001 was in excess of 26,000. A budget shortfall for FY 2002 was projected. No supplemental funds were approved by the Legislature. This rule will set in place the

process for opening enrollment when budget allows. The impact on business will be favorable. Rod L. Betit

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

HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gayleen Henderson at the above address, by phone at 801-538-6135, by FAX at 801-538-6952, or by Internet E-mail at ghendens@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 06/14/2002.

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

AUTHORIZED BY: Rod Betit, Executive Director

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

R382-10-19. Open Enrollment Period.

(1) The Department accepts applications for enrollment at times when sufficient funding is available to justify enrolling more individuals. The Department limits the number it enrolls according to the funds available for the program.

(a) The Department shall notify the public of the open enrollment period 10 days in advance through a newspaper of general circulation.

(b) During an open enrollment period, the Department ~~may~~ accepts applications in person through the mail or online ~~at a central location~~. The Department sorts applications ~~received~~ according to the date of receipt ~~of the postmark or the date of electronic transmission~~ received. When an application is received through the mail, the date of receipt is the date of the postmark. When an application is submitted online, the date of receipt is the date of electronic transmission. If the applications received on a day exceed the number of openings available, the Department shall randomize all applications for that day and select the number needed to fill the openings.

(c) The Department will not accept applications ~~postmarked or transmitted~~ received prior to the open enrollment date.

KEY: children's health benefits
2002
26-1-5
26-40



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).

Environmental Quality, Administration **R305-1** Records Access and Management

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24792
FILED: 05/01/2002, 11:55

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 primary purpose of the rule is to specify which entities within the Department have responsibilities under the Government Records Access and Management Act (GRAMA), Title 63, Chapter 2. Those provisions are authorized by Subsections 63-2-204(2) and 63-2-904(2). The rule also notifies the public of Department policies under and interpretations of certain provisions of GRAMA: Subsection 63-2-201(8); and Sections 63-2-202, 63-2-203, 63-2-204, 63-2-206, and 63-2-308.

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 rule is needed to notify potential requesters which entities within the Department have responsibilities under GRAMA. It also notifies potential requesters of Department policies under GRAMA. There have been no comments on this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Beverly Rasmussen at the above address, by phone at 801-536-4405, by FAX at 801-536-0061, or by Internet E-mail at brasmuss@deq.state.ut.us

AUTHORIZED BY: Dianne R. Nielson, Executive Director

EFFECTIVE: 05/01/2002



Environmental Quality, Air Quality **R307-135** Enforcement Response Policy for Asbestos Hazard Emergency Response Act

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24742
FILED: 04/22/2002, 16:32

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: Subsections 19-2-115(2)(b) and (c) authorize penalties for violations of rules adopted under Section 19-2-104 for implementation of 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response.

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 on the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-135 sets forth the conditions for issuance of a notice of violation and the

penalties to be assessed, as set forth in 15 U.S.C. 2601 et seq.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at jmiller@deq.state.ut.us

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 04/22/2002



Environmental Quality, Air Quality **R307-342**

Davis, Salt Lake, Utah and Weber
Counties and Ozone Nonattainment
Areas: Qualification of Contractors and
Test Procedures for Vapor Recovery
Systems for Gasoline Delivery Tanks

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24743
FILED: 04/22/2002, 16:47

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: Rule R307-342 is required by the Ozone Maintenance Plan for nonattainment areas (Section IX.D.2 of the State Implementation Plan incorporated by reference at Section R307-110-13). The Plan requires minimization of emissions that contribute to ozone formation in order to prevent exceedances of the federal health standard. The Plan has been approved by EPA and is federally enforceable.

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Ozone levels in the urban areas of Utah are close to the standard set by EPA to protect human health. Given expected increases in population and

use of vehicles, there is no expectation of any relaxation of current requirements to reduce emissions of pollutants that contribute to ozone formation. Rule R307-342 is one of those requirements.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at jmiller@deq.state.ut.us

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 04/22/2002



Environmental Quality, Air Quality **R307-801** Asbestos

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24750
FILED: 04/23/2002, 11:15

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 19-02-104(1)(d) allows the Air Quality Board to make rules to implement 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, and to review and approve asbestos management plans submitted by local education agencies under that act. In addition, Subsections 19-2-104(3)(r), (s), and (t) allow the Board to establish work practice, certification, and air sampling requirements for asbestos workers, and to establish certification requirements for new and for previously-trained asbestos workers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Written comments were submitted only when R307-801 was repealed and reenacted, effective August 1, 2000. (DAR NOTE: R307-801 was published in the March 1, 2000, issue of the Bulletin as a repeal and reenact under DAR No. 22668; and additional changes were made as a change in proposed rule (CPR) which was published in the July 1, 2000, Bulletin and both were made effective on August 1, 2000.) The comments and responses were presented for consideration by the Air Quality

Board prior to the Board's adoption of the revised rule. The comments and responses follow: COMMENT 1: Several commentors noted that the reenacted rule was an improvement over the current rule, or that the regulated community was properly included in the process. Most commentors expressed the opinion that the rule should be adopted despite any flaws. Several commentors felt that the rule was too burdensome, that it improperly exceeded comparable federal standards, that the federal standards themselves are excessive, and/or that it was not scientifically justified as a protection of human health or the environment. Furthermore, some of these commentors argued that this rule violates Utah Code Section 19-4-106 by making a rule that is more stringent than the federal National Emissions Standard for Hazardous Air Pollutants (NESHAP) for asbestos, and one commentor felt that the rule needed to be taken back to committee and rewritten. RESPONSE 1: We do not feel that the rule goes beyond what is reasonable. Numerous meetings with the regulated public resulted in numerous compromises between widely divergent viewpoints. The proposed rule should be implemented, as it represents a significant improvement over the current asbestos rule. The justification for this rule lies in the prevention of unnecessary exposure to airborne asbestos fibers that would otherwise be released as a result of demolition and renovation activities. We will continue to work with the regulated public to ensure that the rules are no more stringent than necessary to protect public health and the environment and to implement our statutory mandate. Section 19-2-106 addresses rules made for the purpose of administering a Clean Air Act (CAA) program. It prohibits such rules from being more stringent than the corresponding federal regulations which address the same circumstances. The NESHAP for asbestos has been adopted by reference into Utah's regulations. Rule R307-801 does not administer the NESHAP; rather, it implements Subsection 19-2-104(3), and applies to different circumstances than the NESHAP covers. Furthermore, certification requirements and Asbestos Hazard Emergency Response Act (AHERA) originate from the federal Toxic Substances Control Act (TSCA, Title II), which is not a part of the Clean Air Act, but which the state Air Conservation Act requires DAQ to implement. Therefore, Section 19-2-106 does not apply to this rulemaking. COMMENT 2: The rule needs to be examined and modified on a regular basis to keep it current and viable. RESPONSE 2: We plan to review the rule regularly to make sure that it stays current and that it continues to serve the needs of human health and the environment without placing an unnecessary burden on the regulated community. COMMENT 3: The rule needs a provision that NOV's will be written and resolved within 30 days. RESPONSE 3: We agree that the timetable for the issuance and resolution of NOV's is important, and we will continue to strive to improve the time frames in which compliance actions are initiated and completed. However, this subject is beyond the scope of the asbestos rule. COMMENT 4: In Section R307-801-3, one commentor notes that numerous definitions which are found in the federal NESHAP have not been included and this commentor expresses concern that the lack of these definitions may compromise enforcement of the federal regulations. RESPONSE 4: The entire asbestos NESHAP has been

adopted by reference in a separate rule, thus, any definitions found in the NESHAP are enforceable through that rule. In addition, definitions in Rule R307-101 apply to all of R307 rules. The definitions included in Rule R307-801 are strictly those that are used in this rule. COMMENT 5: In Section R307-801-3, one commentor feels that the definition for the term "Adequately Wet" contains too much explanation. RESPONSE 5: In order to maintain clarity, the definition for adequately wet is precisely the definition given in the asbestos NESHAP. We agree that this definition is not the most succinct or best-worded definition that could be generated, but we do not feel justified in creating a definition that differs from the NESHAP definition. COMMENT 6: In Section R307-801-3, two commentors feel that, in the definition for "Asbestos Containing Material (ACM)" the word "must" should not be used. One of these commentors believes that the requirement to use point counting to determine if a material is asbestos containing when visual estimation results in a concentration of less than 10% asbestos is optional under the federal NESHAP regulations. RESPONSE 6: This definition is consistent with the EPA definition. Our policy has been like the federal policy since the definition is similar. In general, if you assume that a material is ACM, and treat it as such, then no sampling is required. Therefore, the current wording means that if the visual estimation using polarized light microscopy results in more than a "trace" of asbestos and less than 10%, then it is necessary to use point counting to verify that the material is not an ACM. Since sampling is not required to assume that a material does contain asbestos, it follows that point counting does not need to be performed either, as long as the material is assumed to contain asbestos.

If you wish to determine that the material is not an ACM, then you must use the point counting method. COMMENT 7: In Section R307-801-3, one commentor noted that the correct citation in the definition for "Asbestos Survey" is Subsection R307-801-10(6). RESPONSE 7: This has been corrected. COMMENT 8: In Section R307-801-3, one commentor noted that, in the definition for "Asbestos Waste", no concentration was specified. The commentor asks if the lack of any specified concentration of asbestos in asbestos waste allows materials that contain only traces of asbestos to be considered asbestos waste. RESPONSE 8: This definition is consistent with the federal definition; we have now deleted the reference to "mill tailings" because this rule does not apply to such wastes. Since the rule applies to demolition and renovation work only, the definition is applied only in those circumstances. The reason that no lower limit on asbestos content is included in the rule is that parts of the enclosure structure, as well as disposable clothing and other contaminated materials are asbestos waste, even if no asbestos can be detected. COMMENT 9: In Section R307-801-3, one commentor wants the Federal NESHAP wording for the definition of "Friable Asbestos-Containing Material (Friable ACM)" this wording is: "...any asbestos-containing material that, when dry, can be crumbled..." RESPONSE 9: We will use the NESHAP definition. COMMENT 10: In Section R307-801-3, one commentor asks if the definition for "Inaccessible" should include materials in "restricted" or "occluded" areas rather than or in addition to the current wording "covered". RESPONSE 10: We agree. We have included wording similar to the suggested wording.

COMMENT 11: In Section R307-801-3, one commentor noted that term "TSCA Accreditation" should be replaced by the term "TSCA Certification" and also noted that the terms are used in rule in the reverse of common usage: "a person or firm is certified to do asbestos related functions" and "a training facility is accredited to provide specified asbestos training," but this is not the usage in Rule R307-801. RESPONSE 11: The proposed rule is consistent with the federal regulations (e.g., 763 subpart E appendix C I C states "...accredited persons..."). Also, our state Statute (3s) says "...accredited persons..."). We agree that such usage is reverse of the common accepted usage for these terms, but to change this terminology at the level of state regulations would create even more confusion. Therefore, for the purposes of Rule R307-801, we will retain the usage that persons are "accredited." COMMENT 12: In Subsection R307-801-6(1), one commentor wanted some asbestos experience to be required for certification in the consultant fields. RESPONSE 12: While there is a suggested experience requirement in the model accreditation plan (MAP), it is optional. In meeting with regulated public, we discussed a wide variety of possible experience requirements, but each of these ideas was rejected. Therefore we have only included the minimum requirements of individual certification for the MAP. COMMENT 13: In Subsection R307-801-6(2)(a), one commentor expresses concern that using the expiration of the TSCA accreditation in a particular asbestos discipline as the expiration date for the state certification in that discipline will conflict with plans to issue one card that lists all of a person's certified disciplines when each separate accreditation will probably have a different expiration date. RESPONSE 13: This comment is beyond the scope of the rule. DAQ is considering a number of different solutions to this issue and this comment will be considered in arriving at a solution. COMMENT 14: In Subsection R307-801-6(2)(b)(ii), one commentor suggests alternate wording: "Have submitted..." instead of "submit" because the current wording would require that all certificates of training be submitted every time the State asbestos certification is renewed. RESPONSE 14: We agree that it would be inappropriate to require to have a person submit all certificates even though they had already been submitted. However, the rule states that the applicant needs to submit the certificate for "initial or refresher training." The presence of the word "or" indicates that a choice can be made, and that either an initial or a refresher training certificate may be submitted. We will add the word "current" to show that the certificate needs to be current. COMMENT 15: In Section R307-801-8, one commentor feels that some training course requirements are excessive. These are in Subsection R307-801-1(2): the requirement is to provide detailed information on persons who attend the course and to provide 10-day notice of any scheduled courses or of any changes in course instructors. RESPONSE 15: The detailed information, including a list of attendees and their SSA numbers is required by the MAP. The notification is also required by the MAP. The 10-day notice is necessary so that DAQ can do audits and provide approval letters for instructors as required by the MAP, see Appendix C, I F2. COMMENT 16: In Section R307-801-9, one commentor noted that there is no "trigger" amount of asbestos which indicates that an inspection is necessary. The commentor feels that the

requirement that every asbestos removal or cleanup include an inspection report, especially in a large facility, is burdensome. The commentor adds that in his facility all insulating materials are treated as asbestos-containing materials. RESPONSE 16: Because the inspection is used to determine how much asbestos-containing material is likely to be disturbed at a particular site, it is not desirable to make any certain amount of asbestos a "trigger" for inspection procedures and reports. The state rules apply only if there is public access, a school building subject to AHERA is involved, or the demolition or renovation activity is contracted for hire (by an outside contractor). The requirement applies to any renovation or demolition activity that is covered by state rules. The survey must at least cover the affected area, and may include any fraction of the facility, including the entire facility if desired. Thus, the same survey may be used for all jobs in a facility the same way that a school management plan is used. Furthermore, for the cleanup of loose debris, only the debris itself needs to be listed in the survey report, since the cleanup does not disturb any other materials. The survey must list all suspect materials, but asbestos content may be assumed in any case as long as the material is treated as an asbestos-containing material. As with work practices, Subsection R307-801-2(3) allows alternative procedures with DAQ approval. COMMENT 17: In Section R307-801-10, three commentors stated concerns that the rules on asbestos inspection procedures (Section R307-801-10), while being within accepted practices, are "over-specified." One commentor stated that the TSCA inspection procedures are not suited to renovation or demolition activities and will cause costs to rise significantly. RESPONSE 17: We agree that an overly restrictive inspection procedure may cause problems, and we have changed the rule slightly: any method approved by the executive secretary would be allowable. The survey requirement applies to any renovation or demolition activity. The survey must cover the affected area, the survey must list all suspect materials. Asbestos content may be assumed. As with work practices, Subsection R307-801-2(3) allows alternative procedures with DAQ approval. COMMENT 18: In Subsection R307-801-10(3), one commentor asks for a clarification of the term "suspect ACM building material." The commentor asks if the division will supply a list or if the judgement of the inspector will be accepted. The commentor also asks if any materials will be exempted. RESPONSE 18: This is a procedural question. We will start with the AHERA list of suspect asbestos-containing building materials and make determinations as individual cases arise. Clearly there are some materials that need not be considered suspect, and there are others that should be considered suspect. COMMENT 19: In Subsection R307-801-10(4), one commentor points out that referring to AHERA is not appropriate in the context of demolition or renovation, because AHERA exempts too many materials. RESPONSE 19: This rule has been changed to read "Follow a sampling method approved by the executive secretary...". Note that the intent of this particular subparagraph is to establish a sampling protocol only; this does not address identification of suspect ACM which is covered in Subsection R307-801-10(3). COMMENT 20: In Subsection R307-801-10(6), one commentor asserts that it is extremely unreasonable and burdensome to require that all surveys contain information in a

particular order. The commentor concludes that this will render older surveys unusable simply because they were not ordered the correct way, which would require redoing a lot of surveys. RESPONSE 20: While we understand the problem raised here, the format and content of the asbestos survey addresses a longstanding problem regarding completeness, readability, and coherence of asbestos survey reports. The uniformity of surveys will help building owners in particular, who may pay for a survey that will be used in the future. Furthermore, the survey report will be in a form that occupies no more than a few pages which can be filled out based on a previously existing survey report, if that report contains adequate information. Because of the uniformity, we feel that a survey format will actually decrease the burden on building owners and consultants alike. However, in response to this comment, a few changes have been made to the wording of the rule. All surveys conducted after this rule goes into effect will be subject to this requirement. COMMENT 21: In Subsection R307-801-10(7), one commentor is confused by the use of the words "may" and "must," which seem contradictory. RESPONSE 21: Our intent is to state that architectural drawings may be used, but if they are referred to, they must also be included in the "official" survey report. In order to clarify this, we have changed the rule slightly. COMMENT 22: In Subsections R307-801-11(1)(b) and (2)(b), three commentors note that the regulation of amounts of ACM down to SSSD amounts is considerably more restrictive than the NESHAP. Some commentors add that the state is unable to inspect those projects which are currently notified, therefore it is not warranted to add even more notifications. RESPONSE 22: DAQ has had rules that regulate this size of project, and the notification is the mechanism to enforce those rules. We feel that control of smaller less-than-NESHAP-sized projects does protect the public health, especially when those projects are conducted in residential homes. Though we cannot inspect every asbestos job, notification of less-than-NESHAP-sized projects does allow us to see these projects on a random basis. COMMENT 23: In Subsections R307-801-11(1)(b) and (2)(b), another commentor is specifically concerned about the 24-hour notification requirement on projects down to Small-Scale, Short-Duration (SSSD) amounts. This commentor points out that in school facilities there are many instances of breakdowns in the heating systems that must be repaired immediately to continue operation of the school. These repairs frequently involve the removal an ACM-mudded elbow or fitting, or the replacement of an ACM-covered valve. The commentor argues that the 24-hour notification will delay these critical projects. RESPONSE 23: The vast majority of the cases as described would fall under the SSSD limit, or, if many such projects are performed in a year, an annual notification would cover all. In addition, if such projects are emergencies, they will be handled under emergency notification procedure (Subsection R307-801-11(2)(c)(i)) which requires no waiting period. COMMENT 24: In Subsections R307-801-11(2)(a), (b) and (c), one commentor states that the use of the term "or rendered inaccessible" is unclear. The commentor asks if this forbids a person from building an enclosure around Regulated Asbestos-Containing Material (RACM) even if it is not disturbed. What was the intent? RESPONSE 24: You may not build an enclosure around RACM unless you label it;

otherwise, you have rendered the RACM inaccessible. A labeled enclosure is allowed. COMMENT 25: In Subsection R307-801-11(2)(d), one commentor points out that the NESHAP requires notification under these circumstances, and suggests the use of "shall" instead of "may". RESPONSE 25: We agree, this is a requirement under the NESHAP and the use of the word "may" would lead to confusion about this requirement. The word "shall" has been substituted for the word "may" in this line. COMMENT 26: In Subsection R307-801-12(3), one commentor points out that, while the use of facsimile or electronic document transmission can be efficient and effective, there should be a requirement to assure receipt by DAQ before any asbestos projects are commenced. RESPONSE 26: E-mail and fax notification will only be acceptable for non-NESHAP projects. NESHAP notifications will be handled according to the current NESHAP policy. Division policy is to provide a written acceptance of notifications, and this policy will be extended to E-mail and faxed notifications. COMMENT 27: In Subsection R307-801-13(1), one commentor wonders what the meaning of the term "...on site during all phases..." is. The commentor does not feel that the wording is clear and feels that it may be interpreted to mean that the supervisor would be required to be on site during nonworking hours. RESPONSE 27: The intent of this rule is that the supervisor be present while others work, not during off hours. We have made some changes in the rule to better reflect this intent. COMMENT 28: In Subsection R307-801-13(2), one commentor asks if we are exempting all requirements for SSSD workers. RESPONSE 28: That is correct. Rule R307-801 does not regulate work practices for SSSD amounts of RACM. COMMENT 29: In Section R307-801-14, one commentor states that this rule specifies a degree of detail not found in any Federal regulation. As an example, the commentor cites several specific dimensions for various components (3-ft. chambers, 6-ft. drop cloths, 6-inch clearances, etc.). The commentor interprets, for example, that if a 6-ft. drop cloth is required, then the worker who extends a drop cloth 5 ft. 11 in. would in violation. The commentor suggests that these work practices should be "performance" based. RESPONSE 29: The pros and cons of performance-based requirements and definitive limit standards were discussed extensively with the regulated community and the overwhelming consensus was that the regulated community prefers definitive limits. In any case, the division policy is to measure using only the number of significant digits given in the regulation. Thus, a dimension specified in the regulations in feet would be measured and rounded to the nearest foot; in this case, any measurement above 5 feet 6 inches would be considered to meet the 6 foot minimum requirement. COMMENT 30: In Subsection R307-801-14(4)(a), one commentor expresses the opinion that this statement is unnecessary. The commentor asks how one would create negative pressure in an outdoor asbestos project unless an enclosure was made. The commentor feels that the statement diminishes the credibility of the rules. RESPONSE 30: The proposed rule language is a clarification. We do not feel that it diminishes the credibility of the whole rule. COMMENT 31: In Subsection R307-801-14(1)(d), one commentor asks what it means to "avoid dropping RACM to the ground", and suggests the NESHAP wording, (section 61.145(c)(6)(ii)) "Carefully lower the material to the ground

and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material." RESPONSE 31: We agree that the wording in this case is ambiguous; furthermore, we feel that a person who complies with the requirement to promptly containerize the RACM will also avoid dropping RACM to the ground. Therefore, rather than adopt NESHAP wording, we have chosen to drop this line. COMMENT 32: In Subsection R307-801-14(1)(e), two commentors have concerns about the line "ensure that all RACM is cleared from the floor at the end of each shift." They feel that this is not strict enough and might lead to safety hazards. RESPONSE 32: We have eliminated this paragraph. It was redundant and duplicated the previous line. Furthermore, the word "immediately" in Subsection R307-801-14(1)(d) has been changed to "promptly". COMMENT 33: In Subsection R307-801-14(1)(j), one commentor states that a requirement to clean drop cloths suggests that drop cloths may be reused. The commentor further states that reusing drop cloths is not a desirable asbestos work practice. RESPONSE 33: This cleanup is intended to occur before disposal of drop cloths and other materials. The statement is not intended to condone the reuse of drop cloths. This will not be changed. COMMENT 34: In Subsection R307-801-14(2)(b), one commentor states that this sentence makes no sense. The commentor goes on to say that if a project is less than the SSSD, it does not need a notification, so referring to a notification makes no sense. RESPONSE 34: The requirement only applies to NESHAP-sized projects, and allows the site to be cleaned up before the 10-day waiting period is over if there is less than an SSSD amount of "loose visible RACM debris". COMMENT 35: In Subsection R307-801-14(2)(f)(ii), one commentor suggests replacing "without locating seams in wall or floor corners" with "ensuring seams are at least two feet from corners of walls or floors". RESPONSE 35: This would not be better than the current wording, so no change will be made. The rule is clear enough and further specification will not improve compliance. COMMENT 36: In Subsection R307-801-14(2)(f)(v), one commentor suggests that after "removed," the phrase "as part of the asbestos project" be added. RESPONSE 36: We agree; the phrase will be added. COMMENT 37: In Subsection R307-801-14(2)(j), one commentor pointed out a document entitled "Memorandum of Understanding: Application of Construction and General Industry Asbestos Standards to ANSI Member Companies", an agreement between OSHA and the American Iron and Steel Institute, addresses the impossibility and economic unfeasibility of maintaining continuous negative air pressure in a containment at abatement sites at large integrated steel mills. The commentor requests relief from this requirement. RESPONSE 37: These rules only apply to persons who contract for hire, perform projects in public places, or in schools. Furthermore, under Subsection R307-801-2(3), the owner or operator may request approval for alternative work practices. COMMENT 38: In Subsection R307-801-14(2)(j)(iii), one commentor suggests that OSHA wording be used in this line: "a minimum of -0.02 column inches of water pressure differential, relative to outside pressure". RESPONSE 38: We agree. The rule has been revised to reflect the comment. COMMENT 39: In Subsection R307-801-14(5)(d)(ii), one commentor suggests the word "sheeting"

be added between the words "polyethylene" and "shall". RESPONSE 39: We agree; the change has been made. COMMENT 40: In Subsection R307-801-15(3), one commentor provides an example wherein asbestos waste does not leave the facility, but is buried in a company landfill. The commentor asks if the labeling requirement would apply in that case. RESPONSE 40: This is a NESHAP requirement, therefore, we cannot waive the labeling of asbestos waste if the NESHAP applies.

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 essential to ensure that asbestos workers are trained and accredited, so that no one is exposed to asbestos during removal of asbestos material. Without the rule, the federal law would be enforced in Utah by the federal government.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at jmiller@deq.state.ut.us

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 04/23/2002



Financial Institutions, Administration **R331-22** Rule Governing Reimbursement of Costs of Financial Institutions for Production of Records

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24732
FILED: 04/16/2002, 14:11

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: Subsection 7-1-301(6) and Section 78-27-48 expressly authorize the Commissioner of Financial Institutions to promulgate rules establishing rates and conditions under which financial institutions that supply information to requesting agencies may seek reimbursement of costs.

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 supporting or opposing written comments have been received since the last notice of continuation.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: No other rule establishes cost-reimbursement guidelines for financial institutions that provide information to requesting agencies. Section 78-27-48 requires the Commissioner to have a rule establishing the cost-reimbursement guidelines.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@dfi.state.ut.us

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 04/16/2002



Health, Community and Family Health
Services, WIC Services
R406-100

Special Supplemental Nutrition
Program for Women, Infants and
Children

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR File No.: 24777
FILED: 04/30/2002, 12:34

**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 26-10-2 requires the Department to "provide for maternal and child health." This rule adopts the operating standards of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) provided by federal rule and found in 7 CFR 246.

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 the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is a necessary element in adopting the federal requirements from the United States Department of Agriculture for the WIC program.

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
WIC 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:

Kevin Condra at the above address, by phone at 801-538-6729, by FAX at 801-538-6199, or by Internet E-mail at kcondra@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/30/2002



Health, Community and Family Health
Services, WIC Services
R406-200
Program Overview

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR File No.: 24779
FILED: 04/30/2002, 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: Section 26-10-2 requires the Department to "provide for maternal and child health." This rule conforms with the Child Nutrition Act of 1996 (42 U.S.C. Sec. 1786 et seq.), as amended, for explaining the purpose of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), as well as outlining eligibility criteria to receive 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: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines the purpose and eligibility requirements from the United States Department of Agriculture for the WIC program and as such must be continued.

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
WIC 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:

Kevin Condra at the above address, by phone at 801-538-6729, by FAX at 801-538-6199, or by Internet E-mail at kcondra@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/30/2002

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Health, Community and Family Health Services, WIC Services

R406-201 Outreach Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 24781
FILED: 04/30/2002, 14:12

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: Section 26-10-2 requires the Department to "provide for maternal and child health." This rule complies with U.S. P L 95-627 requiring the Utah State WIC Office to publicize the availability of WIC Program benefits to potentially eligible persons. Federal legislation has also mandated coordination with the Food Stamp and Expanded Food and Nutrition 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: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule conforms to

federal and state requirements for publicizing the WIC program and as such must be continued.

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
WIC 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:

Kevin Condra at the above address, by phone at 801-538-6729, by FAX at 801-538-6199, or by Internet E-mail at kcondra@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/30/2002

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Health, Community and Family Health Services, WIC Services

R406-202 Eligibility

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 24788
FILED: 05/01/2002, 08:44

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 26-10-2 requires the Department to "provide for maternal and child health." This rule complies with federal regulations from the United States Department of Agriculture in determining eligibility of persons for the WIC program and the certification process.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule conforms to federal requirements for determining eligibility of persons for the WIC program and as such must be continued.

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
WIC 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:

Kevin Condra at the above address, by phone at 801-538-6729, by FAX at 801-538-6199, or by Internet E-mail at kcondra@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 05/01/2002



Health, Community and Family Health
Services, WIC Services
R406-301
Clinic Guidelines

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24789
FILED: 05/01/2002, 08:47

**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 26-10-2 requires the Department to "provide for maternal and child health." This rule allows each local clinic approved for participation in WIC may develop clinic guidelines. These guidelines must be in agreement with all state and federal laws and must be approved by the State WIC office prior to implementation.

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 the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule conforms to federal requirements from the United States Department of Agriculture for clinic operating standards and as such must be continued.

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
WIC 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:

Kevin Condra at the above address, by phone at 801-538-6729, by FAX at 801-538-6199, or by Internet E-mail at kcondra@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 05/01/2002



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-1
Utah Medicaid Program

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24785
FILED: 04/30/2002, 15:35

**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 26-18-3 requires the Department to develop implementing policy for the Medicaid program. This rule generally characterizes the scope of the Medicaid Program in Utah and defines all the provisions necessary to administer the program.

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 Health Care Financing has received no specific written or oral comments in support or opposition to this rule. This rule lists general definitions, services, and operational statements that govern how the Utah Medicaid Program operates. These general statements are then more completely developed in other rules. Written and oral comments about the definitions, services, and operational statements mentioned in this rule have been incorporated into the more specific rules and will be summarized upon the review of those rules.

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 as an integral part of the Medicaid program. As the seminal Medicaid rule, the definitions and provisions herein are

referenced in many other Medicaid rules. Without it, most of the services provided by the Medicaid program would not be possible.

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 lrmarin@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/30/2002

▼ ————— ▼

Health, Center for Health Data, Health Care Statistics **R428-1**

Adoption of Health Data Plan

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24763
FILED: 04/29/2002, 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: Section 26-33a-104 authorizes the Department and the Health Data Committee to adopt a Health Data Plan by rule. This rule adopts the plan as the statute allows.

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 on Rule R428-1 have been received since the last review of the rule. The Health Data Committee voted the usefulness of the rule and requested the continuation of the rule on April 9, 2002.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R428-1 will assure the data collection under the Health Data Authority is conducted properly and receives public support.

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

HEALTH
CENTER FOR HEALTH DATA,
HEALTH CARE STATISTICS
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:

Wu Xu at the above address, by phone at 801-538-7072, by FAX at 801-538-6694, or by Internet E-mail at wxu@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/29/2002

▼ ————— ▼

Health, Center for Health Data, Health Care Statistics **R428-2** Health Data Authority Standards for Health Data

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24766
FILED: 04/29/2002, 12:08

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: Section 26-33a-104 authorizes the Department and the Health Data Committee to adopt a Health Data Plan and create rules to implement that plan. The Health Data Plan requires the reporting covered by this rule. This rule establishes the reporting standards which apply to data suppliers, and the classification, control, use, and release of data received by the Health Data Committee pursuant to Title 26, Chapter 33a.

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 on Rule R428-2 have been received since the last review of the rule. The Health Data Committee voted the usefulness of the rule and requested the continuation of the rule on April 9, 2002.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R428-2 will assure the data definitions, standards, security, and disclosure under the Health Data Authority Act are consistent across all data suppliers, data users, and public inquiries.

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

HEALTH
CENTER FOR HEALTH DATA,
HEALTH CARE STATISTICS
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:

Wu Xu at the above address, by phone at 801-538-7072, by FAX at 801-538-6694, or by Internet E-mail at wxu@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/29/2002



Health, Center for Health Data, Health
Care Statistics
R428-5
Appeal and Adjudicative Proceedings

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24769
FILED: 04/29/2002, 12:15

**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: Section 26-33a-104 authorizes the Department and the Health Data Committee to adopt a Health Data Plan and create rules to implement that plan. The Health Data Plan requires the reporting covered by this rule. This rule establishes the formal adjudicative proceedings for the actions of the Health Data Committee and requests for Committee action.

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 on Rule R428-5 have been received since the last review of the rule. The Health Data Committee voted the usefulness of the rule and requested the continuation of the rule on April 9, 2002.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R428-5 will assure the formal adjudicative proceedings for the Health Data Committee's actions.

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

HEALTH
CENTER FOR HEALTH DATA,
HEALTH CARE STATISTICS
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:

Wu Xu at the above address, by phone at 801-538-7072, by FAX at 801-538-6694, or by Internet E-mail at wxu@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/29/2002



Health, Center for Health Data, Health
Care Statistics
R428-10
Health Data Authority Hospital Inpatient
Reporting Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24764
FILED: 04/29/2002, 12:01

**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 26-33a-104 authorizes the Department and the Health Data Committee to adopt a Health Data Plan and create rules to implement that plan. The Health Data Plan requires the reporting covered by this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments on Rule R428-10 have been received since the last review of the rule. The Health Data Committee voted the usefulness of the rule and requested the continuation of the rule on April 9, 2002.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R428-10 will assure the hospital discharge data collection and management under the Health Data Authority Act is conducted properly and receives public support.

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

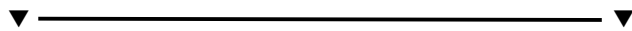
HEALTH
 CENTER FOR HEALTH DATA,
 HEALTH CARE STATISTICS
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Wu Xu at the above address, by phone at 801-538-7072, by FAX at 801-538-6694, or by Internet E-mail at wxu@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/29/2002



Health, Center for Health Data, Health
 Care Statistics
R428-12
 Health Data Authority Survey of
 Enrollees in Health Maintenance
 Organizations

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 24765
 FILED: 04/29/2002, 12:05

**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 26-33a-104 authorizes the Department and the Utah Health Data Committee (UHDC) to adopt a Health Data Plan and create rules to implement that plan. The Health Data Plan requires the reporting covered by this rule. This rule establishes the process for the collection of Health Maintenance Organization (HMO) enrollee satisfaction data from Utah licensed HMOs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Several HMOs have expressed interests in using UHDC's data if the rule would be revised to follow the data collection methods standardized by the National Committee for Quality Assurance (NCQA). It has been proposed that the Office of Health Care Statistics (OHCS) will conduct the survey for all Medicaid and commercial HMOs using the exact NCQA protocols so that HMOs can, if desired, use the data for their NCQA accreditation. The UHDC voted the usefulness of the rule and requested the continuation and revision of the rule on April 9, 2002.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Public report on HMO enrollee satisfaction is one of the key measures to monitor the quality of care for the People of Utah. Continuation of Rule R428-12 with proposed revisions assures the implementation of the Health Data Authority.

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

HEALTH
 CENTER FOR HEALTH DATA,
 HEALTH CARE STATISTICS
 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:

Wu Xu at the above address, by phone at 801-538-7072, by FAX at 801-538-6694, or by Internet E-mail at wxu@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/29/2002



Health, Center for Health Data, Health
 Care Statistics
R428-20
 Health Data Authority Request for
 Health Data Information

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 24768
 FILED: 04/29/2002, 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: Section 26-33a-104 authorizes the Department and the Health Data Committee to adopt a Health Data Plan and create rules to implement that plan. The Health Data Plan requires the reporting covered by this rule. This rule establishes guidelines by which data suppliers shall be required to provide health data information to the Office for the purpose of expanding the committee's health data plan.

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 on Rule R428-20 have been received since the last review of the rule. The Health Data Committee voted the usefulness of the rule.

rule and requested the continuation of the rule on April 9, 2002.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R428-20 will assure the data collection under the Health Data Authority Act is conducted properly and receives public support.

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

HEALTH
CENTER FOR HEALTH DATA,
HEALTH CARE STATISTICS
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:

Wu Xu at the above address, by phone at 801-538-7072, by FAX at 801-538-6694, or by Internet E-mail at wxu@doh.state.ut.us

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 04/29/2002

received any written comment regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should remain in force because it defines terms and prescribes conditions regarding securities of an insurer held in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market for those securities.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/24/2002

Insurance, Administration
R590-68

Insurer Trading of Equity Securities of
Domestic Stock Insurance Companies

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24754
FILED: 04/24/2002, 10:19

**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 31A-2-201(3) gives the commissioner the authority to make rules to implement the provisions of Title 31A. Subsection 31A-5-303(3)(a) allows the commissioner to adopt a rule to "define terms and prescribe conditions regarding securities held in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market." This rule deals with transactions exempted from or subject to Section 31A-5-303 and the form and procedure for filing a beneficial ownership of equity securities.

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

Insurance, Administration
R590-85

Filing of Rates for Individual Disability
Insurance Forms and Individual and
Group Medicare Rates

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24753
FILED: 04/24/2002, 09:04

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(4)(a) allows the commissioner to issue prohibitory, mandatory, and other order as necessary to secure compliance with this title. The rule contains mandatory requirements in the filing of rates with the department. Section 31A-22-605 establishes minimum loss ratios and implementing procedures for the filing of all individual disability insurance premium rates, including the initial filing of rates, and also any subsequent rate changes. Loss ratio requirements and guidelines are set in Section R590-85-4 of the rule and the rate filing requirements are set in Section R590-85-3.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule sets forth the requirements that must be followed by insurers if they choose to revise and file their accident and health rates. Standards are necessary so that all insurers are doing the same thing and the department knows if the requirements of the code are being followed and rates are fair, reasonable, and nondiscriminatory as required by the code. This provides consumer protection against unfair pricing of policies.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/24/2002

purposes of Title 31A, Chapter 30. Section R590-86-3 of the rule sets "General Filing Requirements," including rating requirements as specified in Title 31A, Chapter 30. Section R590-86-4 of the rule refers to the bulletins to be followed for the required filing process.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no comments in the past five years 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 outlines the parameters as to the filing of insurance forms with the department. It requires forms to be accurate and complete and follow the requirements for timely processing. This process helps the department to be assured that policies being sold follow the requirements of the code and are fair and equitable.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/23/2002

Insurance, Administration
R590-86

Filing of Life and Disability Forms and Rates

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24744
FILED: 04/23/2002, 09:16

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 provides the commissioner with the authority to issues rules to implement provisions of Title 31A. Section 31A-21-201 allows the commissioner to approve certain forms before their use and to make rules relating to the approval of forms filed by insurers. Subsection 31A-30-106(1)(k) allow the commissioner to establish rules to assure that the rating practices used by the covered carriers are consistent with the

Insurance, Administration
R590-101

Appointment and Termination of Individuals Licensed as Agents, and Organizations Licensed as Agents by Insurers

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24745
FILED: 04/23/2002, 09:35

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) allows the department to make rules to implement Title 31A. Subsection 31A-23-219(1) provides the commissioner the authority to establish by rule the form by which insurers report to the department appointments and the termination of these appointments. Section R590-101-2 of the rule reflects this same directive and Section R590-101-4 sets the guidelines for the reporting of appointments and terminations by companies.

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 regarding this rule were received by the department in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to continue to support the appointment and termination process.

The recording of appointments allows the department to help the consumer by maintaining the chain of responsibility from producer to the company they represent. It is also an important revenue stream providing an average of \$1,000,000 annually.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/23/2002



Insurance, Administration
R590-108

Interest Rate During Grace Period or
Upon Reinstatement of Policy

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24746
FILED: 04/23/2002, 09:51

**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: Subsection 31A-2-201(3) gives the commissioner the authority to make rules to implement Title 31A. Sections 31A-22-402 and 31A-2-407 authorize the commissioner to establish by rule the rate of interest and insurer may charge in a life insurance or annuity contract upon premiums due or overdue during a grace period or upon subsequent reinstatement of the contract. Section R590-108-4 of the rule sets the rate of interest to be charged.

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 regarding this rule have been received by the department within the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule provides protection for Utah consumers by establishing a maximum interest rate that insurance companies may charge on past due premiums.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/23/2002



Insurance, Administration
R590-118
Licensing Examination Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24747
FILED: 04/23/2002, 10:01

**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 31A-2-201 authorizes the commissioner to enact rules to implement Title 31A. Sections 31A-23-207, 31A-26-207 and 31A-23-211 set licensing examination requirements for agents, adjustors, and title agents. Sections R590-118-4 and R590-118-5 of the rule set licensing examination requirements for agents, adjustors,

and title agents; and implement the above code sections permitting the commissioner to require and provide for the administration of license qualifying examinations. The rule also designates the license classes requiring a qualifying examination and any exemptions to the requirement.

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 by the department regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets qualifying standards agents and adjustors must meet to qualify to sell insurance to the public. It is hoped that this will make the insurance licensee more knowledgeable about the product he is selling and allow the consumer to make a more informed decision about the type of insurance needed.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/23/2002

Insurance, Administration
R590-120
Surety Bond Forms

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24748
FILED: 04/23/2002, 10:08

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: Section 31A-2-201 allows the commissioner to make rules to implement Title 31A. Subsection 31A-21-101(5) authorizes rules exempting classes of insurance contracts from any or all provisions of Title 31A, Chapter 21, Insurance Contracts in General. Section R590-120-3 of the rule specifies those exemptions from Title 31A.

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 received no written comments regarding this rule in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides uniformity to bail bond forms. Prior to the rule, bailees did not know what their responsibilities were nor how their collateral would be handled. Because of this rule, bailees are all informed with similar language of their responsibilities and how their collateral will be handled.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/23/2002

Insurance, Administration
R590-146
Medicare Supplement Insurance
Minimum Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24749
FILED: 04/23/2002, 10:19

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 31A-22-620(3)(c) requires the commissioner to adopt rules to establish minimum standards for individual and group Medicare supplement insurance. The rule sets standards for policy provisions, benefits, the standard benefit plan, open enrollment, guaranteed issue, claim payment, loss ratio, refunds, filing and approval of policies, certificates and premium rates, permitted compensation arrangements and disclosure provisions, application forms, replacement forms, and Medicare Select policies.

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 received no written comments in the past five years 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: This rule helps the department to comply with both federal requirements under Section 1876 of the federal Social Security Act, 42 U.S.C. Section 1395 et seq., and the National Association of Insurance Commissioner's Medicare Supplement Model Act. The standards require insurers to provide no less than the minimum coverage required for Medicare supplement policies sold to retired or disabled citizens, thus making sure that everyone receive a certain limit of coverage. The standard also makes it easier for those purchasing coverage to also compare cost of several different insurers.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/23/2002

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Public Safety, Fire Marshal
R710-8
Day Care Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24751
FILED: 04/23/2002, 12:57

**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: Section 53-7-204 directs the Utah Fire Prevention Board to make rules establishing minimum standards for the prevention of fire and for the protection of life and property against fire and panic in several occupancies, one of which is day care centers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R710-8 has been amended seven times in the last five-year period. The last substantive change went into effect on January 2, 2002. It has been the policy of the Utah Fire Prevention Board for many years to send to all affected parties the proposed rule amendments and ask for comment to the proposed changes before the amendments are sent to the Division of Administrative Rules (DAR). The Board allows sufficient time at Board meetings for those affected by the proposed amendments to input their concerns or support. After input has been received from those affected, the Board directs the completed amendment be submitted to DAR for enactment. During the last five-year period, the Utah Fire Prevention Board has not received any written comments from interested persons supporting or opposing the Day Care Rules.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R710-8 provides a reasonable degree of fire and life safety to children and adults who are placed in the care of adults other than a parent, relative, or guardian. The rule establishes three groups of day care by size, and adopts nationally recognized standards, thereby establishing reasonable standards for the care of children and adults. This then insures that those clients who many times by age or handicap are unable to care for themselves in an emergency, are provided with adequate staff and fire and life safety standards to reasonably insure there safety while in the care of another.

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@dps.state.ut.us

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

EFFECTIVE: 04/23/2002

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**School and Institutional Trust Lands,
Administration**
R850-11
Procurement

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24755
FILED: 04/24/2002, 12:53

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: Subsection 53C-1-302(1)(a)(ii) gives general direction for the Director of the agency to make rules for the day-to-day administration of the agency, while Subsection 53C-1-201(3)(a)(iv) specifically allows the board, upon recommendation of the Director, to pursue exemption from the Utah Procurement Code and adopt policies for procurement which enable the administration to efficiently fulfill its responsibilities under the law.

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 by the agency concerning 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 is necessary to give direction to staff in the procurement of professional services directly related to the management, development, or sale of trust lands. It streamlines the procurement process thereby enabling the agency to respond to market opportunities in a more timely manner.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
Room 500
675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kcarter.tlmain@state.ut.us

AUTHORIZED BY: Kevin S. Carter, Deputy Director

EFFECTIVE: 04/24/2002

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Tax Commission, Administration
R861-1A
Administrative Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24741
FILED: 04/22/2002, 15:42

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-209 requires the Motor Vehicle Division to supply automobile registration forms; and specifies what the forms shall include. Section 59-1-205 requires the governor to appoint one member of the Commission as chairperson; three members of the Commission constitute a quorum for the transaction of business; requires that Commission be in session during regular business hours; and allows Commission to hold sessions or conduct business at any place in the state. Section 59-1-207 requires the Tax Commission to prepare and implement a plan for the administration of the divisions and other offices in the Tax Commission, that do not report directly to the Commission; and outlines duties and responsibilities to be delegated to the executive director. Section 59-1-210 defines powers and duties of Tax Commission; and includes power to adopt rules and policies consistent with the Constitution and laws of the State of Utah. Section 59-1-301 allows a taxpayer to pay under protest and outlines the actions to recover the taxes paid under protest. Section 59-1-401 establishes penalties for failure to file a tax return or failure to pay tax, including criminal penalties. Section 59-1-501 allows any taxpayer in the state to file a request for agency action, petitioning the Commission for redetermination of a deficiency. Section 59-1-502.5 requires an initial hearing to be held at least 30 days before any formal hearing is held; and outlines procedures of initial hearing. Section 59-1-505 requires a taxpayer who is seeking judicial review of a Commission decision to post a bond or deposit the full amount of the taxes, interest, and penalties with the Commission. Section 59-1-705 provides that penalties and interest shall be assessed and collected in the same manner as taxes. Section 59-2-212 requires the Tax Commission to equalize and adjust the valuation of all taxable property in the state; and allows the Tax Commission to reassess any property it feels has been under or over assessed. Section 59-2-704 requires Commission to publish studies designed to determine the relationship between the market value shown on the assessment roll and the market value of property in each county; requires the Commission to order each county to factor or adjust assessment rates using the most current Commission studies, provides penalties if a county fails to properly implement adjustments; and allows Commission to establish procedures for factor order hearings. Section 59-2-1004 sets guidelines for appeals of property tax assessments to the county board of equalization. Section 59-2-1006 provides that persons who are not satisfied with the decision of the board of equalization concerning the assessment and equalization of property may appeal that decision to the Tax Commission; provides procedures for appealing the board of equalization decision; and indicates the Tax Commission duties in such an appeal. Section 59-2-1007 sets guidelines for appeals of property tax assessments; and requires the Tax

Commission to provide adequate notice to the county when adjusting an assessment. Section 59-5-104 requires producers of oil or gas within the state to file an annual statement with the Tax Commission. Section 59-5-204 requires those engaged in mining or extracting metalliferous minerals to file an annual statement with the Tax Commission. Section 59-6-104 applies provisions of Title 59, Chapter 10, Part 4, individual income tax withholding, to withholding of mineral production taxes. Section 59-7-506 requires corporations to keep records relating to corporate franchise and income tax. Section 59-7-517 allows the Tax Commission to send a notice of deficiency if the Commission determines that there is a deficiency in a taxpayer's corporate franchise tax. Section 59-8-105 requires a semiannual return from those upon whom the gross receipts tax is imposed. Section 59-8a-105 requires a semiannual return from electrical corporations that are subject to the gross receipts tax. Section 59-10-501 requires individual taxpayers to maintain records of income tax liability. Section 59-10-512 requires returns to be signed in accordance with forms or rules prescribed by the Tax Commission; requires partnership returns to be signed by any one of the partners. Section 59-10-533 allows a taxpayer to file a written petition requesting redetermination of the denial of a claim for refund. Section 59-12-107 provides guidelines for collection, remittance, and payment of sales and use tax. Section 59-12-111 requires all those who possess a license to keep records of all sales made; and provides a penalty for those without a sales tax license or use tax registration who have a liability, but do not file a sales and use tax return. Section 59-12-114 permits a taxpayer to object to a notice of deficiency or notice of assessment. Section 59-13-206 outlines monthly statements to be filed by every distributor of motor fuel; and provides a penalty for failure to file the monthly statement. Section 59-13-210 allows Tax Commission to promulgate rules to administer motor fuel tax; and allows the examination of monthly reports filed by motor fuel distributors. Section 59-13-211 requires distributors to keep a record of all purchases, receipts, sales, and distribution of motor fuel. Section 59-13-307 requires suppliers of special fuel to file a monthly report with the tax commission; and provides a penalty for non-filers. Section 59-13-312 requires users, suppliers, and any other person importing, manufacturing, refining, dealing in, transporting, or storing special fuel to keep records to substantiate all activity of that fuel; and directs that records be kept for a period of three years. Section 59-13-403 applies all administrative and penalty provisions of Part 2, Motor Fuel to Part 4, Aviation Fuel. Section 59-14-303 requires quarterly returns and payment of tax on all tobacco products; and provides penalties for failure to file return or pay tax. Section 59-15-105 requires monthly returns to be filed by all those importing beer for sales, use, or distribution in the state of Utah; and requires those filing returns to keep records of activity relating to beer imports for three years. Subsection 63-46a-3(2) indicates when rulemaking is required. Section 63-46a-4 sets forth rulemaking procedures agencies must comply with. Section 63-46b-1 defines the scope and applicability of the administrative procedures act. Section 63-46b-3 requires all adjudicative proceedings to be commenced by a notice of agency action, or a request for agency action; and provides procedures for filing and serving agency action

notices. Section 63-46b-4 gives rulemaking power to agencies to designate adjudicative proceedings as formal and informal. Section 63-46b-5 requires any agency, which enacts a rule designating one or more category of adjudicative proceedings as informal adjudicative proceedings, to prescribe by rule proceedings for the informal adjudicative proceedings. Sections 63-46b-6 through 63-46b-11 outline procedures for agency formal and informal adjudicative proceedings. Section 63-46b-7 establishes procedures for discovery in formal adjudicative proceedings if an agency has not enacted rules on discovery. Section 63-46b-8 establishes procedures to be followed when conducting a formal adjudicative proceeding, including the use of evidence. Section 63-46b-10 establishes procedures an agency must follow when conducting a formal adjudicative proceeding; including the signing and issuance of orders. Section 63-46b-13 allows an individual to file a request for reconsideration within 20 days of a final agency action. Section 63-46b-21 allows any person to file a request that the agency issue a declaratory order; and outlines agency action when issuing a declaratory order. Section 76-8-502 allows a person to be found guilty of a second-degree felony for making a false or inconsistent material statement under oath. Section 76-8-503 allows a person to be found guilty of a Class B misdemeanor for making a false statement under oath.

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 R861-1A-1 defines terms necessary for the implementation of administrative procedures in the Tax Commission. Section R861-1A-2 clarifies the process by which the Tax Commission makes rules, including notice, hearing, and publication of rules. Section R861-1A-3 allows persons or parties affected by a Commission action the right to a division conference and a prehearing conference for the purpose clarifying and narrowing the issues and encouraging settlement. Section R861-1A-9 clarifies duties and responsibilities of the Commission when acting as the Utah State Board of Equalization. Section R861-1A-10 provides instructions concerning: (1) rights of parties; (2) effect of partial invalidation of rules; (3) enactment of inconsistent legislation; and (4) presumption of familiarity. Section R861-1A-11 clarifies the process of appealing a factor order. Section R861-1A-12 outlines the policies and procedures of the Commission regarding disclosure of and access to documents, work papers, decisions, and other information prepared by the Commission. Section R861-1A-13 outlines the manner by which disabled persons may request reasonable accommodations to services, programs, activities, or a job or work environment at the Tax Commission. Section R861-1A-15 requires all taxpayers to provide the Tax Commission with their social security number or federal identification number, as required by the Tax Commission. Section R861-1A-16 outlines the management plan of the Utah State Tax Commission. Section R861-1A-18 indicates how remittances received by the Tax Commission shall be

allocated to tax, penalty, and interest. Section R861-1A-19 requires that the bond a taxpayer deposits with the Tax Commission, pursuant to Section 59-1-505, consist of one of the following: (1) a surety bond; (2) an assignment of savings account; or (3) an assignment of certificate of deposit. Section R861-1A-20 provides guidelines on the timeliness of requests for a hearing to correct a property tax assessment, a petition for redetermination, and those seeking judicial review.

Section R861-1A-21 requires a quorum of the Commission to participate in any order on an adjudicative matter; and states that the party charged with the burden of proof shall prevail only if the majority of commissioners rule in that party's favor. Section R861-1A-22 clarifies the time a petition for adjudicative action may be filed and the contents of the petition; and does not allow the Commission to reject a petition because of nonconformance, but allows the Commission to require an amended or substitute petition be filed. Section R861-1A-23 requires all matters to be designated as formal proceedings and set for a prehearing conference, initial hearing, or scheduling conference; and allows matters to be diverted to mediation. Section R861-1A-24 provides guidelines for a formal adjudicative proceeding, including the initial hearing. Section R861-1A-26 outlines procedures to be followed in a formal adjudicative proceeding.

Section R861-1A-27 establishes discovery procedures in a formal proceeding. Section R861-1A-28 authorizes formal proceedings to be conducted the same as in judicial proceedings in the state court; and allows every party the right to introduce evidence, and provides guidelines on testimonies.

Section R861-1A-29 clarifies that the presiding officer shall submit all written decisions and orders to the Commission for agency review before issuing the order; and authorizes any party to file a written request for reconsideration alleging mistake of law or fact, or discovery of new evidence. Section R861-1A-30 prohibits any party from having an ex parte communication with a commissioner or administrative law judge; and provides guidelines if relevant ex parte communications are received by a commissioner or administrative law judge. Section R861-1A-31 provides for situations when a petition for a declaratory order may be filed; and authorizes the Commission to refuse to render the order under certain circumstances. Section R861-1A-32 authorizes the use of mediation to obtain a settlement agreement. Section R861-1A-33 defines "settlement agreement;" and outlines procedures to be followed for submitting and approving settlement agreements. Section R861-1A-34 defines advisory opinions; provides procedures for requesting an advisory opinion; and indicates the weight afforded an advisory opinion, as well as actions that may be taken if the opinion leads to the denial of a claim, audit assessment, or other agency action. Section R861-1A-35 defines "database management system," "electronic data interchange," "hard copy," "machine-sensible record," "storage-only imaging system," and "taxpayer;" and provides guidelines for storage of records in various media. Section R861-1A-36 defines "telefile;" clarifies what constitutes a signature for taxpayers who submit a telefile return, vehicle registration over the internet, or a tax return through an authorized web site.

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, 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 cleec@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/22/2002

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Tax Commission, Auditing R865-3C Corporation Income Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24739
FILED: 04/22/2002, 13:06

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 59-7-204 indicates how a corporation shall determine the portion of Utah taxable income derived from or attributable to sources within this state.

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 R865-3C-1 indicates how a corporation subject to the corporation income tax shall determine the net income attributable to Utah.

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 cleec@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/22/2002

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Tax Commission, Auditing R865-91 Income Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24740

FILED: 04/22/2002, 14:24

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 9-2-414 create the enterprise zone act, which provides state assistance to businesses operating in rural parts of the state; and provides state tax credits for certain businesses operating within the enterprise zone. Section 9-2-413 provides a list of state tax credits against individual income taxes or corporate franchise and income taxes applicable to an enterprise zone. Section 31A-32a-106 authorizes the Tax Commission to adopt rules necessary to implement the medical care savings account tax deduction. Section 53B-8a-112 authorizes the Tax Commission to adopt rules necessary to implement the educational saving plan tax deduction. Sections 59-2-1104 through 59-2-1109 exempts from property taxation certain property owned by disabled veterans or their unmarried surviving spouse and minor orphans, blind persons, or their unmarried surviving spouse or minor orphans; and allows the county to remit or abate taxes for indigent persons. Sections 59-2-1201 through 59-2-1220 provide general property tax relief for certain persons who own or rent their places of residence through a series of tax credits, refunds, and appropriations from the general fund. Section 59-6-102 requires that each producer of minerals in Utah deduct an amount equal to 5% of the amount that would be paid to the person entitled to the payment; any person filing an income tax return is entitled to a credit against this tax if the amount withheld is greater than the tax due on the return. Section 59-10-103 defines individual income tax terms. Section 59-10-106 prevents overtaxation by providing a credit against income tax otherwise due to the state of Utah for the amount of tax imposed on the taxpayer in another state. Section 59-10-108.5 provides a Utah resident an income tax credit for an amount equal to 20% of qualified rehabilitation expenditures when restoring a historic building. Section 59-10-114 provides for additions to and subtractions from the federal taxable income of an individual in order to determine state taxable income. Section 59-10-115 allows for equitable adjustments to state income tax as necessary to prevent the inclusion or deduction of an item twice due to items involved in the taxpayer's federal return. Section 59-10-116 levies an income tax on nonresidents with income from Utah. This tax shall be based on federal adjusted gross income from Utah sources.

Section 59-10-117 lists items includable in federal adjusted gross income from Utah sources. Section 59-10-118 states that any taxpayer having business income which is taxable within and without this state shall allocate and apportion his net income to the state; and provides guidelines for allocation.

Section 59-10-119 requires that a husband and wife shall file joint or separate returns with Utah based on how they filed federal returns and provides an exception if one spouse is a Utah resident and the other is a nonresident. Section 59-10-120 requires individuals who change status from resident to nonresident or nonresident to resident during the taxable year to file one return for their resident status and one for their nonresident status, and provides guidance on determining taxable income in this case. Section 59-10-121 states that if two returns must be filed because of a change of status from resident to nonresident, or vice versa, the personal exemptions and standard deductions shall be prorated between the returns based on the Tax Commission rule. Section 59-10-122 establishes that the state taxable year for an individual will coincide with his federal taxable year. Section 59-10-124 states that the Tax Commission shall have the authority to create rules to prevent over or under taxation when an individual switches accounting methods from one taxable year to the next. Section 59-10-207 gives instructions to determine the share of a nonresident estate or trust and beneficiary in state taxable income. Section 59-10-303 states that the adjusted gross income of a nonresident partner of a partnership shall be based on income derived from or connected with sources in this state and the partner's share of income gain, loss, and deduction. Section 59-10-401 defines terms relating to withholding tax. Section 59-10-402 requires each employer to withhold from wages an amount to be determined by a Tax Commission rule; provides an exemption from withholding; and provides that amounts withheld shall be a credit to the tax of the individual from whom they were withheld. Section 59-10-403 provides a withholding exemption for an employee who presents to his employer a certificate stating that the employee incurred no tax liability for the preceding year and does not expect to incur tax liability in the current year; and gives rulemaking power to the Tax Commission to implement this section. Section 59-10-406 sets forth requirements for employers on due dates and filing requirements for withholding; gives Tax Commission rulemaking authority to prescribe manner by which an employer shall notify employees of amounts withheld on their behalf; and provides that employers hold withheld amounts in trust for the Tax Commission. Section 59-10-407 requires employers to make monthly payments of withholding tax to the Tax Commission if their withholding tax liability averages an amount designated in rule by the Tax Commission. Section 59-10-408 allows the Tax Commission to make agreements with the United States government to make provisions necessary to provide for deduction and withholding of tax from wages of federal employees in Utah; and gives the Tax Commission rulemaking authority to administer withholding. Section 59-10-501 requires all persons liable for tax to keep records, render statements, make returns, and comply with the rules that the Tax Commission may from time to time prescribe. Section 59-10-503 provides that a husband and wife may file a joint return with some exceptions. Section 59-10-504 requires that any fiduciary or receiver required to file a

federal return must file a state return as well. Section 59-10-507 requires that any partnership receiving income in the state of Utah must file a return for the taxable year with its federal return attached. Section 59-10-512 requires that any return, statement, or other document submitted to the Tax Commission must be signed in accordance with forms or rules prescribed by the Tax Commission. Section 59-10-516 provides instructions for gaining an extension of time for filing returns; and states that certain requires prepayments must be made by original due date or penalties will be assessed on the filing extension. Section 59-10-517 deems the U. S. postmark date as the delivery date; and allows the Tax Commission to provide by rule for postmarks by entities other than the U.S. Post Office. Section 59-10-522 allows the Tax Commission to extend the time for paying tax due on a return under Tax Commission rules, and for paying tax deficiencies. Section 59-10-525 rules that a notice of deficiency shall constitute a final assessment of the deficiency in tax after 30 days, unless the taxpayer has filed a petition for redetermination. Section 59-10-533 allows a taxpayer to file a written petition with the Tax Commission within 90 days after the notice of action on a claim for refund was mailed, requesting a redetermination of the action. Section 59-10-535 states that the action of the Tax Commission on a claim for refund is final for the purpose of appeal five days after the notice was mailed. If the taxpayer fails to file an appeal within 30 days of that date, the decision of the Tax Commission is final. Section 59-10-536 provides a statute of limitations on the assessment and collection of tax by the Tax Commission. Section 59-10-545 allows the Tax Commission to provide to the Office of Recovery Services within the Department of Human Services relevant information regarding a taxpayer who has become obligated to that office. 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 an income tax refund, and provides methods for obtaining the credit.

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 R865-9I-2 defines "resident", "resident taxpayer", "nonresident", "nonresident taxpayer", "part year resident", and "domicile"; and clarifies domicile for purposes of a person in active military service. Section R865-9I-3 provides instructions on how to file for an income tax credit for income taxes paid to another state. Section R865-9I-4 clarifies when it is appropriate to take an equitable adjustment. Section R865-9I-6 provides instructions for a husband and wife, if either one is a nonresident, to file separate returns even though they filed a joint federal return; and provides a method to determine each spouse's federal adjusted gross income (FAGI) when they qualify to file separate state returns. Section R865-9I-7 provides definitions of "part year resident" and "FAGI"; and provides instructions for determining the FAGI of a part-year resident and a business with income from within and without Utah. Section R864-9I-8 provides that two returns are not required when an individual changes status as resident or nonresident, except in

unusual circumstances. Section R865-9I-9 provides instructions for calculating a taxpayer's taxable state income when required to convert income from a period of less than a year to an annual basis for federal tax purposes. Section R865-9I-10 states that a taxpayer must include a statement setting forth all differences when an alternate method of accounting is used to compute income from the method used the previous year. Section R865-9I-11 states that in the determination of shares of beneficiaries of an estate or trust, consideration will be given to the net amount of modifications described in the Utah Code; other methods must be cleared with the Tax Commission. Section R865-9I-12 states that statutory modifications that relate to items of income or deduction of an estate or trust may be used as the fiduciary adjustment; other methods must be approved by the Tax Commission. Section R865-9I-13 requires nonresident partners to keep records to verify their gross income derived from Utah sources; and provides guidance on filing the partnership return as a composite return. Section R865-9I-14 requires withholding only on Utah income, and allows credit for withholding paid to another state; and provides instructions to employers regarding withholding of wages, including income subject to withholding, the number of exemptions that may be claimed, and use of tables published by the commission. Section R865-9I-15 states that an employer need not withhold wages from an employee with a federal withholding certificate. Section R865-9I-16 prescribes the forms necessary to file withholding returns and sets forth penalties incurred by employers not filing properly; and prescribes information that must be on W-2 form. Section R865-9I-17 establishes conditions for employers to file withholding returns on a monthly basis and directions for filing monthly. Section R865-9I-18 clarifies taxpayer responsibility to keep and store adequate records for income tax purposes. Section R865-9I-19 clarifies whether a joint return or a separate return should be filed in a year in which one spouse dies. Section R865-9I-20 clarifies when a fiduciary is required to file a return and the information required to be on the fiduciary return, and establishes liability for payment of the estate's or trust's taxes. Section R865-9I-21 provides income tax filing instructions for individuals involved in a partnership; and clarifies method of filing if one member of partnership is a nonresident and the partnership has income from inside and outside the state. Section R865-9I-22 clarifies that any return filed with the Tax Commission is not valid unless the sender signs the return; and clarifies the conditions a taxpayer must satisfy to file returns on reproduced or facsimile copies of state tax returns. Section R865-9I-23 provides information for prepaying income tax; and indicates when interest shall be charged on a return filed pursuant to an extension, and the amount of extension Utah residents in military service stationed outside the U.S. have to file their return. Section R865-9I-24 clarifies that provisions relating to prima facie evidence of delivery and the postmark date on registered mail from the United States postal system apply to certified mail as well. Section R865-9I-26 clarifies that a petition for redetermination of a deficiency must be in letter form. Section R865-9I-27 provides that a taxpayer who disagrees with a notice of deficiency may discuss those issues prior to a petition for redetermination; and outlines the procedures once a petition for redetermination is filed. Section R865-9I-28

clarifies method of filing a petition for redetermination on a claim for a refund. Section R865-91-29 allows a taxpayer who disagrees with a tax commission action on a claim for refund to file a petition for redetermination. Section R865-91-30 provides for a taxpayer to waive the statute of limitations in order to determine whether an activity is engaged in for profit.

Section R865-91-32 provides for a taxpayer's inspection of his tax return and for a properly authorized agent of the taxpayer to inspect the taxpayer's return; and provides when IRS officers may inspect a taxpayer's return. Section R865-91-33 states that all Utah residents keeping forms for reporting rents, royalties, interest, and remuneration from Utah sources not subject to federal withholding must make them available to authorized representatives of the Tax Commission or submit them to the Tax Commission upon request. Section R865-91-34 states that, for property tax relief purposes, individuals living in an owned trailer home situated on rented land must complete two computations: (1) for property taxes on the mobile home; and (2) for the rental of the land, excluding charges for utilities, services, or furnishings supplied by the landlord; and states what portions of renter received assistance may be included in rent paid. Section R865-91-37 provides definitions for the enterprise zone tax credit and indicates when an investment is a qualifying investment for purposes of the credit; and provides guidance on how an employer shall determine its base number of employees for purposes of the credit, maintenance of records, and revocation of county's designation as an enterprise zone. Section R865-91-38 clarifies what is not considered retirement income with regard to pension and annuity plans. Section R865-91-39 requires a Disabled Exemption Verification for each deduction for handicapped children and adults. Section R865-91-41 provides instructions for applying for and receiving historic preservation tax credit, and any subsequent carryforwards of that credit. Section R865-91-42 provides that the order of deducting credits against individual income tax is: (1) nonrefundable credits; (2) nonrefundable credits with a carryforward; and (3) nonrefundable credits. Section R865-91-44 defines "professional athletic team", "member of a professional athletic team," and "duty days" for purposes of apportioning income subject to Utah tax for all professional athletes performing in the state of Utah. Section R865-91-46 requires medical savings account administrators to file information on each account they administer, along with a reconciliation, with the Tax Commission on an annual basis; and outlines the content of the form, along with record keeping requirements and the necessity of each account holder to attached the form to their state return. Section R865-91-47 states that combat pay is excluded from withholding requirements and provides an extension of time to pay income taxes for individuals receiving combat pay. Section R865-91-48 provides guidance on what expenses will qualify for the adoption deduction, who may use the deduction, when the deduction may be taken, and circumstances when that deduction must be added back. Section R865-91-49 requires the trustee of the Utah Educational Savings Plan Trust to provide trust participants and the Tax Commission with certain information on the status of the participant's account with the trust.

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: 04/22/2002

Tax Commission, Auditing **R865-12L** Local Sales and Use Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24729
FILED: 04/16/2002, 09:47

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 59-1-403 requires that all individuals with access to information from tax returns, maintain strict confidentiality with regard to that information; and provides instances when information may be disclosed or shared. Section 59-12-109 requires the confidentiality of taxpayer documents in accordance with Section 59-1-403. Section 59-12-202 states purpose and intent of local sales and use tax. Section 59-12-204 allows local governments to impose a local sales and use tax and sets forth the provisions that must be included in the ordinance imposing the local sales and use tax. Section 59-12-205 provides that the distribution of local sales and use taxes to local governments shall be based on point of sale and population. Section 59-12-207 requires that a vendor report all sales and use taxes collected to the Tax Commission on forms accurately depicting where the sale was transacted; and allows the Tax Commission to create rules to determine where sales take place for businesses with no permanent place of business or more than one place of business in Utah. Section 59-12-302 provides that the transient room tax shall be levied at the same time and collected in the same manner as the local sales and use tax. Section 59-12-354 indicates that the governing body of a municipality may choose to collect the municipal transient room tax or have the Tax Commission collect that tax for it. Section 59-12-401 establishes a resort community tax of up to 1% for towns and cities whose transient room capacity equals or exceeds the permanent census population and provides certain exemptions to that

tax. Section 59-12-602 defines "convention facility" "cultural facility" "recreation facility" and "restaurant" -- all terms necessary for the administration of the tourism, recreation, cultural, and convention facilities tax. Section 59-12-603 provides for the creation of a tourism, recreation, cultural, and convention facilities tax: (1) not to exceed 3% on all short-term rentals of motor vehicles not exceeding 30 days; (2) not exceeding 1/2% of the rent for every occupancy of a suite room or rooms; and (3) not to exceed 1% of all sales of prepared foods and beverages sold by restaurants.

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 R865-12L-1 provides that all rules made with respect to the state sales and use tax shall apply to the local sales and use tax. Section R865-12L-3 permits use of sales tax rate charts to determine sales tax due on a taxable sale. Section R865-12L-4 requires that the local sales and use tax be reported to the Tax Commission on a combined return with the state sales and use tax. Section R865-12L-5 provides that retail sales shall be deemed to occur at the place of business of the retailer, regardless of where tangible personal property is delivered; and establishes that if a seller has more than one location, and at least two locations are involved in the sale, the sale shall be deemed to occur at the location from which the property is shipped or delivered. (This section will be amended to refer to the correct statutory authority.) Section R865-12L-6 outlines the responsibilities of a vendor to collect local use tax when that vendor is located outside Utah and ships to places within Utah; and states that if the vendor is not required to collect local use taxes it is the consumers' responsibility to pay the use tax. Section R865-12L-7 sets forth the manner in which public utilities shall report their sales and purchases. Section R865-12L-9 defines "combined sales tax rate;" states that sellers with no fixed or determinable place of business in Utah shall report sales on the basis of the county in which the sales are made and shall report purchases on the basis of the county in which the tangible personal property is initially delivered; indicates the transactions that shall be reported in the various sales tax schedules; and indicates how sales reported on various sales tax schedules shall be allocated to counties and municipalities. Section R865-12L-11 outlines the sales tax liability of a person who purchases a motor vehicle from someone other than a licensed dealer. Section R865-12L-12 sets forth responsibilities of in-state and out-of-state lessors to collect local sales tax and states the location at which that sales tax shall accrue. Section R865-12L-13 provides that charges for repairs, renovations, or other taxable services to tangible personal property shall accrue to the business location out of which the repairman works. Section R865-12L-14 provides procedures for local governing bodies' review of local sales and use taxes remitted by businesses located within that political subdivision; and provides procedures for corrections for firms omitted from the list of a particular political subdivision or firms listed but not doing business in

the jurisdiction of the political subdivision. Section R865-12L-15 clarifies exemptions from the resort community tax and the imposing county's responsibility to submit a copy of its local ordinance imposing the resort community tax to the Tax Commission, along with facts establishing its eligibility to impose the tax. Section R865-12L-16 clarifies the notice required to the Tax Commission when a county or municipality imposing the transient room tax changes the responsibility to collect the tax from the Tax Commission to the county or municipality or vice versa. Section R865-12L-17 defines "restaurant", "retail establishment", "prepared for immediate consumption", and other terms necessary to administer the restaurant tax. Section R865-12L-18 clarifies the Tax Commission's exclusive authority to administer and enforce the local sales and use tax, and lists the circumstances under which local governments: (1) shall have access to the Tax Commission records; and (2) may intervene in or appeal from a proposed final Tax Commission action.

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: 04/16/2002



Tax Commission, Auditing **R865-14W** Mineral Producers' Withholding Tax

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24730
FILED: 04/16/2002, 12:46

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 59-6-101 defines terms used in this chapter. Section 59-6-102 requires a producer to withhold an amount equal to 5% of payments made for the production of minerals in this state and provides for a credit for a person from whom payment has been withheld. Section 59-6-103 requires producers to file a return with the commission on forms prescribed by the Commission. Section 59-6-104 provides that the provisions of the income

tax withholding, Title 59, Chapter 10, Part 4, shall apply to this chapter.

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 R865-14W-1 defines "working interest owner," "first purchaser," "person," and "producer" with regard to the state mineral producer's withholding tax; clarifies withholding requirements, who is responsible to pay tax, and how claims for credits against the withholding tax should be made; and provides guidelines for filing different return forms, and who is responsible for unpaid tax.

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
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DIRECT QUESTIONS REGARDING THIS RULE TO:

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AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/16/2002



Tax Commission, Auditing
R865-150
Oil and Gas Tax

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24734
FILED: 04/17/2002, 11:30

**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 59-5-101 defines terms related to the oil and gas severance tax. Section 59-5-102 imposes a severance tax on oil and gas; provides an annual exemption from the tax for the first \$50,000 in gross value of each well; provides an exemption from the tax for stripper wells; subjects each owner to the tax in proportion to his ownership interest in the well; and requires producers who take oil or gas in kind pursuant to an agreement on behalf of the owner to report and pay the tax. Section 59-5-104 requires producers engaged in the production of oil or gas

from wells within the state to file an annual return with the Tax Commission prior to June 1.

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 R865-150-1 defines terms necessary to administration of the severance tax on oil and gas; indicates how an owner or operator shall calculate his share of the annual exemption from the tax; and indicates who must file returns when working interest owners engage in a business arrangement in which someone other than themselves is conducting the operations of an oil or gas lease. Section R865-150-2 indicates how the stripper well exemption applies to a well that produces oil and gas; states that the consecutive 12-month requirement need not fall within one calendar year; and indicates how average daily production shall be calculated.

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210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/17/2002



Tax Commission, Auditing
R865-20T
Tobacco Tax

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24735
FILED: 04/17/2002, 13:40

**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 59-14-202 requires that cigarette licenses be issued only to a person owning or operating the place where cigarette vending machine sales are made; requires a separate license for each location sales are made; and provides instructions pertaining to license issuance. Section 59-14-204 imposes a cigarette tax and

provides the rates of the tax imposed; and states that the tax shall be imposed upon the first purchase of cigarettes in the state. Section 59-14-205 provides that the cigarette tax shall be paid by affixing stamps on cigarettes, unless otherwise provided in rule by the Tax Commission; requires that all cigarettes sold in the state of Utah be stamped within 72 hours of their receipt in the state and prior to sale in Utah; allows the Tax Commission to draft rules allowing cigarettes to remain unstamped in the hands of the wholesaler or distributor under certain conditions; and gives the Tax Commission authority to create rules aiding in the enforcement and collection of cigarette tax. Section 59-14-206 sets forth procedures for design, sales, deposit of revenues, redemption, and discounts for cigarette stamps. Section 59-14-212 requires all manufacturers, distributors, or retailers that affix a stamp to imported cigarettes to provide certain information to the Tax Commission regarding those imported cigarettes; indicates that the required information shall be reported on a quarterly basis; and provides a penalty for failure to comply. Section 59-14-301 requires all manufacturers, distributors, and retailers of tobacco products to register with the Tax Commission; and requires persons subject to this section to post a bond as a prerequisite to registering. Section 59-14-302 imposes a tax on the sale, use, or storage of tobacco products in Utah. The tax is imposed on the first purchase of the product in Utah. Section 59-14-303 requires that tobacco tax be remitted to the Tax Commission on a quarterly basis; provides for a refund of taxes paid on damaged products or products not sold; requires manufacturers, and wholesalers to provide detailed invoices showing where the products were distributed if they were not sold to consumers; and provides penalties for not paying tax. Section 59-14-401 allows a refund of cigarette tax on cigarettes and tobacco products sold outside of the state of Utah to a regular dealer in these articles. Section 59-14-404 gives Tax Commission authority to enter on the premises of a taxpayer to examine books and papers pertaining to the cigarette or tobacco products tax, or to secure any information directly or indirectly concerned with the enforcement of Chapter 14.

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 R865-20T-1 clarifies that the cigarette tax and tobacco products tax are imposed upon the first purchase, use, storage, or consumption in the state; and clarifies that no tax is due from a nonresident or tourist who purchases cigarettes outside the state for use, storage, or consumption inside the state. Section R865-20T-2 provides that tax due on imported

cigarettes may be paid by affixing stamps or by filing a monthly return. Section R865-20T-3 states that each vending machine selling tobacco is to be licensed as a separate place of business, the license will be posted in a conspicuous place on the machine; and provides guidelines for application for license and to change the place of business. Section R865-20T-5 sellers of tobacco products not required to post bond if previous seller has paid the tax on the products. Section R865-20T-6 provides that cigarette stamps shall be sold to licensed and bonded dealers; provides that stamps may be delivered on consignment; and indicates who may request the stamps. Section R865-20T-7 clarifies that sales of cigarettes and tobacco products to vendors outside the state are not subject to this tax; and provides guidelines on records that must be maintained to evidence this exemption. Section R865-20T-8 requires manufacturers, jobbers, distributors, wholesalers, retailers, users, or consumers of tobacco products or cigarettes to keep records necessary to determine the amount of tax due on the sale and consumption of these products for a period of three years. Section R865-20T-9 allows inventories of cigarettes held by manufacturers to be delivered to wholesalers or jobbers without being stamped. Records of those deliveries must be kept with information provided in the this section, and made available to the Tax Commission. Section R865-20T-10 provides guidelines to renew a cigarette and tobacco products license or to reinstate a revoked or suspended license. Section R865-20T-11 allows manufacturers, distributors, wholesalers, and retailers that are required to provide, on a quarterly basis, a copy of the importer's federal import permit and customs form, to exclude those items from enclosure with their quarterly report so long as that information is kept in their records, and provided to the Tax Commission upon request.

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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 cleel@tax.state.ut.us

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 04/17/2002



NOTICES OF EXPIRED RULES

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 (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63-46a-9 (1998). These rules have expired and have been removed from the *Utah Administrative Code*. The expiration of administrative rules for failure to comply with the five-year review requirement is governed by *Utah Code* Subsection 63-46a-9(8) (1998).

Human Services

Administration, Administrative Services, Licensing

DAR No. 24787: R501-12-6(B)(2)(d), subsection which deals with the number of children in a foster home.
UT L 2002 ch 325 (S.B. 170)

End of the Notices of Expired Rules 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

Agriculture and Food

Marketing and Conservation

No. 24515 (AMD): R65-7-11. General Conduct.
Published: March 15, 2002
Effective: April 16, 2002

Alcoholic Beverage Control

Administration

No. 24470 (AMD): R81-1. Scope of Definitions, and General Provisions.
Published: March 1, 2002
Effective: April 29, 2002

No. 24453 (AMD): R81-3-10. Non-Consignment Inventory.
Published: March 1, 2002
Effective: April 29, 2002

No. 24454 (AMD): R81-4A. Restaurants.
Published: March 1, 2002
Effective: April 29, 2002

No. 24458 (AMD): R81-5. Private Clubs.
Published: March 1, 2002
Effective: April 29, 2002

No. 24461 (AMD): R81-6-5. Educational Wine Judging Seminars.
Published: March 1, 2002
Effective: April 29, 2002

No. 24465 (AMD): R81-8. Manufacturers (Distillery, Winery, Brewery).
Published: March 1, 2002
Effective: April 29, 2002

No. 24466 (AMD): R81-9. Liquor Warehousing License.
Published: March 1, 2002
Effective: April 29, 2002

Corrections

Administration

No. 24498 (AMD): R251-107. Executions.
Published: March 15, 2002
Effective: April 18, 2002

Education

Administration

No. 24522 (R&R): R277-503. An Alternative Preparation for Teaching Program.
Published: March 15, 2002
Effective: April 22, 2002

No. 24523 (AMD): R277-911. Secondary Applied Technology Education.
Published: March 15, 2002
Effective: April 23, 2002

No. 24524 (AMD): R277-916. Technology, Life, and Careers, and Work-Based Learning Programs.
Published: March 15, 2002
Effective: April 23, 2002

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 24495 (AMD): R414-63. Medicaid Policy for Pharmacy Reimbursement.
Published: March 1, 2002
Effective: April 30, 2002

Human Services

Youth Corrections

No. 24474 (AMD): R547-1-14. General Safety.
Published: March 1, 2002
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No. 24475 (AMD): R547-2-14. Security and Control.
Published: March 1, 2002
Effective: April 30, 2002

No. 24476 (AMD): R547-4-14. Security and Control.
Published: March 1, 2002
Effective: April 30, 2002

No. 24473 (NEW): R547-14. Possession of Prohibited Items in Juvenile Detention Facilities.
Published: March 1, 2002
Effective: April 30, 2002

Insurance

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No. 24237 (CPR): R590-148. Long-Term Care Insurance Rule.
Published: March 15, 2002
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No. 24514 (AMD): R590-182. Risk Based Capital Instructions.
Published: March 15, 2002
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Judicial Conduct Commission

No. 24517 (AMD): R595-1. Rules of Procedure.
Published: March 15, 2002
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Published: March 15, 2002
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Wildlife Resources

No. 24394 (CPR): R657-3. Collection, Importation, Transportation, and Possession of Zoological Animals.
Published: March 15, 2002
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No. 24532 (AMD): R657-20. Falconry.
Published: March 15, 2002
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No. 24534 (NEW): R657-50. Error Remedy Rule.
Published: March 15, 2002
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End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2002, including notices of effective date received through May 1, 2002, the effective dates of which are no later than May 15, 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 is printed in this *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/>).
